

**GREATER BRIGHTON FIRE PROTECTION DISTRICT (DISTRICT)
POLICY REGARDING REQUESTS FOR PUBLIC RECORDS**

Effective: July 8, 2020

PURPOSE

To establish the rules and procedures for requesting to inspect or obtain copies of District records, and providing for the fees the District will impose, consistent with the requirements of and authority granted by Applicable Law.

DEFINITIONS

1. "***Applicable Law***" means all federal, state, and local laws, rules, and regulations governing requests to inspect or obtain copies of District records, including but not limited to, the Colorado Public (Open) Records Act, C.R.S. § 24-72-201, *et seq.*; HIPAA; and, relevant Court decisions or other applicable laws.
2. "***HIPAA***" means the Health Insurance Portability and Accountability Act of 1996, the 2009 Health Information Technology for Economic and Clinical Health Act, and their implementing regulations and applicable Court decisions.
3. "***Public Records***" has the meaning set forth in the Colorado Public (Open) Records Act, C.R.S. § 24-72-201, *et seq.*
4. "***Requested Record(s)***" means the Public Records that are subject to a specific request pursuant to this policy.

PROCEDURE

1. A patient wishing to obtain a copy of his/her Public Records that contain health information protected from disclosure under HIPAA shall complete and submit the District's *Patient Medical Records Access Request Form*. A patient making a verbal request will be asked to submit the request in writing, and no action related to the request will be taken until a completed and a signed *Patient Medical Records Access Request Form* is received.
2. All other requests for Public Records shall be in writing using the District's *Records Request Form*. Anyone making a verbal request will be asked to submit the request in writing, and no action related to the request will be taken until a completed and a signed *Records Request Form* is received.
3. The *Patient Medical Records Access Request Form* and *Records Request Form* are available on the District's website at <http://www.brightonfire.org/> or at its administrative offices, 500 South 4th Avenue, 3rd Floor, Brighton, CO 80601.
4. All requests for Public Records must comply with Applicable Law. The District will comply with Applicable Law with respect to whether it must, may, or cannot produce the Requested Records and the fees it charges for producing the Requested Records.
5. Except where a patient submits a *Patient Medical Records Access Request Form* to obtain a copy of his/her medical records, if the Requested Records contain health information protected from disclosure under HIPAA, an *Authorization to Release Medical Information* pursuant to 45 C.F.R. 164.508 must be submitted before the District will produce the Requested Records.

6. Upon receipt of a completed and signed *Patient Medical Records Access Request Form* or *Records Request Form* and required attachments, if any, the District will prepare the Requested Records for inspection at the District's administrative offices, or, at the record requester's direction, delivery by (a) in-person pick-up, (b) mail, (c) unsecured fax, or (d) unencrypted email. Requests for inspection at the District's administrative offices are subject to the District's standard security protocols and may be denied if required by those protocols. Email transmissions are limited to file sizes of 10 MB or less. District will not transmit Requested Records containing Protected Health Information (as defined by HIPAA) via unsecured fax or unencrypted email unless the record requester also submits a *Patient Medical Records Access Request Form* or an *Authorization to Release Medical Information*, as applicable, specifically authorizing transmission via electronic means.

FEES AND CHARGES

1. The District may notify the record requester that a copy of the Requested Record is available, but will be sent only when the District receives payment or makes satisfactory arrangements for payment of all costs associated with transmitting the Requested Record and for all other fees lawfully allowed; provided, however, that no transmission fees will be charged for transmitting the Requested Record via electronic mail.
2. Where the fee for a certified copy or other copy, printout, or photograph of a Requested Record is specifically prescribed by law, the specific fee shall be charged. If a fee is not specifically prescribed by law, the District will furnish copies, printouts, or photographs of a Requested Record for a fee of \$0.25 per standard page. The District shall charge a fee not to exceed the actual cost of providing a copy, photograph, or printout in a form other than a standard page. The District shall charge the actual costs it incurs in having the copies made off-site by an outside copying facility.
3. If, in response to a specific request, the District's custodian of records performs a manipulation of data so as to generate a record in a form not used by the District (including a privilege log), an hourly administrative fee equal to the hourly research and retrieval fee discussed below shall be charged to the person or entity making the request; provided, however, that the fee shall not exceed the actual cost of manipulating the data and generating the record in accordance with the request. An individual or entity making a subsequent request for the same or similar records shall be charged the same fee.
4. If the amount of time required by the District to research and retrieve the documents necessary to fulfill a specific request exceeds one hour, including the time required to identify and segregate records that must or may not be produced, the person or entity making the request shall be charged a research and retrieval fee of \$33.58 per hour, or such maximum hourly research and retrieval fee as may be established by the Colorado Legislative Council from time to time. The District will not impose a charge for the first hour of time expended in connection with the research and retrieval of Requested Records.
5. The District will destroy any Requested Records that have not been picked up within 30 calendar days of the date the request was submitted to the District. The District shall keep any fees pre-paid by the requestor to compensate the District for the costs it incurred in preparing the Requested Records.

6. In accordance with HIPAA, if the District produces Public Records directly to a patient pursuant to a *Patient Medical Records Access Request Form*, then the District, in its discretion, shall charge either:
 - a. A flat fee of \$6.50 for electronic copies of medical or mental health records that the District maintains electronically; or
 - b. The actual labor costs incurred by the District to produce the medical or mental health records, which may include:
 - i. Labor for copying the medical or mental health records, whether in paper or electronic form;
 - ii. Supplies for creating the paper copy or electronic media if the individual requests that the electronic copy be provided on portable media;
 - iii. Postage, when the individual has requested the copy, or a summary or explanation of such information, be mailed; and,
 - iv. Preparing an explanation or summary of the medical or mental health records, if the individual agrees to such an explanation or summary, and the associated fees, in advance.

The foregoing fees only apply to a patient's request for a copy of his/her HIPAA records pursuant to a *Patient Medical Records Access Request Form*. If the patient directs that his/her HIPAA records be sent to any other individual or entity, or if any other individual or entity requests a copy of a patient's HIPAA records, and an *Authorization to Release Medical Information* signed by the patient has been provided, the foregoing fees do not apply, and the third-party will be charged the fees otherwise set forth in this policy.

If a patient submits an *Authorization to Release Medical Information* that directs the District to send his/her records by an unsecure electronic method (i.e., by unsecure fax or unencrypted email) to a third party, the District will first send the patient a warning that transmission of the HIPAA records by an unsecure electronic method could risk someone being able to intercept or read the HIPAA records during transmission. If the patient confirms that he/she still wants the HIPAA records sent by an unsecure electronic method, then the District will comply with that request and assumes no liability for such method of transmission.