

Strategies and Best Practices in Medical Record Retrieval

A MediConnect Global White Paper
for Legal Professionals

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ABSTRACT

Medical Record Retrieval is an integral part of building a solid case and winning civil litigation. The process a firm follows can make or break the action and ultimate settlement. This white paper presents a series of strategies and best practices that can be implemented internally or outsourced to the retrieval experts to help both plaintiff and defense attorneys reduce costs, increase staff productivity and enable the firm to take on larger more complex cases.

Strategies and Best Practices in Medical Record Retrieval

A White Paper for Legal Professionals

Medical records are the cornerstone of many legal cases. Malpractice, product liability, personal injury, workers compensation, and other medical-related cases all depend on the information contained in and discovered from medical records.

Yet collecting, organizing, and analyzing these records is no small task. Records must be identified and obtained from many sources—a time-consuming and often frustrating task. They must be mined for meaningful data and organized for effective analysis and presentation. Doing a good job often takes considerable effort but is absolutely necessary to building a strong case. In fact, the time and effort involved can cause firms to turn away large or complex cases that would otherwise be very attractive.

Fortunately there are ways to improve the medical record retrieval process, making it easier to build and win profitable cases. By adopting key strategies and best practices, law firms can reduce costs, better leverage their office and paralegal staff, and take on larger and more complex cases. These changes simplify and speed the record retrieval process, and can be implemented internally or through the retrieval experts.

Start with Proper Authorizations

The first step in medical record retrieval is obtaining patient permission to request the records. Get this permission during the initial meeting if you are the plaintiff attorney. Since every provider will require a HIPAA authorization, be sure to get a signed form from the patient at that time. If the case involves an incapacitated or deceased individual, other authorizations are required. For example, Power of Attorney, Last Will, or Letters Testamentary may be needed. Defense attorneys may obtain authorization directly through opposing counsel or by way of a subpoena.

Many medical service providers also have their own rules and require their own authorizations—there are thousands of special authorizations in use today. It is not uncommon for them to require additional information or forms before they will release information to the law firm. To streamline



the process, obtain a limited Power of Attorney from the client that authorizes the firm to sign on behalf of the client specifically for medical records requests and information. This will allow the firm to submit specialized requests without going back to the client, reducing the time required for record retrieval.

If an authorization form is rejected due to missing or inaccurate information, submit a supplemental or replacement authorization. Don't make changes to the original authorization; a form that has been changed and resubmitted following rejection may be considered invalid by the custodian of record, causing a second rejection.

Go Digital Now

Most original medical records today are still provided in hardcopy form—paper and film. As a result, most law firms obtain and store hardcopies of the medical records they need. This is not the best practice for several reasons, each of which can easily add hundreds or thousands of dollars to out-of-pocket expenses annually:

- Storing paper records requires significant storage space.
- Sharing hardcopy records requires duplication services and methods to ensure confidentiality and privacy.
- Reviewing and analyzing hardcopy records is cumbersome and time consuming for attorneys.
- Organizing hardcopy records in multiple ways, such as by chronology and category, requires multiple copies.
- Protecting the confidential medical records from disaster, theft, or tampering by unauthorized individuals incurs storage, staff and security costs.

The shift to digital medical records makes it easier to store, share, review, organize, and protect them. Whenever possible, obtain records in digital form. When only hardcopy records are available, scan and categorize them as they come in. With digital records, the integrity of the original is never compromised, searching is easy, and sharing with co-counsel is fast, simple and inexpensive. Going digital now will save time and money later.

Request What You Need

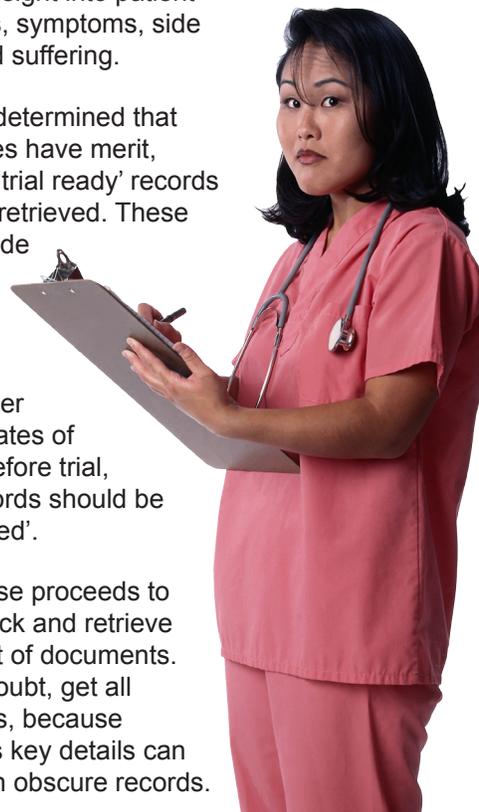
Cases involving medical records typically begin with an assessment of whether the claim has merit. At this point it is not necessary to obtain all the records. Instead it is critically important to obtain only those records required to adequately determine if the case should go forward.

