

FORREST COUNTY GENERAL HOSPITAL PUBLIC RECORDS POLICY

AUTHORITY AND PURPOSE

RULE 1. Authority and purpose.

“It is the policy of the Mississippi Legislature that public records must be available for inspection by any person unless otherwise provided by the Mississippi Public Records Act of 1983, as amended, codified in Title 25, Chapter 61 of the Mississippi Code of 1972, as amended (the Act”) or other applicable statutes or court decisions.”

The Act defines "public record" to include any "all books, records, papers, accounts, letters, maps, photographs, films, cards, tapes, recordings or reproductions thereof, and any other documentary materials, regardless of physical form or characteristics, having been used, being in use, or prepared, possessed or retained for use in the conduct, transaction or performance of any business, transaction, work, duty or function of any public body, or required to be maintained by any public body.” Section 25-61-3(b).

Until the Act was amended in 2015 by Senate Bill 2407, most public hospital records (other than financial reports required to be filed with other public bodies and official Hospital Board minutes) were expressly excluded from disclosure under the Act by Section 41-9-68 of the Mississippi Code of 1972. However, the 2015 amendments to the Act will now require many hospital records related to hospital business and not otherwise expressly exempted under the Act or by other laws or court decisions to be made available when requested in accordance with the policies and rules adopted by the Hospital. Thus, the purpose of these rules is to establish the procedures of Forrest County General Hospital (hereinafter referred to as the “Hospital”) will follow in order to provide full access to its non-exempt public records. These rules provide information to persons wishing to request access to public records of the Hospital and establish processes for both requestors and Hospital staff that are designed to best assist members of the public in obtaining such access.

PUBLIC BODY DESCRIPTION--CONTACT INFORMATION--PUBLIC RECORDS OFFICER

RULE 2. Public body description--Contact information--Public records officer.

(1) The Hospital provides medical services to the public within its service area. The Hospital's central office is located at 6051 Hwy. 49, Hattiesburg, MS 39401

(2) Any person wishing to request access to public records of Hospital, or seeking assistance in making such a request should contact the public records officer of the Hospital, whose contact information is set forth below:

Public Records Officer:

Jeffery W. Cook, Jr., VP and General Counsel
Forrest County General Hospital
6051 Hwy. 49, Hattiesburg, MS 39401-7201
Fax: 601-288-4469
jwcook@forrestgeneral.com

Information is also available at the Hospital's web site at (www.forresthealth.org).

(3) The public records officer will oversee compliance with the Act and will post these rules and any amendments hereto, at the central administrative office of the Hospital and on the Hospital's website. However, other Hospital employees may be assigned to process any particular request. Therefore, these rules will refer to the public records officer "or designee." The public records officer or designee and the Hospital will provide the "fullest assistance" to requestors; ensure that public records are protected from damage or disorganization; and will fulfill public records requests without causing excessive interference with essential functions of the Hospital.

AVAILABILITY OF PUBLIC RECORDS

RULE 3. Availability of public records.

(1) **Hours for inspection of records.** Upon request and payment as provided below, public records will be made available for inspection and copying during normal business hours of the Hospital, (Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding holidays). Records must be inspected at (insert department, office, suite number, etc.) of the Hospital. The time, place and manner of inspection and copying of records will not be allowed to interfere with other essential duties of the Hospital.

(2) **Organization of records.** The Hospital will maintain its records in a reasonably organized manner. The Hospital will take reasonable actions to protect records from damage and disorganization. A requestor shall not take Hospital records from Hospital offices. Certain Hospital records are available on the transparency website created by the Mississippi Supervisor's Association and the Mississippi Hospital Association for purposes of satisfying requirements of Miss. Code Ann. § 27-104-155(4). Requestors are encouraged to view the documents available on the web site (www.mshospitaltransparency.com) prior to submitting a records request.

(3) Making a request for public records.

