## Purpose

To define the right of patients to access their Protected Health Information (“PHI”); to describe the circumstances under which it is appropriate to permit such access; and to set forth the procedures for approving or denying a patient request for access to his or her PHI.

## Policy

[COVERED ENTITY] recognizes that every patient has the right to access his or her PHI maintained in a designated record set. Although a patient’s right to obtain, copy, or inspect his or her medical records is not absolute, [COVERED ENTITY] will respond to every request for access in accordance with the requirements of the HIPAA Privacy Rule and the procedures set forth herein.

**PROCEDURE**

1. Right of Access.
	1. [COVERED ENTITY]’s Notice of Privacy Practices will inform patients of their right to access their PHI.
	2. A patient has the right to inspect and obtain a copy of PHI maintained by [COVERED ENTITY] in one or more “designated record sets.” A “designated record set” is defined as follows:
		1. Medical, billing, and payment records maintained by [COVERED ENTITY];
		2. Insurance information, including enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan;
		3. Records [COVERED ENTITY] uses, in whole or in part, to make decisions about individuals (e.g., clinical laboratory test results; medical images, such as X-rays; wellness and disease management program files; and clinical case notes). These records include those that are used to make decisions about any individuals, even if they have not been used to make decisions about the particular individual requesting access. These records also include records received from other providers that are used in connection with [COVERED ENTITY]’s clinical decision-making.
2. Exceptions to the Right of Access. A patient’s right of access does not apply to the following records and information:
	1. Psychotherapy notes;
	2. Information that is compiled in anticipation of, or for use in, a civil, criminal, or administrative action or proceeding; and
	3. PHI that is not part of the designated record set.
3. Procedure for Requesting Access. A patient (or his or her personal representative) must make a request for access in writing. The request must be documented on an Access to Protected Health Information form or in the notes of the patient’s medical record.
4. Procedure for Responding to Access Requests.
	1. Requests for access to PHI will be managed by [COVERED ENTITY]’s Privacy Officer.
	2. [COVERED ENTITY] must respond to any access request within 30 days after receipt of the request.
	3. One 30-day extension is permitted; however, [COVERED ENTITY] must provide the patient with a written statement of the reasons for the delay and the date by which the access request will be processed.
5. Procedure for Providing Access when Request is Granted.
	1. [COVERED ENTITY] will provide the patient with access to the PHI in the form or format requested, if readily producible in that form and format.
		1. If the PHI is not readily available in the requested format, [COVERED ENTITY] will provide it in readable hard copy form or other form and format as agreed to by [COVERED ENTITY] and the individual.
		2. *Requests for Electronic Access to Electronically Stored PHI*. If an individual specifically requests electronic access to PHI that is maintain electronically, [COVERED ENTITY] will provide the individual with access to the information in the requested electronic form and format. If the PHI is not readily producible in electronic form and format, then [COVERED ENTITY] will provide it in an agreed upon alternative, readable electronic format. If the individual refuses to accept any of the electronic formats that are readily producible, then [COVERED ENTITY] may provide the individual with a readable hard copy of the PHI.
		3. *Requests for Paper Copies of Electronically Stored PHI*. If an individual requests a paper copy of PHI maintained electronically, [COVERED ENTITY] will provide the individual with the paper copy requested.
		4. *Requests for Electronic Access of PHI Maintained Only in Hard Copy*. If an individual requests an electronic copy of PHI maintained only on paper, then [COVERED ENTITY] will provide the individual with an electronic copy, provided the paper record can be readily scanned into electronic format. If the paper record is not readily producible in electronic format, then [COVERED ENTITY] will produce it in a readable alternative electronic format or in hard copy format as agreed to by [COVERED ENTITY] and the individual.
	2. [COVERED ENTITY] may provide a summary of the PHI requested if the patient agrees, in advance, to this summary and to any fees imposed.
	3. [COVERED ENTITY] may charge a reasonable cost-based fee for the copies provided. The fee may include only the cost of:
		1. the labor associated with copying the PHI, whether in paper or electronic form;
		2. supplies for creating the paper copy or electronic media (e.g., CD or USB drive);
		3. postage, when the individual requests that the copy, or the summary or explanation, be mailed; and
		4. preparation of an explanation or summary of the PHI.