Interview the client to identify key elements of the case and then use that information to drive the record request. For example, maybe only records from the last two years are needed to make the assessment of whether the case has sufficient merit to proceed. Or perhaps a review of the prescription history is enough to determine pre-existing conditions or relevant drug use. The key is to save time and money in the early stages by limiting the request to information needed to determine if liability and causation can be shown and the case proved.

Starting with the client history, identify the providers and records needed to screen the case. Requesting specific documents helps ensure a complete record. Included in this should be billing, pharmacy, medical, urgent care, physical therapy and other record types. Nurse notes can provide valuable insight into patient complaints, symptoms, side effects and suffering.

Once it is determined that a case does have merit, additional 'trial ready' records should be retrieved. These could include additional record types as well as a broader range of dates of service. Before trial, all the records should be 'shepardized'.

Once a case proceeds to trial, go back and retrieve a wider set of documents. When in doubt, get all the records, because sometimes key details can be found in obscure records.



Pursue Missing Details

Some detective work is needed to ensure the record is complete. As records are obtained, review them for providers, physicians, medications and procedures that were not previously identified. This is best performed by someone who has experience with medical records, such as a registered nurse or certified coder, so that all relevant data is identified for the collection. Don't assume that clients have perfect recall. Even if they did, there are often details of which they are unaware. For example, the client may not know the name of the anesthesiologist or radiologist involved in consultations and surgery, yet these individuals can be pivotal to the case. The client also may not be aware of the medications administered during a hospital stay.

Often it is best to start with the claims history and billing history. These should list all the procedures and providers and is a good way to pick up missing details. For each newly identified detail, additional record requests may be needed. The retrieval process is complete when all the documents related to all the details are obtained.

Be sure to note details that are inconsistent or missing from the record. Were the prescribed medications actually administered? Was a medical history taken? Were allergies noted? These details could become an important element of the case.

Know Your Providers and Shippers

There are hundreds of thousands of medical service providers across the United States alone. Many of these providers have their own authorization requirements, method of storing and providing records, fee schedules, and timetable for copy services. To further complicate matters, the provider may not be the custodian of record.

If the provider is part of a larger organization, the party responsible for records may not be immediately obvious. For example, some doctors work for clinics that are part of health organizations. The records could be kept at the clinic or a central office. Chiropractic offices, massage therapy clinics, psychiatric offices, and pharmacies each have their own way of managing records. Learn as much as possible about the providers involved in the case in order to work most effectively with

Typical Record Types Requested

Accreditation Forms	Lab reports
Admission	Labor
Advanced Directives	Medicaid
Ambulance records	Medications
Anesthesia	MRI
Autopsy	Nurse notes
Billing	Nutrition
Catheterization	Occupational therapy
Claims History	Operative
Consent	OR records
Consultations	Pathology
Correspondence	Patient Care
CPR	Pharmacy
CT Scan	Photos
Delivery	Physical Therapy
Diagnostic Testing	Physician Orders
Discharge/Transfer	Plans
DMV	Police
Echocardiogram	Post Anesthesia
Education	Post Partum
EEG	Pre-Natal
EKG	Procedures
Employment-Personnel	Progress Notes
ER records	Psychiatric
Fetal Monitor Strips	Rehabilitation
Fire	Respiratory
Graphs	Social Security
Health Dept	Speech therapy
History	Transfusion
I/O	Treatment
Implant Related	Ultrasound
Instructions	Workers Comp
Insurance	X-Rays

Note: It is also typical that 'All Records' be requested.

them. Expect to make a series of phone calls for initial contact and follow up. The better you know the providers, the smaller the number and shorter the duration of these calls.

Many providers have a subcontracted copying service for their records. These subcontractors have their own schedule that dictates when they will be in the provider's office to copy records and knowing that schedule is a big plus in getting records on time. Providers may even have different custodians for different record types, each with their own processes.