(a) Any person wishing to inspect or copy public records of the Hospital should make the request in writing on the Hospital's request form, or by letter, fax, or e-mail addressed to the public records officer and including the following information:

- Name of requestor;
- Address of requestor;
- Other contact information, including telephone number and any e-mail address;

- Identification of the public records adequate for the public records officer or designee to locate the records; and
- The date and time of day of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records. Pursuant to Rule No. 8.1 of this policy, standard photocopies will be provided at fifteen cents (\$0.15) per page.

PROCESSING OF PUBLIC RECORDS REQUESTS — GENERAL

RULE 4. Processing of public records requests – General.

(1) **Providing access.** The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) **Acknowledging receipt of request.** Within seven (7) business days of receipt of the request, the public records officer will do one or more of the following:

- (a) Make the records available for inspection or copying;
- (b) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;
- (c) Provide a reasonable estimate of when records will be available; or
- (d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The public records officer or designee may revise the estimate of when records will be available; or
- (e) Deny the request.

(3) **Failure to respond.** If the Hospital does not respond in writing within seven business days of receipt of the request for disclosure, the requestor may contact the public records officer to determine the reason for the failure to respond.

(4) **Protecting rights of others.** In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer shall, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request and will provide the affected persons a reasonable time period (not less than 30 days) to take action before Hospital will release the records.

(5) **Records exempt from disclosure.** As summarized in Rule 6 below, some records are exempt from disclosure in whole or in part. If the Hospital believes that a record is exempt from disclosure and

should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(6) Inspection and copying of records.

- (a)** Consistent with other demands, the Hospital shall promptly provide space to inspect public records. No member of the public may remove an original document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the Hospital to copy.
- (b)** The requestor must claim or review the assembled records within thirty days of the Hospital's notification to him or her that the records are available for inspection or copying. The Hospital will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the Hospital to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the Hospital may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(7) Providing copies of records. After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying.

(8) Providing records in installments. When the request is for a large number of records, the public records officer or designee may provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(9) Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the Hospital has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(10) Closing withdrawn or abandoned request. When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that the Hospital has closed the request.

(11) Later discovered documents. If, after the Hospital has informed the requestor that it has provided all available records, the Hospital becomes aware of additional responsive documents existing at the time of the request, it will inform the requestor of the additional documents and provide them within a reasonable time period.

PROCESSING OF PUBLIC RECORDS REQUESTS – ELECTRONIC RECORDS

RULE 5. Processing of public records requests – Electronic records.

(1) Requesting electronic records. The process for requesting public records is the same as for requesting paper public records.

(2) Providing electronic records. When a requestor requests that records be produced in an electronic format, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the Hospital and is generally commercially available (e.g., Adobe PDF or CD-ROM), or in a format that is reasonably translatable from the format in which the public body keeps the record. Costs for providing electronic records are governed by Rule No. 8.

(3) Customized access to data bases. With the consent of the requestor, the Hospital may provide customized access if the record is not reasonably locatable or not reasonably translatable into the format requested. The Hospital may charge the actual cost for such customized access.

EXEMPTIONS AND THIRD PARTY INFORMATION

RULE 6. Exemptions.

The Act, as well as other statutes and court decisions, provide that a number of types of documents are exempt from public inspection and copying. In addition, other statutes or rules of law, such as various privacy restrictions, may prohibit disclosure. Requestors should be aware of the following exemptions that may apply to restrict the availability of some documents held by Hospital for inspection and copying:

- Academic records exempt from public access, see § 37-11-51.
- Appraisal records exempt from access, see § 31-1-27.
- Archaeological records exempt from public access, see § 39-7-41.
- Attorney work product, examination, exemption, see § 25-1-102.
- Birth Defects Registry, see § 41-21-205.
- Bureau of vital statistics, access to records, see § 41-57-2.
- Charitable organizations, registration information, see § 79- 11-527.
- Concealed pistols or revolvers, licenses to carry, records, see § 45-9-101.
- Certain documents of ambulatory surgical facilities required to be given to the licensing agency, see § 41-75-19.
- Defendants likely to flee or physically harm themselves or others, see § 41- 32-7.
- Environmental self-evaluation reports, see § 49-2-71.
- Any records that fall under the definition of “Hospital records” as that term is defined in Section 41-9-61
- Records of public hospitals relating to employment or services agreements with a physician or other employee, see § 41-9-68(2)(c)(i)
- Records of public hospitals relating to the credentialing, health, performance, salary, raises or disciplinary action of any employee or medical staff member, see § 41-9-68(2)(c)(ii)

