

Patients' Rights

The patient's rights include:

- The right to receive a copy of the Notice of Privacy Practices
- The right to request confidential communications
- The right to request a restriction on the use and disclosure of PHI
- The right to know that the covered entity is not required to agree with the requested restriction unless the request is for a restriction of information to the health plan for a service or item which the patient pays for out of pocket, with no health plan involvement
- The right to inspect and copy the PHI
- The right to request amendments and corrections to the PHI
- The right to request an accounting of PHI disclosure

These are included in the Notice of Privacy Practices. Most require the patient to express their requests in writing. Forms for those requests are in this section of the manual. Providers have the authority to deny certain requests based on professional judgment.

Confidential Communications

Patients may request that the covered entity communicate with them through a method different than normally used, or to an alternate address or phone number, or through electronic means. However, the covered entity may require the patient to provide an effective means of contact, such as an address, phone number, or e-mail address, and may require the patient to explain how any additional costs to the practice will be paid. If the patient is unable to provide this information, the practice may deny the request.

If the patient prefers or requests electronic communications, he or she should be reminded that the PHI may not be secure. They should use the Electronic Communication Form to acknowledge the risk involved in this communication format.

Restrictions

Patients may request restrictions on how their PHI may be used. However, covered entities are not required to agree to the requested restriction. Patients may not request restrictions for uses required by law or for workers' compensation purposes. If the provider, using professional judgment, determines that agreeing to the restriction would not be in the best interest of the patient, the request may be denied.

Covered entities are required to grant a request for a restriction disclosure to the patient's health plan for a service or item for which the individual pays for totally out of pocket. This request must be made in writing. Another individual, such as a friend or family member, may pay for the service or item, but the patient cannot have another plan contribute toward the payment.

Inspect and Copy

Patients have the right to access, inspect, or copy routine PHI. However, they do not have the right to access, inspect, or copy psychotherapy notes or records restricted by another law, such as CLIA. The right to access PHI is suspended during participation in clinical trials. The patient usually agrees to this prior to the participation, and access is restored at the end of the trial.

Access may be denied to personal representatives if the provider, using professional judgment, has reason to believe that the access would not be in the patient's best interest, especially if the provider suspects that the patient may be subject to domestic violence, abuse, or neglect, or if the access may in any way endanger the patient or another individual. Access will also be denied to individuals other than the patient if the patient has requested a restriction and that request has been granted. In the case of inmates, access may be denied if it may endanger anyone there or if it might compromise the work of the facility.

A request for access must be acted upon within 30 days. If the records are not easily accessible (stored off-site, for example), the practice may have 30 more days to allow the access.

If the request is denied, this must be documented and communicated to the patient. The patient may appeal. This information must be added to the patient's medical record.

We are required to provide the information in electronic format if available. The format (examples: e-mail, disk, flash drive) must be acceptable to the requesting individual. We cannot use media provided by the patient due to security risks, and cannot require the patient to purchase media from us.

We will charge the patient the allowable rate for providing copies in any format.



Amendment

Patients may request an amendment to their medical record. The provider must review this request to determine whether the amendment is appropriate. The request may be denied -

- If the provider determines that the records are complete and accurate, the request may be denied
- If the correction does not apply to information in the designated record set
- If the information was not created by that covered entity (unless the provider who created the record is no longer available to make the correction)
- If it is part of a designated record set that is not available for access

The covered entity must act upon this request within sixty days. If it is unable to meet that response to the patient requesting the amendment, a copy of that response becomes part of the designated record set.

If the covered entity agrees to the amendment, the amendment must be made part of the designated record set and must be provided to any other agency or individual who was provided with the original information.

If the provider denies the amendment, the covered entity must communicate this information to the patient. The patient may submit a letter of disagreement and may request that the letter become part of the designated record set.

Accounting of Disclosures

Patients have the right to request an accounting of disclosures – incidents involving the use of their protected health information. At this time, the changes proposed in 2011 (and in the HITECH rule) were not incorporated. However, we are following those at this time, as they are the most current guidelines available.

For paper charts, this excludes disclosures for the purposes of treatment, payment, and health operations. The request may go back as far as six (6) years from the date of the request. The report must include -

- The date of the disclosure
- The name and address (if available) to whom the information was disclosed
- A description of the PHI disclosed
- The purpose of the disclosure

The report must be provided to the requesting individual within sixty days of the request. A one-time extension is allowed if the situation prevents a timelier reporting, but the practice must explain in writing the reason for the delay.

If the accounting includes multiple disclosures to the same entity or individual, a summary log may be used. If the disclosure is for research involving more than fifty individuals, the accounting must include the research protocol or activity, a description and criteria of the activities or protocols, a description of the PHI disclosed and the date of the disclosure, the name and address of the sponsor and the researcher, and a statement that the information could not be used for any additional purpose.

For electronic health records, the accounting includes disclosures for the purposes of treatment, payment, and health operations. This request may go back only three (3) years from the date of the request. For practices using electronic health records prior to January 1, 2009, the compliance date is January 1, 2014. For those acquiring electronic health records after January 1, 2009, but before January 1, 2011, the compliance date is January 1, 2011. For practices that implement electronic health records after January 1, 2011, compliance is required upon installation. However, the Secretary of HHS may delay these compliance dates.

At the time this document was developed, the Secretary of HHS had not yet published the required information to be included in the accounting.

The following disclosures are exempted from all accounting reports.

- Incident to a permitted or required disclosure
- Pursuant to a signed authorization
- To people involved in the patient's care
- For purposes of national security or intelligence
- To correctional institutes or law enforcement agencies
- Limited data sets
- Prior to the covered entity's compliance date
- With a written statement from an agency requesting information for health oversight or law enforcement that states that including the disclosure would impede their activities

