

## Emma Eccles Jones College of Education &amp; Human Services

**POLICY INFORMATION**

Document # <b>105</b>	Title: <b>HIPAA Privacy- Patient Right to Request Amendment of PHI</b>	Print Date: <b>5/18/2016</b>
Revision # <b>1.0</b>	Prepared by: <b>J. Black</b>	Date Prepared: <b>1/15/2016</b>
Standard: <b>HIPAA</b>	Approved by: <b>Dean Beth E. Foley</b>  7AB6B86710B5491...	Date Approved: 8/7/2016

**I. INTRODUCTION**

It is the objective of CEHS to establish, document and establish policy and procedures for the process of record amendment requests in accordance with 45 CFR § 164.526

**II. DEFINITIONS**

See HIPAA Privacy Policy 100

**III. POLICY STATEMENT**

To provide guidance to enable patients or their personal representatives the opportunity to request and, if appropriate, obtain an amendment to their Protected Health Information (PHI).

**IV. AUTHORITY AND RESPONSIBILITIES**

CEHS has component units that are listed as a hybrid entity in accordance with USU's HIPAA Hybrid Covered Entity Declaration. Only the Health Care Component/HCC (i.e., covered functions) of CEHS must comply with this policy. All references in this policy to "CEHS" shall be construed to refer only to the health care component of CEHS.

**V. PROCEDURES TO IMPLEMENT**

An individual has the right to have a covered entity amend PHI or a record about the individual in a Designated Record Set for as long as the PHI is maintained in the Designated Record Set; however, a covered entity may deny an individual's request for amendment under certain circumstances described in this policy.

**1. Submission of Request for Amendment**

- a. Requests by a patient or his/her personal representative to amend medical records or billing records must be submitted to the HCC in writing.
- b. However, request for changes to basic demographic information, such as changes to addresses and insurance policy information, may be requested verbally. See the "Special Considerations" section of this policy for further guidance.
- c. The written request must be submitted in person, by facsimile, encrypted email, or by mail.

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- d. Upon receipt of the request for amendment, appropriate HCC personnel must verify the identity of the person making the request. The identity of the requestor must be validated either with a picture identification, such as a driver's license or passport, or comparison of signatures documented in the patient's records.
  - e. See Attachment A- Request for Amendment of Health Information. It shall be used by the HCC in the event of such a request.
2. Responsibility for Processing Request for Amendment
- a. It is the responsibility of the HCC to receive and process requests for amendment of a patient's medical records.
  - b. It is the responsibility of the HCC's billing department to receive and process requests for amendment of a patient's billing records.
  - c. Requests for amendment of other types of PHI should be routed to the appropriate Record Custodian.
3. Processing of Request for Amendment
- a. A copy of the request for amendment must be given to the patient or his/her personal representative.
  - b. Appropriate HCC personnel must review the request for amendment and determine if it meets the criteria for acceptance or denial in accordance with Federal and State regulations.
  - c. A request for amendment may be denied if the HCC determines that the PHI or record that is the subject of the request:
    - i. Was not created by the HCC, unless the requestor provides a reasonable basis to believe that originator of the PHI is no longer available to act on the requested amendment;
    - ii. Is not part of the HCC's Designated Record Set;
    - iii. Would not be available for access and inspection by the individual under HIPAA. Such records include:
      - Psychotherapy Notes
      - Information compiled in reasonable anticipation of use in criminal, civil, or administrative actions or proceedings, and
      - Information exempted from access by the Clinical Laboratory Improvement Amendments (CLIA); or
      - Is accurate and complete.
  - d. Requests to amend patient medical records must be submitted to the clinician-author of the record, as appropriate. The clinician-author of the record will review the request, determine agreement or disagreement, and inform the Clinic Privacy Officer of his/her decision.
    - i. Amendment of patient demographic information (such as spelling of name, address, date of birth, insurance information) does not require review by the author or person who gathered the information and will be amended per the HCC procedures.
  - e. The HCC must notify the requestor in writing of the decision to amend or not amend within 60 days of the receipt of the written request.



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- d. The HCC must include the amendment in the patient's medical and/or billing records as appropriate.
6. Notification and Future Disclosures
  - a. If a statement of disagreement was submitted as part of the amendment process, any subsequent disclosure or information related to the amendment must include the request for amendment, the denial statement of disagreement and the rebuttal, if any, or an accurate summary of the information.
  - b. If a statement of disagreement was not submitted, HCC must provide the request for amendment and the denial, or a summary of the information, with any subsequent disclosure of related information only if the individual submitted a written request for such action after receiving the denial.
  - c. As permitted by law, the HCC may separately transmit the documents listed above when any future disclosure of related information is accomplished via standard electronic transactions.
7. Receipt of Notices of Amendment from Others
  - a. If the HCC receives notification from another covered entity or health care provider that a patient's PHI has been amended, the department must incorporate the amended information into the patient's medical and/or billing records.
  - b. This amendment becomes a part of the Designated Record Set and is subject to use and disclosure as authorized by the patient or his/her personal representative, or as otherwise permitted.
8. Record Retention
  - a. All requests, responses, denials, statement of disagreement, rebuttals, and amendments must be retained for six (6) years from their last effective date, or as long as the record set is maintained, whichever is longer.
  - b. A listing (log) of requests for amendments to patient records and the decisions on the requests must be maintained by each Clinic's Privacy Officer to support a response to inquiries from auditing agencies or HHS.
9. Special Considerations
  - a. It is not the intent of this policy to impede or disrupt the updating or correcting of certain demographic information by requesting all changes to be submitted in writing. Particularly in emergency situations, the demographic information for the patient and guarantor collected during the registration process may be incomplete or incorrect. In the normal course of business, it is reasonable to accept and act upon verbal information gathered from the patient or personal representative. Though the HCC need not require written requests for changes to demographic information, it may ask for written documentation for these types of changes if appropriate. For example, the patient may be required to produce a marriage license as proof of a name change in connection with a name change request. Lastly, it is preferable to append an individual's medical record with a requested amendment, rather than redact or substantially change a record regarding an individual's treatment.
  - b. Three forms are attached to this policy and shall be used by the HCC's to meet the steps outlined above:

