



Medical Association of Georgia

SUMMARY OF GEORGIA'S OPEN RECORDS ACT

The Medical Association of Georgia resolved to educate medical staffs on their ability to obtain information concerning hospital authority hospitals through the Georgia Open Records Act. We hope your medical staff finds the following summary useful.

Generally, public records of a state agency are open to inspection by any citizen. Public records are documents, papers, letters, maps, books, tapes, photographs, computer based or generated information, or similar material prepared and maintained or received in the course of operating a public agency. *O.C.G.A§50-18-70*. Records of hospital authorities are specifically included under the Open Records Act unless the records fall under an exemption to the Act or are exempt under another provision of law. *O.C.G.A§50-18-72*. This also includes facilities leased by a hospital authority to a private entity to carry out the duties of the hospital authority. *Northwest Ga. Health Sys. v. Time-Journal, Inc.* 218 Ga. App. 336 – Private, nonprofit hospitals that serve as vehicles through which public hospital authorities carry out their official responsibilities are subject to the open records act.

Although private nonprofit organizations receiving 33 1/3 of their funds through a direct allocation of tax funds are deemed to be a state agency and thus required to comply with the provisions of the Open Records Act, if the entity provides medical or health services they are not considered an agency and therefore exempt from the Act. *O.C.G.A§50-14-1*. Thus, unless the private entity leases the facility from a hospital authority, the Open Records Act is inapplicable to private nonprofit hospitals despite the fact they may receive a substantial portion of their funding from the state.

Records exempt from Georgia's Open Records Act include those required to be kept confidential under federal law, medical records, law enforcement and prosecution records revealing confidential sources, records that would cause an electronic signature not to be under the control of the person using it, records that would reveal medical information about public employees, and vital records. *O.C.G.A§50-18-72; 50-18-76*.

Records in a pending proceeding under the Administrative Procedure Act may only be accessed with approval from the Administrative Law Judge. *O.C.G.A§50-18-70*. Exhibits in a pending criminal or civil case may only be accessed with the approval of the judge. *O.C.G.A§50-18-71.1*.

The individual in control of the records has a reasonable amount of time, not to exceed three business days, to determine if the records are subject to the Open Records Act. When the records are subject to the Act, but not available within three business days, a written description of the records and a timetable for their viewing and copying must be provided within the three day period. *O.C.G.A§50-18-70*. A denial of access to records

must be accompanied by the specific legal authority exempting the records from the Open Records Act. *O.C.G.A§50-18-72(h)*.

Unless otherwise stated, fees for copies are \$.25/page, and a reasonable fee for search and retrieval and other administrative costs may be imposed, however, an estimate of the costs must be provided prior to fulfilling the request. *O.C.G.A§50-18-71; 50-18-71.2*. When practicable, records maintained by computer shall be made available in electronic form. *O.C.G.A§50-18-70*.

Requests for records should be made in writing, state with specificity what information is sought, be addressed to the hospital authority and the hospital administrator and reference the Georgia Open Records Act. Additionally, financial information relating to nonprofit corporations, including hospitals, can be obtained off the Internet from websites such as www.guidestar.org.