Providers typically select the shipper, ranging from the US Postal Service to UPS, FedEx, DHL and even couriers. With a high volume of record requests, there is always the possibility of lost shipments. Know how each shipper works and develop a relationship with the delivery staff. This will help tremendously in tracking down problems in the overall fulfillment chain and getting the request moving again.

Track Every Request

Requests can take 2-6 weeks to be fulfilled if all goes well. If there are any problems with the request, quick action is needed to avoid delays in fulfillment of the request. For example, if the request is lost by the provider or the courier, it will remain in an indeterminate state until someone at the firm realizes there is a problem. If a cost estimate is submitted for approval or payment, the request for records will go unfulfilled until a response is given. Common issues that will halt the progress of a medical record request include:

- Lost request
- Missing chart
- Incorrect or incomplete authorization information
- Required payment

Set a callback time for each request and establish a 'tickler file' or if possible a more automated way to flag problems. In addition, keep the attorneys involved in the case aware of the status of record requests so that they're not bumping up against case deadlines. To do this, key details about each request must be tracked and readily available for review. These details could be tracked in your case management system and include:

- What was requested
- When the authorization form was received and approved
- Date when document delivery is expected
- Provider contact information
- Payments made
- Number of pages expected
- Log of all contacts, including date, time, and notes about the call
- Case number

Tracking the request status helps everyone stay informed and ensures that turnaround times are as short as possible. Doing so also ensures that case

deadlines are not accidentally missed, and the attorney isn't forced to try to retrieve vital records at the last moment before trial.

Pay Appropriate Fees

Most record requests to providers are subject to a fee, usually required by the provider as a prepayment in advance of record release. The charges may include a flat fee plus additional processing expenses. As a result, records could end up costing hundreds or thousands of dollars, depending on record size. Set a threshold beyond which your approval is required to proceed with the request.

Expect to cut many checks to many providers with little notice, because the request may go unfulfilled until payment is received. Be sure to track the details of these payments to avoid overcharges and double payment.

State statutes limit the fees that can be charged for records requests; know these statutes to be sure that the fees you are being charged are appropriate. If a provider tries to overcharge, you will be able to protest immediately and authoritatively. Statutes vary from state to state and typically only apply to plaintiff attorneys. These statutes change periodically, so make sure the information is current.

Organize Effectively

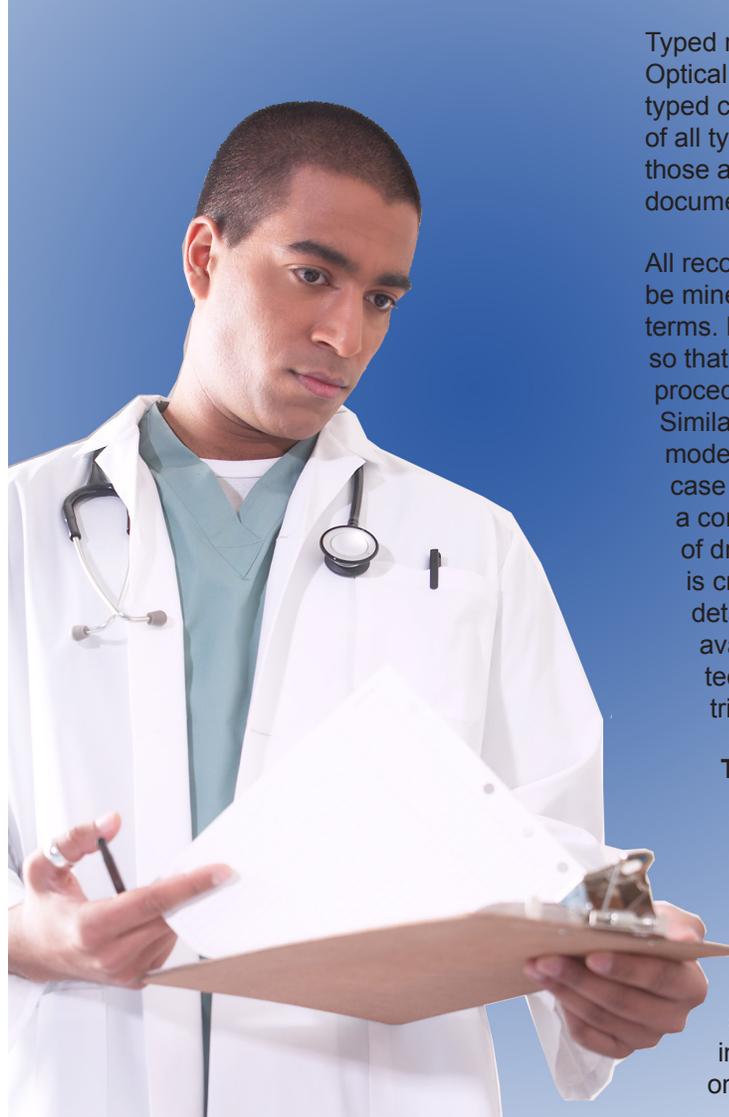
Medical records must be well organized to be used effectively. A typical medical file includes many different records, such as billing information, patient history, and physician orders. These records are often multi-page (sometimes as many as 100 pages or more) and can sometimes be hard to distinguish from one another. For example, a hospital stay can include nurse note records, doctor records, admission discharge summaries, and other documents.