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- i. Attachment A- Request for Amendment of Health Information. This form is to be completed by the individual requesting an amendment to his/her PHI.
- ii. Attachment B- Letter for Delay in Processing Request for Amendment of Health Records. This form letter will be used to notify the requestor of a delay in responding to an amendment request.
- iii. Attachment C- Letter of Denial for Request to Amend Health Record. In the event that the HCC denies a request for an amendment to PHI, this form must be used to inform the patient of the denial to amend PHI. This form letter contains all the amendment denial statements required by the HIPAA Privacy Rule.

**VI. ATTACHMENTS**

Attachment A - Request for Amendment of Health Information

Attachment B - Letter for Delay in Processing Request for Amendment of Health Records

Attachment C - Letter of Denial for Request to Amend Health Record

**VII. REFERENCES**

45 CFR § 164.526

HIPAA Privacy Policy 100

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**Attachment A**

**Request for Amendment of Health Information**

Patient Name: \_\_\_\_\_

Patient Account No.: \_\_\_\_\_ Medical Record No.: \_\_\_\_\_

Patient Address: \_\_\_\_\_

Date of entry to be amended: \_\_\_\_\_ Type of entry to be amended: \_\_\_\_\_

Please explain how the entry is incorrect or incomplete. What should the entry say to be more accurate?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I authorize the release of the amended information described on the form to the following parties

(additional parties can be listed on the back of this form):

Name	Address City State Zip
_____	

Signature of Patient or Personal Representative Date

For Healthcare Organization Use Only:

Date Received: \_\_\_\_\_ Amendment has been:

Accepted  Denied

If denied, check reason for denial:

PHI was not created by this organization  PHI is not a part of patient's designated record set

PHI is not available to the patient for inspection as required by federal law (e.g. psychotherapy notes)

PHI is accurate and complete

Comments of Healthcare Practitioner (Clinician-author):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name of Healthcare Practitioner Title & Clinic Name

Signature of Healthcare Practitioner: \_\_\_\_\_ Date: \_\_\_\_\_

Original: Medical or Billing Record of Patient

First copy: Author

Second copy: Requestor

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**Attachment B**

**Letter for Delay in Processing Request for Amendment of Health Records**

Date: \_\_\_\_\_

Patient or Representative: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, ZIP Code: \_\_\_\_\_

Dear (Patient Name): \_\_\_\_\_

Your request for an amendment of your health records, dated \_\_\_\_\_, is still under consideration.

We are experiencing a delay in responding to your request because

\_\_\_\_\_

\_\_\_\_\_ and we will act upon your request within the next thirty

(30) days. We will notify you of our decision by \_\_\_\_\_ (date).

Sincerely,

\_\_\_\_\_  
Clinic Privacy Officer (or his/her designee)

cc: Medical or Billing Record of Patient

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**Attachment C**

**Letter of Denial for Request to Amend Health Records**

Date: \_\_\_\_\_

Patient or Representative: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, ZIP Code: \_\_\_\_\_

Dear (Patient Name): \_\_\_\_\_

**This is to inform you that your request to amend information in your medical or billing records has been denied because this:**

- Information was not created by us, please contact the person or entity that created this information.
- Information may be amended only by the clinician or author of the record, and such clinician or author has not approved the amendment.
- Information is not part of the medical information kept by or for CEHS.
- Information is not part of the medical information that you would be permitted to inspect and copy.
- Information is accurate and complete.

If you disagree with our conclusion, you may file a statement of disagreement with CEHS. Submit your written statement to:

Clinic Privacy Officer Name: \_\_\_\_\_

Phone #: \_\_\_\_\_

If CEHS does not agree with your statement of disagreement, we will provide you with a copy of our rebuttal. If you do not wish to submit a written statement of disagreement, you may still request that we provide your request for amendment and our denial with any further disclosures of the related protected health information. Submit your written request to (name, title, phone number of contact person or office responsible for handling amendments of medical or billing records.) Should you wish to file a complaint regarding this issue, you may submit your complaint in writing to the Privacy Officer at:

Privacy Officer  
Emma Eccles Jones College of Education and Human Services  
Utah State University  
2800 Old Main Hill  
Logan, UT 84322-2800  
(435)797-0141

You may also file a complaint with the Secretary of the Department of Health and Human Services:

Andrea Oliver, Regional Manager  
HHS/Office for Civil Rights  
1961 Stout Street  
Room 08-148  
Denver, CO 80294  
Customer Response Center: (800) 368-1019  
Fax: (202) 619-3818  
TDD: (800) 537-7697

Signature of CEHS Representative: \_\_\_\_\_

(1) If you can provide a reasonable basis for us to believe the originator of your protected health information is no longer available to act on your request, we will reconsider this decision and may proceed with the amendment. If you believe this to be the case, please contact the Privacy Officer at the phone/address above.

Original to Requestor Copy to Patient's Medical Record or Billing Record