

Document No. 4588

DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF MEDICAL EXAMINERS
CHAPTER 81

Statutory Authority: 1976 Code Sections 40-1-70, 40-47-10 and 40-47-110

Synopsis:

The South Carolina Board of Medical Examiners proposes to amend its regulations to safeguard patient medical records when a physician licensee is incapacitated, disappears, or dies.

The Notice of Drafting was published in the *State Register* on May 22, 2015. The Proposed regulation was published in the *State Register* on September 25, 2015.

Instructions:

Add Article 1, Safeguarding Patient Records as shown below.

Text:

ARTICLE 1

SAFEGUARDING PATIENT RECORDS

81-1. Safeguarding Patient Medical Records When a Physician Licensee is Incapacitated, Disappears, or Dies.

(A) Each physician licensee actively practicing within the State of South Carolina shall designate a partner, personal representative, or other responsible party to assume responsibility for patient medical records in the case of incapacity, death or disappearance of the licensee, including any circumstances whereby the licensee is unable for any reason to provide continuity of care, appropriate referral or patient medical records upon a valid request of the patient. Each physician licensee must affirm that he or she has read and understands this obligation upon application for initial licensure and application for renewal of licensure.

(B) Where the physician licensee is incapacitated, disappears, or dies, and no responsible party is known to exist, the Administrator of the Board of Medical Examiners may petition the President of the Board for an order appointing another licensee or licensees to take custody of, inventory, and disperse the medical records to patients or other authorized parties in accordance with the Physician Patient Records Act and to take all other actions as appropriate to protect the interests of the clients. The Order of Appointment shall be a public document.

(C) The appointed licensee shall:

- (1) Take custody of and safeguard the physician licensee's available and accessible medical records;
- (2) Notify each patient at the patient's address shown in the file, by first class mail, of the patient's right to obtain his or her medical records to which the patient is entitled and the time and place at which the medical records may be obtained;
- (3) Post a notice in a conspicuous location at the impaired or unavailable licensee's last known business address advising the time and place at which patient medical records may be obtained;
- (4) Publish, in a newspaper of general circulation in the county or counties in which the licensee resided or engaged in any substantial practice, once a week for three consecutive weeks, and notice of the discontinuance or interruption of the physician's practice. The notice shall include the name and address of the licensee whose practice has been discontinued or interrupted; the time, date and location where patients may obtain their medical records; and the name, address and telephone number of the appointed licensee. The notice shall also be mailed, by first class mail, to any malpractice insurer or other entity having reason to be informed of the discontinuance or interruption of the medical practice;

226 FINAL REGULATIONS

(5) Release to each patient the records to which the patient is entitled unless release directly to the patient is expressly prohibited by state or federal law. The appointed licensee shall obtain a receipt from the patient for the medical records before releasing the medical records. In the event the release of medical records directly to the patient is prohibited by state or federal law, the appointed licensee may release the records to an appropriate licensed healthcare provider, healthcare facility or patient's representative upon receipt of authorization to release from the patient, patient's representative or a court of law and shall obtain a receipt from the receiving party prior to the release of the records;

(6) Perform any other acts directed in the Order of Appointment; and

(7) The appointed licensee may seek reimbursement for reasonable expenses incurred pursuant to the discharge of duties imposed by the Order of Appointment from the assets or estate of the incapacitated, unavailable or deceased physician licensee.

(D) The appointed licensee shall petition the Board President for authorization to dispose of unclaimed records no sooner than 1 year from the Order of Appointment's execution.

(E) When the appointed licensee has complied with the provisions of this regulation, he or she may petition the Administrator of the Board for termination of the Order of Appointment by the Board President.

(F) Neither the appointed licensee nor any other person or entity appointed to assist the appointed licensee shall disclose any information contained in the patient records without the consent of the patient or the patient's duly authorized representative, except as necessary to carry out the Order of Appointment.

(G) Neither the appointed licensee nor any other person or entity appointed to assist the appointed licensee shall be responsible for reviewing the content of the medical records or ensuring compliance with any records retention policy set forth in either state or federal law.

(H) While acting pursuant to the Order of Appointment, the appointed licensee and any other person or entity appointed to assist the appointed licensee shall be considered an extension and agent of the South Carolina Board of Medical Examiners.

(I) The term of an Order of Appointment shall be for a period of no longer than 12 months. Upon application by the appointed licensee, the Board President may extend the term of the order as necessary.

Fiscal Impact Statement:

There will be no cost incurred by the State or any of its political subdivisions for this regulation.

Statement of Rationale:

The updated regulation will safeguard patient medical records when a physician licensee is incapacitated, disappears, or dies.

Document No. 4574

DEPARTMENT OF LABOR, LICENSING AND REGULATION COMMISSIONERS OF PILOTAGE

CHAPTER 136

Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 54-15-10, and 54-15-140

136-030. Pilot Registration

136-730. Pilot Registration

Synopsis:

The South Carolina Commissioners on Pilotage propose to amend Regulation 136-030 for the Lower Coastal Area and amend Regulation 136-730 for the Upper Coastal Area regarding the physical examination requirements for pilots.

A Notice of Drafting was published in the *State Register* on May 22, 2015.