IC 34-43

ARTICLE 43. EVIDENCE: MEDICAL RECORDS

IC 34-43-1

Chapter 1. Hospital Medical Records

IC 34-43-1-1

Photographic process; treatment as original for purposes of admissibility

Sec. 1. (a) The recording of hospital medical records by an electronic image system or reproduction process shall, for the purposes of this chapter, be considered a photographic process.

(b) The making or recording of hospital medical records by electronic data processing systems is an original written record. Printouts or other types of retrieved information in written or printed form shall be treated as original records in all courts or administrative agencies for the purpose of its admissibility into evidence.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-2

Authentication of entries; procedure

Sec. 2. Entries made in a hospital medical record may be authenticated by showing that:

(1) the electronic data processing equipment is standard equipment in the hospital;

(2) the entries were made in the regular course of business at or reasonably near to the happening of the event or order, opinion, or other information recorded;

(3) the security of the entries from unauthorized access can be demonstrated through the use of audit trails; and

(4) records of all original entries and subsequent access to the information are maintained.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-3

Availability of records to authorized persons

Sec. 3. Hospitals using systems described in this chapter to keep their hospital medical records must do so in such a manner that permits the information to be made readily available, in written or printed form, to authorized persons only.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-4

Photostatic copies; admissibility

Sec. 4. Notwithstanding the hearsay rule, but subject to all other objections, photostatic copies of hospital medical records certified under section 7 of this chapter are admissible into evidence in any civil action or administrative proceeding without testimony from the custodian of the hospital medical records.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-5

Response to subpoena or court order

Sec. 5. When a:

(1) subpoena coupled with a request under Rule 34 of the Indiana Rules of Trial Procedure;

(2) subpoena coupled with a patient's written authorization under IC 34-6-2-15(2) (or IC 34-3-15.5-4 before its repeal); or

(3) court order;

requiring the production of a hospital medical record is served upon any hospital employee, the hospital employee with custody of the original hospital medical record may elect, instead of personally appearing and producing the original hospital medical record, to furnish the requesting party or the party's attorney with a photostatic copy of the hospital medical record, certified in accordance with section 7 of this chapter.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-6

Delivery of copies pursuant to subpoena

Sec. 6. If the hospital has elected to proceed under section 5 of this chapter, the hospital employee with custody of the original hospital medical records shall, upon receipt of payment for the reproduction of the hospital medical records, promptly deliver, by certified mail or personal delivery, copies of the hospital medical records specified in the subpoena to the person specified in the subpoena.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-7

Certification of medical records

Sec. 7. The hospital employee's certification of the hospital medical records under section 5 of this chapter must:

(1) be signed by the hospital employee with custody of the hospital medical records; and

(2) include:

(A) the full name of the patient;

(B) the patient's medical record number;

(C) the number of pages in the hospital medical record; and

(D) a statement in substantially the following form:

"The copies of records for which this certification is made are true and complete reproductions of the original or microfilmed hospital medical records that are housed in _____ (name of hospital). The original records were made in the regular course of business, and it was the regular course of _____ (name of hospital) to make the records at or near the time of the matter recorded. This certification is given under IC 34-43-1-5 by the custodian of the records instead of the custodian's

personal appearance.".
As added by P.L.1-1998, SEC.39.

IC 34-43-1-8
Handling of copies

Sec. 8. The hospital shall:

(1) place the copies of the hospital medical records in an envelope or wrapper; and

(2) write or type on the envelope or wrapper:

(A) the words "Confidential Medical Records";

(B) the title and number of the action or proceeding; and

(C) the name and business telephone number of the hospital employee making the certification.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-9
Procedure when records not in possession of hospital

Sec. 9. If the hospital does not have the hospital medical records or has only a part of the hospital medical records specified in the subpoena, the hospital employee with custody of the original hospital medical records shall:

(1) execute an affidavit, either notarized or by affirmation, stating that the hospital does not have or has only a part of the subpoenaed hospital medical records; and

(2) follow the procedures in sections 5 through 8 of this chapter in delivering the part of the hospital medical records that are in the hospital's possession.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-10
Medical records confidential under certain federal statutes

Sec. 10. (a) This section applies to a medical record or part of a record that is confidential under 42 U.S.C. 290dd-3, 42 U.S.C. 290ee-3, or the regulations adopted under those statutes.

(b) The hospital employee with custody of the original medical records shall:

(1) execute a verified affidavit:

(A) identifying the record or part of the record that is confidential; and

(B) stating that the confidential record or part of the record will only be provided under the federal procedure for production of the record; and

(2) comply with sections 5 through 8 of this chapter in delivering the record or part of the record that is not confidential under subdivision (1).

As added by P.L.1-1998, SEC.39.

IC 34-43-1-11
Medical records regarding treatment for mental illness

Sec. 11. (a) This section applies to a medical record or part of a

record concerning treatment for mental illness.

(b) The hospital employee with custody of the original medical records shall:

(1) execute a verified affidavit:

(A) identifying the record or part of a record that contains the confidential information concerning the treatment of mental illness; and

(B) stating that the confidential record or part of the record will only be provided under a court order after in camera review; and

(2) comply with sections 5 through 8 of this chapter in delivering the record or part of the record that is not confidential under subdivision (1).

As added by P.L.1-1998, SEC.39.

IC 34-43-1-12

Confidential records regarding communicable diseases

Sec. 12. (a) This section applies to a medical record or part of a record that contains information that is confidential under IC 16-41-8-1.

(b) The hospital employee with custody of the original medical records shall:

(1) execute a verified affidavit:

(A) identifying the record or part of a record that contains the confidential information concerning a dangerous communicable disease; and

(B) stating that the confidential record or part of the record will only be provided under a court order after in camera review under IC 16-41-8-1; and

(2) comply with sections 5 through 8 of this chapter in delivering the record or part of the record that is not confidential under subdivision (1).

As added by P.L.1-1998, SEC.39. Amended by P.L.1-1999, SEC.75.

IC 34-43-1-13

Fees

Sec. 13. The hospital may charge the fee permitted under IC 16-39-9 to cover the costs of reproducing the hospital medical records under section 5 of this chapter.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-14

Personal delivery of copies; receipt

Sec. 14. (a) Whenever the copies of the hospital medical records are personally delivered, the person receiving the hospital medical records shall give a receipt to the person delivering them.

(b) The receipt required by subsection (a) must contain:

(1) the name of the hospital that sent the hospital medical records;

(2) the patient's full name;

(3) the patient's medical record number;
(4) the date the copies of the hospital medical records were received; and
(5) the signature of the person who receives the hospital medical records.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-15

Delivery of copies by certified mail; receipt

Sec. 15. Whenever the copies of the hospital medical records are sent by certified mail, the receipt used by the United States Postal Service is sufficient to prove delivery and receipt of the hospital medical records.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-16

Disposal of copies

Sec. 16. The party or party's attorney of record shall dispose of copies of hospital medical records obtained under this chapter in a manner that protects the confidentiality of the medical information in the copies.

As added by P.L.1-1998, SEC.39.

IC 34-43-1-17

Orders

Sec. 17. Upon motion by any party to an action or proceeding, or by the person from whom discovery is sought under this chapter, and for good cause shown, the court, hearing officer, or other body conducting the proceeding may make any order that justice requires.

As added by P.L.1-1998, SEC.39.