Organize the records into a chronology, presenting a coherent view of the medical history. This makes it easier for the attorney to review and for an expert to analyze. A separate categorical organization can also be helpful. Using this categorical view, an expert can sometimes discover details otherwise overlooked. Having both chronological and categorical views makes it easier to quickly find relevant information in the record, which helps in

responding to motions, discovery and deposition preparation. Creating multiple organizations is easily done when the records are digital.

Apply a unique identifier to every page. This will ensure that records aren't lost and remain in set order. Bates Stamping is a best practice for identifying pages and their context in the overall case. For best results, Bates Stamping should indicate the patient name and provider along with the page number. Other information such as case number or record type could be included as well.

Organizing the records has a clear financial payoff. With a well organized file, the expert can begin analysis immediately. Without one, the expert will need to spend costly time putting details in order. Similarly, a well organized file enables the attorney to more rapidly prepare and present the case.



Summarize, Index, Make Searchable

The value of medical records depends on the ability to access key details contained in them. To maximize the usefulness of the records, make them accessible via summarizing, indexing, and search tools.

A nurse summary created by a legal nurse consultant or nurse paralegal provides a medical overview of the records and can reveal trends in cases involving multiple parties. Annotations can also be inserted to provide additional insight. Because the summary is prepared by a medical professional it can identify details that may otherwise go unobserved. It is useful to both the attorney and any expert assessing the case, as it provides an overview and a starting point for further analysis.

Typed records can be converted to searchable text. Optical character recognition (OCR) can recognize typed characters and return a searchable index of all typed words. This index then enables those associated with the case to search within documents.

All records, both handwritten and typed, can also be mined for keywords and then indexed on those terms. For example, all procedures can be indexed, so that the attorney can then search on a specific procedure and find all documents related to it. Similarly, all physician names or medical device model numbers could be mined and indexed. In a case depends on a causal relationship between a condition and a specific drug use, finding proof of drug use prior to the onset of the condition is critical. This process ensures that all key details, whether typed or handwritten, are available for searching. All of these advanced techniques can be invaluable in preparing for trial.

Tie to Case Management System

An effective way to keep records organized and connected to a specific case is to tie them into the case management system.

A case management system such as Needles™, TrialWorks™, Amicus™, Time Matters, ProLaw, LucidIQ, Client Profiles or SmartAdvocate™ is a critical tool used in many law offices to track the details of ongoing cases. Tying medical records to case

management systems eliminates data re-entry, keeps case materials together, and is easy when the records are digital. The case management system can also be used to track the status of record requests.

Request Updates Before Trial

As the case gets close to trial, be sure to request all record updates. The tracking details from the original record requests should make it easy to determine which providers to send requests to, what payments will likely be required, how long to expect for turnaround and so on. Add the new records to the chronologies and categorizations.

Index, data mine, and make searchable this new content, and add the records to the case management system.

Backup All Records

Be sure that all your records are safe and secure. If they are paper records, make physical copies and store them securely offsite. If records are digital, make a data backup and store it offsite. Fire, flooding and theft are only a few of the threats that must be safeguarded against. For example, many medical records were destroyed by Hurricane Katrina, but thousands of records were recovered because digital copies had been made.

Faced with ever-increasing demand and cost for obtaining medical records in support of large mass tort cases, Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. began a search to replace its own internal record retrieval process, which was being stretched beyond its limit.



The nature of the firm's work requires obtaining a limited set of medical records at the initiation of a case to determine merit and fit. Statute of limitations deadlines require fast turnaround of records requests.

