

## **HEALTH**

### **HEALTH SYSTEMS BRANCH**

#### **DIVISION OF CERTIFICATE OF NEED AND LICENSING**

##### **Adopted Amendment: N.J.A.C. 8:43G-15.3**

##### **Hospital Licensing Standards**

##### **Medical Records**

##### **Medical Record Patient Services**

Adopted: , 2025, by Jeffrey A. Brown, Acting Commissioner, Department of Health, with the approval of the Health Care Administration Board.

Proposed: July 7, 2025, at 57 N.J.R. 1363(a).

Adopted: , 2025, by Jeffrey A. Brown, Acting Commissioner, with the approval of the Health Care Administration Board.

Filed: 2025, as R. 2025, d. , **without change**.

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5 and 5n; and P.L. 2019, c. 217, §§ 3 and 4.

Effective Date: , 2025.

Expiration Date: October 17, 2031.

##### **Summary of Public Comments and Agency Responses:**

The Department of Health (Department) received comments from the following:

1. Sean M. Benoit, Esq., Director of Litigation, Community Health Law

Project, South Orange, NJ; and

The official versions of any Departmental rulemaking activity (notices of proposal or adoption) are published in the New Jersey Register and/or the New Jersey Administrative Code. Should there be any discrepancies between this document and the official version of the proposal or adoption, the official version will govern.

2. Christine Stearns, Chief Government Relations Officer, New Jersey Hospital Association, Princeton, NJ.

Quoted, summarized, and/or paraphrased below, are the comments and the Department's responses thereto. The numbers in parenthesis following each comment below correspond to the commenter numbers above.

1. COMMENT: A commenter expresses strong support for the Department's amendment to N.J.A.C. 8:43G-15.3. The commenter "serves a very vulnerable population in New Jersey that often experiences issues with basic income, housing, and healthcare coverage." The commenter strives "to ensure that [the commenter's] clients have access to those things in order for them to live and thrive in their communities. When it comes to basic income, [the commenter has] many clients who attempt to obtain Social Security disability benefits, more specifically, Supplemental Security Income (SSI) under Title XVI of the [F]ederal Social Security Act and Social Security Disability Insurance (SSDI) under Title II of the [F]ederal Social Security Act." The commenter states that these clients are "denied eligibility and [the commenter] will provide legal representation at the hearing level." The commenter further states "being assessed a fee for our clients' records, which are often voluminous, would be detrimental to our ability to provide services as that fee would be substantial. Additionally, for any low-income individuals who are representing themselves in these matters, they would lack the funds and the ability to pay for these records." The commenter "strongly supports the proposed amendments[,] which would update N.J.A.C. 8:43G-15.3 to include a provision that prohibits hospitals from imposing a fee for medical records to a patient, or an attorney representing a patient, who has a

pending application for, or is currently receiving, SSI or SSDI. Ensuring access to those records for patients and their legal representatives will help increase the chance of a successful application for SSI and/or SSDI.” (1)

RESPONSE: The Department acknowledges the commenter’s support of the proposed rulemaking.

2. COMMENT: A commenter “appreciates the Department’s efforts to align [rules] with statute.” The commenter “requests clarifying language to support hospitals’ operationalizing compliance with the proposed rule” and “suggests that the rule clarify that the patient, or the attorney representing the patient, be responsible for notifying the hospital or healthcare provider of their [Social Security disability insurance (SSDI)] status or SSDI pending application, so that the fee can be waived [to] avoid inadvertent charges.” (2)

RESPONSE: The Department acknowledges the commenter’s support of the proposed rulemaking. A hospital may elect to implement policies and procedures governing patient access to their records to determine whether a patient receives, or has a pending application, for Social Security disability benefits in accordance with new N.J.A.C. 8:43G-15.3(f). An individual’s failure to identify themselves as a Social Security disability benefit recipient or applicant, or counsel for such a person, should not preclude the person from receiving a refund upon learning that a fee that ought to have been waived was inadvertently imposed. Moreover, persons who were improperly charged such fees on or after the effective date of P.L. 2019, c, 217 (that is, March 1, 2020), which amended N.J.S.A. 26:2H-5n to require the waiver of such fees, should be able to apply for a refund upon the presentation of appropriate documentation showing

their entitlement to the waiver. Accordingly, the Department will make no change upon adoption in response to the comment.

#### **Federal Standards Statement**

The proposed amendment is not subject to any Federal standard or requirement and the Department does not propose the amendment under the authority of, or to implement, comply with, or participate in, any program established under Federal law or under a State statute that incorporates or refers to Federal law, standards, or requirements. Therefore, a Federal standards analysis is not required.

**Full text** of the adoption follows: