

SENATE, NO. 2301

[Senate, March 2, 2010 - New draft of Senate, No. 849 reported from the committee on Public Health.]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND TEN

AN ACT REGARDING MEDICAL RECORD RETENTION REQUIREMENTS.

Be it enacted by the Senate and House of Representatives in General Court assembled,

And by the authority of the same, as follows:

1 **SECTION 1.** The first paragraph of Section 70 of said 2 Chapter 111, as appearing in the
2 2006 Official Edition, is hereby amended by striking out the second and third sentences and
3 inserting in place thereof the following sentences: — Such records may be handwritten, printed,
4 typed or in elec tronic digital media or converted to electronic digital media as originally created
5 by such hospital or clinic, by the photographic or microphotographic process, or any
6 combination thereof. Such hospital or clinic may only destroy records after notifying the
7 department of public health and the patient that the applicable retention period has elapsed and
8 the records will be destroyed. Such notification shall occur through appropriate notice, which
9 may include, but shall not be limited to, the hospital or clinic’s privacy notice, that records will

10 be destroyed after the applicable retention period has elapsed. Such hospital or clinic shall
11 further provide information through applicable provisions contained in the hospital or clinic
12 notice of privacy practices that records will be terminated after the applicable retention period
13 has elapsed since the last date of service.

14 **SECTION 2.** Said Section 70 of said Chapter 111, as so appearing, is hereby further
15 amended by striking out, in line 66, the word “thirty” and inserting in place thereof the
16 following figure:— ten.

17 **SECTION 3.** Section 36 of Chapter 123 of the General Laws, as so appearing, is hereby
18 amended by adding the following four sentences: — Each facility, subject to this chapter and
19 Section 19 of Chapter 19, that provides mental health care and treatment shall maintain patient
20 records, as defined in the first paragraph of Section 70 of Chapter 111, for at least 15 years after
21 the closing of the record due to discharge, death or last date of service. No facility shall destroy
22 such records unless it first provides notice to the department of public health and to patients that
23 the applicable retention period has elapsed and that records will be destroyed. The means of
24 providing such notice shall include, but not be limited to, the provision of the hospital or clinic’s
25 privacy notice that records will be destroyed after the applicable retention period has elapsed. A
26 facility shall further provide information through a provision of the hospital or clinic notice of
27 privacy practices that records will be terminated after the applicable retention period has elapsed
28 after the last date of service.