Cases that move forward require a large number of detailed records from numerous sources to complete trial preparation. Initially, Beasley Allen handled all records requests internally. This presented a number of challenges for the firm, including:

- The sheer volume of requests was daunting. Each record required an initial contact with the provider (after tracking down appropriate contact information), and frequently a number of follow-up calls.
- Payment logistics became burdensome, as checks had to be cut for individual invoices to each provider before records would be released.
- Tracking was difficult. When attorneys needed to know the status of a records request, the information was rarely available in one place, and a separate call had to be made to the providers.
- Turnaround time suffered as many records languished in the request cycle.

“After studying many of the problems we were facing, and after researching the options we had available to us, our solution was to outsource the medical record retrieval process to MediConnect,” said Linda Reynolds, Section Head Administrator. “Not only did we avoid hiring more people, we were able to move several employees who had been involved in requesting and tracking records to more productive assignments.”

Especially popular is MediConnect’s ability to provide instant status information on every request. Previously, a status request by an attorney resulted in a flurry of calls to the provider and frustration on both ends. Today, one click shows exact status and a detailed log of all conversations and interactions with each provider. “MediConnect has been a great decision on every count,” said Reynolds. “It’s not just great technology; it’s backed up by a highly responsive, competent team that is very flexible and proactive in addressing our particular needs.”

Bill Your Clients

Medical record retrieval costs should be paid by the client. The tracking history should provide enough detail to identify which payments were made for which client's records. The costs for medical record retrieval are non-trivial and should be recouped. Track each client and each case separately to keep bills straight.

Costs for staff time may be more difficult to assign to clients. This time should be tracked by client and case, and billed if possible. For every case, it is important to know where administrative time is spent and whether that time is a cost that must be absorbed by the firm.

Partner with the Experts

Streamlining medical record retrieval has significant rewards but does require a commensurate level of hard work. Many law firms are not set up to take on the tasks outlined here. For these firms, partnering with the expert retrieval service may well be a better option.

There are several advantages of partnering with the expert in medical record retrieval:

- Staff can be redirected to billable or higher value work
- Costs for outsourced retrieval services are directly billable to clients

- The firm may be free to take on larger, more complex cases
- Experts can provide valuable guidance and assistance in the retrieval process
- Firm maintains control, is involved and informed in the process, and can intervene if changes are desired

Do a cost/benefit analysis of in-house versus outsourced medical record retrieval. This analysis should include:

- Direct costs from providers and copying agents
- Direct costs from expert witness review
- Indirect costs of paralegal/administrative staff time
- Indirect costs for attorney review time
- Direct/indirect costs of duplication services for records sharing
- Computers, software, scanners, printers (additional IT infrastructure costs)
- Value of expert assistance in the retrieval process

This financial analysis should make it clear whether the firm should continue to rely on in-house staff or build a partnership with the medical record retrieval expert.

Best Practices Checklist

1. Get HIPAA-compliant patient authorization or subpoena ASAP.
2. Get authority for attorney to sign for patient when specialty forms are needed.
3. Replace rejected forms with new one.
4. Get and keep all records in digital form and back them up.
5. Be as specific as possible in record requests; ask for exactly what you need when you need it.
6. Assume there are missing details and look for them in the records.
7. Build a database of provider information including as hours, custodian, copy agent, and fees.
8. Learn the procedures and personalities of each document shipper.
9. Publish a detailed log of request status.
10. Proactively contact providers to move request along.
11. Set thresholds for maximum fee payment without review.
12. Know the rules governing fees.
13. Track fees to avoid double payment and over payment.
14. Put records in chronological and categorical order.
15. Create summaries, index and data mine records for easy access.
16. Connect records to the case management system.
17. Track all costs by case and individual for billing.
18. Consider partnering/outsourcing record retrieval based on results of cost/benefit analysis.

