

SUBJECT: Amendment of Protected Health Information

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EFFECTIVE DATE:

REVIEWED/REVISED: 3/24/03

PURPOSE: To ensure the patient's request for amendment of their medical record is handled in compliance with HIPAA.

POLICY:

Pursuant to the Health Insurance Portability and Accountability Act (HIPAA), section 164.526, a patient or his/her legal representative has the right to correct/amend the protected health information (PHI) contained in the patient's designated record set (DRS) for as long as the PHI is maintained in the DRS.

Requests

All requests for correction/amendment must be in writing on the designated Amendment to Medical Record Request Form and must include the reason for the requested amendment and any supporting documentation. All such requests should be forwarded to the MHS affiliate Privacy Officer or designee for handling.

Timely Action

The MHS affiliate Privacy Officer shall initiate the review process with the appropriate staff and/or physician(s). The request must be acted upon no later than 60 days after receipt as follows:

- If accepting request, by complying with amendment procedure
- If denying request, by providing a written denial to the patient and/or legal representative in compliance with the denial procedure
- If unable to act upon the request, by giving patient and/or legal representative written notification of the delay to include the reason for the delay and date action will take place on the request. (No more than an additional 30 days). One such delay is allowed.

Denial

The request for amendment may be denied if the PHI that is the subject of the request:

- Was not created by the facility, unless the individual provides a reasonable basis to believe the originator is no longer available to act on the requested amendment.
- Is not part of the designated record set.
- Is not available for inspection in accordance with the right to deny access (see Patient's Right to Access Protected Health Information policy).
- Is accurate and complete. The accuracy of the information is to be determined by the creator of the information.

Amendment Procedure

If the requested amendment is accepted, in whole or in part, the following must be complied with:

- Make the appropriate amendment to the PHI/ record by identifying the records in the DRS that are affected and appending/otherwise providing a link to the location of the amendment (i.e. adding a note near the information to be amended indicating the presence of an amendment and the date of the amendment).
 - Inform the individual that the amendment is accepted

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- Obtain the individual's identification of and agreement to have the facility notify the relevant persons with which the amendment needs to be shared
- Make efforts to inform and provide the amendment within a reasonable time to:
 - ✓ persons identified by the individual as having received PHI and needing the amendment; and
 - ✓ persons, including business associates known to have the PHI and that may have relied /may rely on the now amended information to the detriment of the patient.

Denying the Amendment

Denial must be based on a reason previously defined in this policy. The notification to the individual must be in writing and include:

- The basis for the denial
- The individual's right to submit a written statement disagreeing with the denial (not to exceed 500 words), and instructions on how to file the statement.
- A statement that, if a statement of disagreement is not submitted, the individual may request the request for amendment and denial be provided with any future disclosures of the subject information; and
- A description of how the individual may complain to the entity (see Complaints Regarding Patient Privacy policy)
(The MHS Denial of Amendment Request form may be used).
- The process of appeal as well as the process for submitting a complaint to the appropriate MHS affiliate Privacy Officer or to the Department of Health & Human Services about the denial.

Statement of Disagreement

The denying facility must allow the patient to submit a written statement disagreeing with the denial of all or part of a requested denial and the right to ask that the original amendment/correction request and denial be attached to any future disclosures of his/her personal health information. The statement can be limited (i.e. not to exceed 500 words).

A written rebuttal may be done in response to the statement of disagreement. This must be provided to the individual.

Record Keeping

The entity must identify the PHI that is the subject of the disputed amendment and append or link the:

- ✓ request for amendment,
- ✓ the denial of the request and
- ✓ the statement of disagreement and the rebuttal.

Future Disclosures

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If a statement of disagreement has been submitted by the individual, the CE must include the material appended, or an accurate summary, with any disclosure of the information to which the disagreement relates.

If there is not a statement of disagreement, the request for amendment and denial must be included in future releases only if the patient requests this be done.

Receipt of an Amendment

If an MHS affiliate receives an amendment of a patient's PHI from another source, the affiliate must amend the PHI contained in their DRS as provided above.