



NATHANIEL WITHERELL	POLICY # 4.29.2021 (Supersedes): 2010
DEPARTMENT: Medical Records	SUBJECT: Individuals' right to access Protected Health Information

BACKGROUND:

The HIPAA Privacy Rule provides individuals with the right to inspect their PHI held in a designated record set, either in addition to obtaining copies or in lieu thereof and requires covered entities to arrange with the individual for a convenient time and place to inspect the PHI.

DEFINITIONS:

A “**Designated Record Set**” means the resident’s medical and billing records and any other records containing PHI that are used, in whole or in part, to make decisions about the resident.

PURPOSE:

Residents will be informed of their right to request, orally or in writing, to inspect and obtain copies of the PHI in a Designated Record Set.

POLICY:

Covered Entity shall permit residents to exercise their right to access their protected health information (“PHI”) maintained by Covered Entity in the resident’s “Designated Record Set,” including the right to inspect and obtain copies of the PHI, in accordance with state and federal law. Covered Entity also shall permit residents to exercise their right to receive an electronic copy of their PHI maintained in a Designated Record Set electronically. Residents may also direct Covered Entity to send a copy directly to a third party designated by the resident.

PROCEDURES:

Residents have the right to request, orally or in writing, to inspect and obtain copies of their PHI in a Designated Record Set. To the extent Covered Entity maintains PHI in one or more Designated Record Sets, electronically. Residents also have the right to an electronic copy of the PHI. Residents also may direct Covered Entity to send a copy directly to a third party designated by the resident. Covered Entity’s *Notice of Privacy Practices* will inform residents of these rights.



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- The **Medical Records Specialist** will receive and process all resident requests for access to and copies of PHI.
- Residents will be asked to complete the *Request for Access to Protected Health Information Form*. If a resident makes the request verbally, the **Medical Records Specialist** will complete the Form.
- A resident's personal representative may also request access to and/or copies of the resident's PHI. (See *Personal Representatives Policy* for guidance on who may serve as a resident's personal representative.) Covered Entity will verify the identity and authority of a personal representative in accordance with its *Policy on Verification of Identity*. Attorneys who provide legal representation to a resident may not access the resident's PHI unless the attorney also serves as a personal representative, or the resident provides an Authorization for Covered Entity to provide the attorney access to the resident's records.
- The **Medical Records Specialist** will notify the **Executive Director** or his/her designee upon receipt of any request for access to or copies of PHI. If the request involves billing records, the **Director of Finance** or his/her designee will also be notified.

Responding to Requests for Access:

- Covered Entity must allow the resident to inspect his or her PHI within twenty-four (24) hours (excluding weekends and holidays) of receiving a written or verbal request for access. A designated staff member must be present when the resident (or the resident's personal representative) reviews the records.
- If the resident requests copies of his or her PHI, the **Medical Records Specialist** will provide the requested copies within two (2) days of the resident's request, excluding weekends and holidays.



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- Covered Entity will provide the information in the form requested (i.e., electronic or hard-copy), if the information is readily reproducible in that form.
- Covered Entity will provide the information in hard-copy form, or such other form as the resident and Covered Entity agree. However, to the extent Covered Entity maintains PHI in one or more Designated Record Sets electronically and the resident requests an electronic copy, Covered Entity must provide a copy in a readable electronic form as agreed to by the Covered Entity and the resident. Covered Entity will also comply with the resident's signed and written request to send the copy of PHI directly to a third party.
- If the request pertains to paper records, copying fees will be assessed at a rate of sixty five cents (\$.65) per page. If the request pertains to electronic copies, Covered Entity may charge a reasonable cost based fee, provided that the fee includes only the cost of labor for copying the PHI; supplies for creating the electronic media; postage, when the resident has requested the copy or summary be mailed; and preparing a summary of the PHI, if agreed to by the resident.
- Copies must be provided free of charge if the resident presents documentation that the records are needed for a Social Security claim or appeal, or provides an affidavit attesting to his or her inability to pay the applicable fee. If no such documentation or affidavit is received, an invoice for the applicable fee will be sent to the resident when the records are provided.
- If the resident agrees, Covered Entity may provide the resident with a summary or explanation of the PHI maintained by Covered Entity instead of providing direct access. If Covered Entity will charge a fee for such a summary, the resident must agree in advance to the fee.
- Any clinical concerns about providing a resident access to or copies of his or her PHI should be communicated immediately to the Executive Director or his/her designee who will review the matter with the resident's attending physician and/or the medical director.



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Documentation

- If the resident reviewed the record, the date, time of review and name of the individual reviewing the record will be documented on the ***Request for Access to Protected Health Information Form***. If the resident received copies, the documentation should identify the format and content of the copy/copies, the name of the individual who created the copy/copies and the date provided. The documentation will be maintained in the resident's medical record.
- Covered Entity will document and retain documentation of the following in accordance with its *Policy on Documentation and Record Retention*:
- The Designated Record Set subject to access by individuals
- The titles of person(s) or office(s) responsible for receiving and processing requests for access to and copies of PHI.