The fee may not include costs associated with verification; documentation; searching for and retrieving the PHI; maintaining systems; recouping capital for data access, storage, or infrastructure; or other costs not listed above even if such costs are authorized by state law.

1. Guidelines and Procedure for Denying Access.
	1. If [COVERED ENTITY] denies an access request, it must provide a timely, written notice of the denial to the individual. The notice must include the basis for the denial, and, if applicable, a statement of the individual’s review rights. In addition, it must provide a description of how the individual may complain to [COVERED ENTITY] or to the Secretary of the Office of Civil Rights.
	2. [COVERED ENTITY] may deny a request for access for the following reasons, and such denials are not subject to review:
		1. The request is for psychotherapy notes.
		2. The request is for information compiled in reasonable anticipation of, or for use in, a legal proceeding.
		3. The requested PHI is in a designated record set that is part of a research study that includes treatment (e.g., clinical trial) and is still in progress, provided the individual agreed to the temporary suspension of access when consenting to participate in the research. The individual’s right of access is reinstated upon completion of the research.
		4. The requested PHI was obtained by someone other than a healthcare provider (e.g., a family member of the individual) under a promise of confidentiality, and providing access to the information would be reasonably likely to reveal the source of the information.

[COVERED ENTITY] will notify the individual that the request has been denied within 30 calendar days of the access request. The notification must be in writing, in plain language, and must describe the reason(s) for the denial. The notification must also advise the individual of his or her right to submit a complaint to [COVERED ENTITY] or to OCR.

* 1. [COVERED ENTITY] may deny the request for the following reasons, and denials based on these grounds are reviewable by a licensed healthcare provider who is part of [COVERED ENTITY] but who was not involved in the initial decision to deny access:
		1. A licensed health care professional has determined, in the exercise of professional judgment, that the access of requested PHI is reasonably likely to endanger the life or physical safety of the individual or another person; or
		2. The PHI refers to another person (unless such other person is a health care provider (for example, a doctor) and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person; or
		3. The individual’s personal representative makes a request for access and a licensed health care professional has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the individual or another person.

[COVERED ENTITY] will notify the individual that the request has been denied within 30 calendar days of the request. The notification must be in writing, in plain language, and must describe the reason(s) for the denial and the individual’s right to have the denial decision reviewed. The notification must also advise the individual of his or her right to submit a complaint to [COVERED ENTITY] or to the Department of Health and Human Service, Office of Civil Rights.

1. Procedure for Providing a Review Process for Denied Requests for Access to PHI.
	1. Patients have the right to request a review of the denial if the denial was for any reason described in Section 6(c)(i)-(iii), above. If a request for review is received, the following steps must be taken:
		1. The request to review the denial will be forwarded to the Privacy Officer.
		2. The Privacy Officer shall refer the case to a licensed health professional who was not directly involved in the denial.
		3. Within a reasonable time of receiving the request for review, the licensed health care professional reviewing the denial must determine whether or not to deny the requested access based on the standards set forth in this policy, and provide the patient with written notice of the reviewer’s decision. The decision of the reviewing licensed health care professional will be final.
		4. [COVERED ENTITY] will promptly notify the individual of the results of the review. The notice must be in writing, in plain language, and must describe the reason(s) for the denial and the individual’s right to have the denial decision reviewed (if applicable). The notification must also advise the individual of his or her right to submit a complaint to the covered entity or to OCR.

# **ACCESS TO PROTECTED HEALTH INFORMATION**

 Date Received: \_\_\_\_\_\_\_\_\_\_\_\_\_ Initials of Privacy Official:\_\_\_\_

**Patient to complete the following information**

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Requestor Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Patient Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Medical Record Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

**REQUEST:**

I hereby request that [COVERED ENTITY] provide me with access to my Protected Health Information as checked below. **(Check all that apply)**:

\_\_\_\_ The entire medical record (all information)

\_\_\_\_ Minimum Data Set

\_\_\_\_ Business Office File

\_\_\_\_ Nursing documentation/Progress Notes

\_\_\_\_ Physician and Professional Consult Progress Notes

\_\_\_\_ Diagnostic reports (lab, x-ray, etc.)