Mid-Size Firm Annual Costs

Cost Comparison	In-house	Partner/ Expert
Cost for Retrieving Records	\$150,000	\$71,880
Storage Cost	\$2,400	\$0
Copying Costs	\$3,000	\$0
Savings on Expert Witness Costs	<u>0</u>	<u>(\$7,500)</u>
	\$155,400	\$64,380
Potential Incremental Revenue	Hours	Dollars
Additional Potential Billable Attorney	30 hours	\$9,000
Additional Potential Billable Paralegal	6000 hours	<u>\$600,000</u>
		\$609,000
Assumptions		
Records Requested	2,400	
Pages per Record	50	
Paralegal Expenses per Hour	\$25	
Attorney Expenses per Hour	\$100	
Hours Per Record Request	2.5	
Attorney Billable Fee	\$400	
Paralegal Billable Fee	\$125	
Expert Billable Fee	\$250	

The table above presents a quick comparison of costs for in-house versus outsourced medical records retrieval. In addition, there is potential for added revenue attorney and paralegal hours can be billed at standard rates. The calculation of incremental revenue is based on the billable fee for each minus the related expenses (e.g., incremental revenue for the paralegal would be based on \$125 (billable fee) minus \$25 (expense). Clearly there is a real opportunity for hard dollar savings as well as new revenue when partnering with the medical record retrieval expert.

Key Characteristics of Expert Record Retrieval Services

1. Provides authorization form and knows special requirements of many providers.
2. Provides everything in digital format for direct download to your PC.
3. Provides extensive list of records to choose from and offers suggestions for early stage retrieval.
4. Makes it easy to look for missing details and has option to do this as a service.
5. Regularly interacts with a large database (500,000+) of providers.
6. Handles all receiving from shippers.
7. Tracks every record request and provides 24/7 access to an online log of all contacts and notes.
8. Knows appropriate fees, sets fee thresholds for your approval, and pays all fees upfront.
9. Offers Bates Stamping and indexing.
10. Offers additional services for summarization, indexing and searching.
11. Integrates with leading case management systems.
12. One-step process for requesting updates to retrieval records.
13. Highly secure, backed up IT environment.
14. Enables you to set up accounts and sub-accounts for easy client billing.
15. Costs 20% to 50% less than in-house retrieval process.

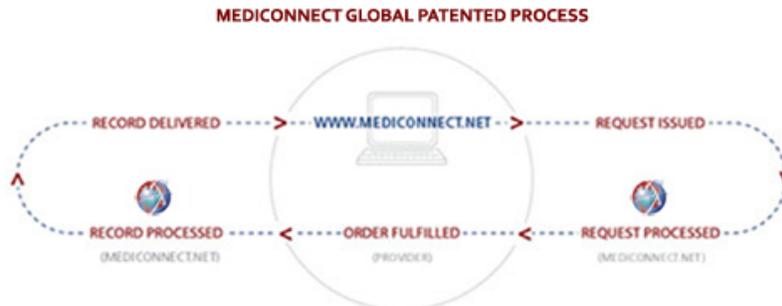
MediConnect Global

MediConnect is an industry expert in providing medical record retrieval services to organizations that need them most—law firms involved in mass tort, medical malpractice and personal injury cases. With MediConnect, you can:



- Turn soft medical record retrieval costs into concrete billable expenses.
- Lower your medical record retrieval expenses.
- Free your staff to focus on more important, strategic tasks.
- Track all your document retrieval requests and expenses in one convenient location.
- Tap into a proven, patented retrieval process, experienced retrieval experts, and powerful computer systems and software.
- Securely transfer electronic records and information to expert witnesses and co-counsel.
- Archive important records on safe, easily accessible electronic media.

Entry of each request is expedited through a database of more than 600,000 physicians and hospitals. As soon as the request is entered into the MediConnect systems, the retrieval staff is contacting providers, requesting copies of medical records, scanning medical records and linking them to your online request. Upon completion, you receive an email alert informing you that the digital record is available for viewing, printing, and storing.



The MediConnect solution revolves around RapidRetrieve™, a powerful web-based solution providing access to all of MediConnect's sophisticated tools, resources, and capabilities. With RapidRetrieve, you can:

- Manage all aspects of medical records retrieval quickly and easily.
- Initiate new requests.
- Track the status of pending or past requests.
- Download completed records.
- Order additional services, such as customized Bates/page stamping, medical record sorting, indexing, and medical record reports and summaries.

MediConnect is integrated seamlessly with multiple case management systems, including Needless™, TrialWorks™, Amicus™, Time Matters, ProLaw, LucidIQ, Client Profiles and SmartAdvocate™. You can rest assured that all confidential medical information is protected, secure, and fully compliant with HIPAA standards and all other government regulations. Ultimately great service comes down to people and systems you can trust. Individualized service and account management frees your time and lowers your costs. MediConnect's commitment to outstanding personalized service is one of the many qualities that sets the company apart from other record retrieval companies.