- Records of public hospitals relating to prospective strategic business decisions, see § 41-9-68(2)(c)(iii)
- Records of public hospitals relating to individual patient billing and collection information, see § 41-9-68(2)(c)(iv)
- Records of public hospitals relating to the purchase or sale of medical or other practices or other business operations, and the recruitment of physicians and other healthcare professionals, see § 25-61-12(4)
- Individual tax records in possession of public body, see § 27-3-77.
- Insurance and insurance companies, risk based capital level requirements, reports, see § 83-5-415.
- Judicial records, see § 9-1-38.
- Jury records exempt from public records provisions, see § 13-5-97.
- Licensure application and examination records, see § 73-52-1.
- Medical examiner, records and reports, see § 41-61-63.
- Personnel files exempt from examination, see § 25-1-100.
- Public records and trade secrets, proprietary commercial and financial information, see § 79-23-1.
- Workers' compensation records, see § 71-3-66.
- Records subject to privilege, including, but not limited to, the following:
 - Attorney/client privilege
 - Attorney work product
 - Physician/patient privilege
 - Records relating to accreditation and quality assurance, see § 41-63-23
 - Records of a medical or dental review committee, see § 41-63-9

RULE 7. Third Party Information

Upon request to inspect or copy any document retained by Hospital which is reasonably believed to contain trade secrets or confidential commercial or financial information of any third party subject to the protection of any applicable law or court decision, the Hospital shall notify the third party and provide such third party a reasonable time of at least 30 days to obtain an order prohibiting the production of such information. Thirty (30) days after such notice, the document will be made available for public inspection or copying unless the third party shall have obtained a court order protecting such records as confidential, except that the Hospital may grant a reasonable extension if the third party has filed a legal action for such a court order, but the court has not yet ruled.

COSTS OF PROVIDING PUBLIC RECORDS

RULE 8. Costs of providing public records.

(1) Costs for paper copies. A requestor may obtain standard black and white photocopies for fifteen cents (\$0.15) per page and color copies for (amount) cents per page.

Before beginning to make the copies, the requestor must pre-pay all reasonably estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records in an installment

before providing that installment. The Hospital will not charge sales tax when it makes copies of public records.

(2) Costs for electronic records. A requestor may obtain any public records in electronic form (subject to availability as discussed above in Rule No. 5) for the actual cost to the Hospital of providing the documents.

(3) Costs of mailing. The Hospital may also charge actual costs of mailing, including the cost of the shipping container.

(4) Payment. Payment may be made by cash or check to the Hospital.

(5) Charges for searching, reviewing and redacting. The actual cost of searching for and reviewing and, if necessary, redacting exempt information from public records shall be based upon the hourly rate of compensation for the lowest paid Hospital employee qualified to perform the task, which shall be multiplied by the actual time to complete the task.

REVIEW OF DENIALS OF PUBLIC RECORDS

RULE 9. Review of denials of public records.

(1) Petition for internal administrative review of denial of access. Any person who objects to the initial denial or partial denial of a records request may petition in writing the public records officer for a review of that decision. The petition must include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) Consideration of petition for review. The public records officer must promptly provide the petition and any other relevant information to Compliance Officer. That person will immediately consider the petition and either affirm or reverse the denial within thirty days following the Hospital's receipt of the petition, or within such other time as Hospital and the requestor mutually agree to.

(3) Review by the Ethics Commission. Pursuant to Section 25-61-13, if the Hospital denies a requestor access to public records, the requestor may ask the Ethics Commission to review the matter. The Ethics Commission has adopted rules on such requests. They may be found at www.ethics.state.ms.us.

(4) Judicial review. Any person whose request for public records was denied may institute a suit in the chancery court of Forrest County (the county in which the hospital is located), seeking to reverse the denial, as set forth in Section 25-61-13.