

## POLICY REGARDING PATIENT RECORDS

Preamble: The purpose of this policy is to clarify the Board's position regarding the ownership and release of patient records.

The American Dental Association calls upon dentists to follow high ethical standards which have the benefit of the patient as their primary goal. To that end, the Board adopts the following policy regarding patient records.

Currently, the Dental Practice Act does not specifically address the issue of ownership and release of patient records. However, based on relevant law and other source material, it is the Board's position that a dentist must release a copy of the patient record upon request of the patient or the patient's parent/legal guardian. Failure to do so could be a potential violation of the standard of care for the profession, which is grounds for discipline pursuant to Ohio Revised Code 4715.30 (A)(7).

### Record, defined:

For purposes of this policy, a patient record includes any document or combination of documents that pertains to a patient's medical/dental history, diagnosis, prognosis, or medical/dental condition, and that is generated and maintained in the process of the patient's dental treatment. Patient records include:

- medical/dental history
- written progress notes
- radiographs
- models
- billing information
- insurance claims

A patient record should not include:

- care related to another patient
- peer review/quality assurance information/documents
- correspondence/notes from attorneys
- aberrant/deviant statements

### Ownership:

Patient records belong to the owner dentist, or treating practitioner, if so provided for under contract, however, the patient has an absolute right to a copy of his/her patient records.

Providing copies of records:

A dentist has the ethical obligation on request of the patient, the patient's parent/legal guardian, or the patient's subsequent treating dentist with appropriate patient authorization and release, to furnish copies of patient records. This can be done either gratuitously or for a nominal, reasonable cost for copying. The copies, including dental x-rays and the like, should include any and all information as will be beneficial for the future uninterrupted, consistent treatment of the patient.

Costs:

This obligation to provide a copy of records exists whether or not the patient's account is paid in full. Since the patient has an absolute right to a copy of his/her records, a dentist may not ignore a request for records due to an unpaid balance for services rendered. Further, a dentist cannot demand payment for copies up front. The dentist may add the fee for copies to the unpaid balance, and include this in any claim for reimbursement, but records cannot be held hostage for payment of any kind.

Ramifications:

It is the Board's position that failure of a dentist to provide to a patient a copy of his/her records is unethical. Further, failure to do so would be a potential violation of the standard of care for the profession, which is grounds for discipline pursuant to Ohio Revised Code 4715.30 (A)(7).

Disclaimer:

Nothing in this policy supercedes the confidentiality requirements outlined in the Health Insurance Portability and Accountability Act. Further, this policy does not apply to records subpoenaed for Ohio State Dental Board investigation/enforcement purposes as those requests are exempted from the protections under HIPAA.

(March 9, 2005; amended June 8, 2005)