\_\_\_\_ History and physical

\_\_\_\_ Medication and treatment records

\_\_\_\_ Rehabilitative and restorative therapy documentation

\_\_\_\_ Other (Describe as specifically as possible:

I request access to my health information as indicated above covering the dates \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ through \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. **(Please fill in dates).**

### Type of Access Requested

\_\_\_\_\_ Inspection of requested information at [COVERED ENTITY].

\_\_\_\_\_ Copies of requested information maintained by [COVERED ENTITY].

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

Signature of Patient or Personal Representative Date

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

Print Name

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

Personal Representative’s Title (e.g., Guardian, Executor of

Estate, Health Care Power of Attorney

# **ACCESS TO PROTECTED HEALTH INFORMATION - page 2**

**[COVERED ENTITY] to complete the following information**

**Request for access or copy is** \_\_\_\_\_ Accepted \_\_\_\_\_ Denied

If denied, check the reasons for denial:

* PHI is not part of the patient’s Designated Record Set
* Federal law forbids making the requested information available to the patient for inspection (e.g., CLIA or Privacy Act of 1974)
* The requested information is psychotherapy notes
* The requested information has been compiled for legal proceeding
* The requested information was obtained under promise of confidentiality and access would be reasonably likely to reveal the source of the information
* The requested information is temporarily unavailable because the individual is a research participant
* Licensed health care provider has determined that access to the requested information would result in physical harm to the individual or others
* Licensed health care provider has determined that the requested information identifies a third person who may be physically, emotionally, or psychologically harmed if access to the information is granted
* Licensed health care provider has determined that access to the requested information by the patient’s personal representative could result in harm to the individual
* We are acting under the direction of a correctional institution and letting the inmate access or obtain a copy of the requested information would jeopardize the health, safety, security, custody, or rehabilitation of another person at the correctional institution
* The requested information is not maintained by [COVERED ENTITY]

**RIGHT TO REVIEW:**

* Yes
* No – Contact the Privacy Officer with any questions.

You have a right to file a complaint with [COVERED ENTITY] and may do so by contacting [COVERED ENTITY]’s Privacy Official at: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_([COVERED ENTITY] phone number). You also have the right to file a complaint with the Secretary of the U.S. Department of Health and Human Services. Contact [COVERED ENTITY]’s Privacy Official for additional information.

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

Signature of Privacy Official Date

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

Print name

If your request to copy the requested information has been granted, you will be charged a reasonable fee for photocopying and mailing.

# **NOTIFICATION OF TIME EXTENSION**

Patient Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Medical Record No: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

**TYPE OF REQUEST:**

* Request for Access to PHI
* Request to Amend PHI
* Request for an Accounting of Disclosures

Date of original request: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Original Due Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Request to Access**: 30 days** from receipt of request.

Request for Amendment or Accounting: No more than **60 days** from receipt of request.

Revised Due Date (may not be more than 30 days from original due date): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Reason that extension of time to respond is needed:

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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A copy of this *Notice of Time Extension* has been provided to the patient or the patient’s personal representative.

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Signature of Privacy Official Date

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

Print Name

[DATE]

[PATIENT NAME]

[ADDRESS]

[CITY, STATE ZIP]

Re: Request for Review of Access Denial

Dear [Patient]:

We have considered your request for review of the denial of access to your health information. We reaffirm our denial of your request for the following reason(s):

[DESCRIBE REASONS HERE]

You may file a complaint with [COVERED ENTITY] by contacting our Privacy Officer at [CONTACT INFORMATION OF PRIVACY OFFICER]. You also may file a complaint with the Secretary of the U. S. Department of Health and Human Services. Please contact the Privacy Officer for further information.

Very truly yours,

[SIGNATURE]

[PRINTED NAME AND TITLE]