



POLICIES AND PROCEDURES

SUBJECT: Patient's Right to Access Medical Record

EFFECTIVE DATE: DRAFT
REVIEWED/REVISED:

PURPOSE: To define when and how patients may have access to their protected health information.

POLICY: Pursuant to the Health Insurance Portability and Accountability Act (HIPAA), section 164.524, a patient has the right to inspect and/or obtain a copy of their designated record set (DRS) as long as the DRS is kept.

DEFINITION:

The designated record set is that portion of a patient's medical record used to make health care decisions about that patient as defined by the appropriate MHS affiliate Designated Record Set policy.

EXCEPTIONS:

An individual does NOT have the right to inspect and/or obtain a copy of the following information that may be contained in their designated record set:

- Psychotherapy notes (unless specifically authorized by the creator of the notes);
- Information compiled in anticipation of or in use in a civil trial or an administrative action or proceeding

PROCEDURE:

The request:

A patient who desires to inspect and/or obtain a copy of their DRS must submit a request in writing to HIM/Medical Records.

All requests for access should be directed to the Director of HIM/Medical Records (Director), or his/her designee, of the appropriate MHS affiliate.

Acting upon the request:

The request must be acted upon within 10 days of receipt in Nebraska by doing one of the following:

- Accepting the request and informing the patient of when and where the DRS will be available for review;
- Providing copies of the DRS pursuant to MHS Release of Information policy;

SUBJECT:

Page 2 of

-
- Informing the patient if the requested information does not exist or cannot be located;
 - Informing the patient of who maintains the requested information if the facility that received the request does not, but knows who does;
 - In Nebraska, if unusual circumstances delay the request, notifying the patient within 10 days of the reason for the delay and providing a projected date, not more than 21 days from the date of the receipt of the request, that the records will be available for examination;
 - Denying the request in writing (refer to the MHS Denial of Patient Access policy)
 - If the information requested is not maintained or accessible on site, the request must be acted on no later than 21 days from receipt, after informing the patient within 10 days of receipt of the request that there will be a delay.

In Iowa, the request must be acted upon with thirty (30) days.

Provision of Access:

1. Provide access requested by the patient, including inspection or obtaining a copy, or both, of the PHI about them in designated record sets (DRS). Duplicate information that may be kept in more than one DRS or location need only be produced once.
2. Provide the patient with access to the PHI in the form or format requested by the individual, if it is readily producible in such a form. If not, a format agreed upon by the individual and facility should be used.
3. The facility may provide the individual with a summary of the PHI requested in lieu of providing access to PHI or may provide an explanation of the PHI if
 - The individual agrees in advance to such a summary/explanation
 - The individual agrees in advance to fees imposed , if any, by the facility for such summary/explanation
4. Provide the patient with access as requested by the individual in a timely manner, including arranging with the individual for a convenient time and place to inspect or obtain a copy of the PHI or mailing the copy of the PHI at the individual's request.
5. A reasonable cost-based fee may be charged.

Denial of Access:

The facility may deny an individual access to their medical record without providing the patient an opportunity for review if:

- The information requested falls within one of the exceptions listed above;
- The health care provider is acting under the direction of a correctional institution which has concerns about the safety of the requestor or another individual;

SUBJECT:

Page 3 of

- The information was gathered during research which is ongoing and the patient was notified when consenting to participate that access would be denied until completion of the research; or
- The information was obtained from a third party pursuant to a promise of confidentiality.

A facility may deny individual access to their medical record, provided the patient is given the right to have the denial reviewed if:

The provider has determined in his/her professional judgment that:

- The access requested is likely to endanger the life or safety of the patient or another person;
- The information makes reference to another person and access is likely to cause harm to such an individual; or
- The access is requested by the individual's personal representative and access could cause harm to the individual or another person.

If access is denied under a reviewable condition, please refer to the MHS Denial of Patient Access policy.

The facility must, to the extent possible, give the individual access to any other PHI requested after excluding the information that prompted the denial.