

Patient Access to Records: Rule & Law Comparison

	Rule 291.28	TMB Law & Rules	Hospital Law
Form of Request	In writing	In writing – <i>See 159.006 of the Occ. Code</i>	In writing if request is made by patient or patient’s legally authorized representative.
Who Makes the Request	Patient or patient’s agent	Patient or person representing patient – <i>See 159.005 of the Occ. Code.</i>	Patient, patient’s legally authorized representative, and/or certain 3 rd party entities covered under <i>Section 241.153 of the Health and Safety Code</i>
Response Due Date	30 days	15 th business day after receipt of the written request	15 days after the date of the request and receipt of payment
Type of Response	Copy of records or with consent, a summary of the information	Copy of records and/or a summary of the record if authorized by the patient	Copy of records
Format of Response	Mailing a copy of the records or inspection of records by patient	Copy of records or inspection of records	Information made available for examination during business hours and provide a copy to the requestor if requested
Emergency Access	For medical emergency, pharmacy must respond within 24-72 hours. May also charge \$25 for expediting the request	May not require payment for records prior to releasing them.	
Fees – General	May charge a reasonable cost-based fee	Reasonable cost-based fee	Reasonable fee
Reasonable Fee	Charge no more than: \$25 for 1 st 25 pages; \$0.50 for every page thereafter.	Charge no more than: \$25 for 1 st 20 pages; \$0.50 for every copy thereafter. May charge separate fees for medical and billing records requested	<u>Basic Retrieval & Processing Fee:</u> 1 st 10 pages, not to exceed \$30; \$1 for 11 th -60 th page; \$0.50 for 61 st – 400 th page; and \$0.25 for any pages over 400. <u>Electronic Medium Fee:</u> 1 st 10 pages, not to exceed \$45; and \$1 per page thereafter. <u>Written Responses to Written Questions:</u> not to exceed \$10 per set.

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What Actions are Included in a Reasonable Fee	1.) Copying = supplies and labor; 2.) Postage; and 3.) Preparation of Explanation or Summary of the Records – if consented to by patient	Shall include only the cost of 1.) Copying = supplies and labor; 2.) Postage; and 3.) Preparing a Summary of the Records when Appropriate. May not include costs associated with searching for and retrieving the requested info.	1.) Retrieval & Processing Fee; 2.) Actual cost of mailing copies; 3.) Retrieving records stored on microfilm or other electronic medium; and 4.) Written responses to a written set of questions
Affidavit Certifying the Records	Reasonable Fee of no more than \$15	Reasonable Fee up to \$15	Cannot exceed a charge of \$1 - <i>See Section 22.004 of the Civil Practice and Remedies Code.</i>
Prohibited Fees		The charges set forth in the rule are the maximum amounts allowed. May not charge for medical records requested for a benefits or assistance claim based on the patient's disability	May not charge: 1.) patient to examine the patient's own health care information; 2.) records relating to a workers' compensation claim; or 3.) providing an itemized statement of billed services to a patient or 3 rd -party payor
Subpoena		A subpoena is not required for the release of medical and/or billing records if the request is made by a patient or their representative.	