

**University of Maryland**  
**HIPAA General Operating Policy**  
**Regarding Access, Amendment, and Accounting of Disclosures**  
**of Protected Health Information**  
**(“HIPAA PHI Access, Amendment and Accounting Policy”)**  
*Adopted April 14, 2003*

**I. Definitions and Applicability**

Except as otherwise expressly stated in this policy, its applicability and definitions are as provided in the University’s HIPAA General Operating Policy Regarding the Privacy of Health Information. This document specifically refers to the University’s obligations under HIPAA, and It is intended to provide general operating guidelines for HIPAA compliance. In particular, this policy applies only to protected health information (PHI) maintained by those units included in the University’s designated Health Care Component,<sup>1</sup> and it does not apply to student and employment records excluded from HIPAA. Similar requirements may, however, apply to such information and/or to other University units under other applicable federal or Maryland law or University policies.

Except as permitted by HIPAA to comply with Maryland laws that provide greater individual privacy rights or protections regarding health information, this policy will be implemented in accordance with the HIPAA Privacy Rule.<sup>2</sup>

**II. Access to PHI [45 CFR 164.524; Md. Code Ann., Health General Article §4-304]**

**A. Right of Access**

Individuals (or their personal representatives, if appropriate) have a right of access in order to inspect and obtain copies of their own PHI maintained by the Health Care Component, except as provided herein or as otherwise permitted or required by law.

The right of access applies to information maintained by the Health Care Component without regard to whether or not it created that information. Access must be provided for as long as the records are maintained by the Health Care Component. The right of access also applies to non-duplicative information held in the records of a business associate of the Health Care Component, pursuant to its business associate agreement.

**B. Denial of Access**

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<sup>1</sup>The University’s HIPAA policies and designations are posted on the University’s HIPAA website at <http://hipaa.umd.edu>.

<sup>2</sup>45 CFR Parts 160,(see [http://www.access.gpo.gov/nara/cfr/waisidx\\_02/45cfr160\\_02.html](http://www.access.gpo.gov/nara/cfr/waisidx_02/45cfr160_02.html)), 162 (see [http://www.access.gpo.gov/nara/cfr/waisidx\\_02/45cfr162\\_02.html](http://www.access.gpo.gov/nara/cfr/waisidx_02/45cfr162_02.html)), and 164 (see [http://www.access.gpo.gov/nara/cfr/waisidx\\_02/45cfr164\\_02.html](http://www.access.gpo.gov/nara/cfr/waisidx_02/45cfr164_02.html)).

Individuals may be denied access to psychotherapy notes and to other information in some circumstances, as provided by law. Such circumstances generally involve the potential for harm to the individual or others, research and/or legal or administrative proceedings. Certain types of denials may require that an individual be given the right to request review of the denial by a licensed health care professional not involved in the original decision. Before access to PHI is denied, a covered unit should consult with the University's HIPAA Privacy Officer and/or Office of Legal Affairs.

### **C. Requests for Access**

Requests for access to PHI must be made in writing to the covered Health Care Provider unit concerned, as described in its Notice of Privacy Practices, or to the University's HIPAA Privacy Officer.<sup>3</sup> Requests should be acted upon within 21 days.

### **E. Responses to Requests for Access**

If the Health Care Provider unit grants a request, it must inform the individual of its decision. The unit may impose reasonable, cost-based fees for copying, for preparation of an explanation or summary of the information if so requested, and/or for postage. Such fees may not exceed the maximum amount allowed by law.

If granted, access must generally be provided in the form or format requested by the individual, if it is readily producible in that form or format. Access must be provided in a timely manner and at a mutually convenient date, time, and place for inspection and/or copying the information, including mailing a copy of the information if the individual so requests.

If the Health Care Provider unit denies the request, in whole or in part, it must provide the individual with timely written notice containing, in plain language:

- 1) the basis for denial;
- 2) a statement of the individual's rights regarding the undisclosed information, including any review rights and instructions concerning the exercise of these rights; and
- 3) a description of how the individual may submit a complaint to the University's Privacy Officer or to the Secretary of Health and Human Services.

## **III. Amendment of PHI [45 CFR 164.526; Md. Code Ann., Health General Article §4-304]**

### **A. Right to Request Amendment**

Individuals (or their personal representatives, if appropriate) have the right to ask the Health Care Component to amend (*i.e.*, add to or correct) their PHI as long as that information is maintained in their medical record.

### **B. Basis for Denying a Request for Amendment**

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<sup>3</sup> The name, address, and telephone number of the Privacy Officer may be found on the University's HIPAA website at <http://hipaa.umd.edu> or by calling the Office of Academic Affairs at (301) 405-5252.

The Health Care Component may deny a request to amend PHI:

- 1) if the information sought to be amended was not created by the Health Care Component, unless there is a reasonable basis to believe that the originator is no longer available to act on the request;
- 2) if the information sought to be amended is not part of the medical record;
- 3) if the information sought to be amended is not available for inspection pursuant to item II., above; or
- 4) if the information sought to be amended is accurate and complete.

### **C. Requests for Amendment**

Requests to amend PHI must: 1) be made in writing to the covered Health Care Provider unit concerned, as described in its Notice of Privacy Practices, or to the University's HIPAA Privacy Officer.<sup>4</sup> The Health Care Component must act on the request within sixty days, or within thirty additional days if the unit cannot comply earlier, but only with appropriate notification to the individual in writing.

### **D. Responses to Requests for Amendment**

If the request is granted, in whole or in part, the Health Care Component must:

- 1) inform the individual that the amendment is accepted;
- 2) obtain the individual's identification of and agreement (Authorization) to have the Health Care Component notify the relevant persons with whom the amendment needs to be shared, including the Health Care Component's business associates;
- 3) identify the records that are affected by the amendment and then append or otherwise provide a link to the location of the amendment; (Information should not be deleted from a medical record.) and
- 4) include the amendment in any future disclosures of the records.

If the request is denied, in whole or in part, the Health Care Component must provide the individual with timely, written notice containing, in plain language:

- 1) each basis for denial;
- 2) the individual's rights to submit a written statement disagreeing with the denial and how such a statement may be filed;
- 3) a statement that, if the individual does not submit a statement of disagreement, the individual may request that the Health Care Component include the request for amendment and the denial in any future disclosures of the information that is subject to the requested amendment; and
- 4) a description of how the individual may submit a complaint to the University's Privacy Officer or to the Secretary of Health and Human Services.

When a request for amendment is denied, in whole or in part, the Health Care Component must further comply with additional applicable HIPAA requirements and/or Maryland law regarding

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<sup>4</sup>See footnote 3 above.

statements of disagreement and rebuttal, record keeping and future disclosures, as set forth in 45 CFR 526(d)(2) and §4-304 of the Health General Article, Md. Code Ann..

#### **IV. Accounting of Disclosures of PHI [45 CFR 164.528; applicable Md. law]**

##### **A. Right to an Accounting of Disclosures**

Individuals (or their personal representatives, if appropriate) have the right to receive an accounting of disclosures of their PHI made by the Health Care Component, except for disclosures made:

- 1) to carry out treatment, payment, and health care operations;
- 2) for HIPAA permitted incidental uses;
- 3) to an individual regarding his or her own information;
- 4) pursuant to the individual's written Authorization;
- 5) for a facility's directory or to persons involved in the individual's care;
- 6) as part of limited data set;
- 7) for national security or intelligence purposes;
- 8) to correctional institutions or law enforcement officials; or
- 9) that occurred prior to the HIPAA compliance date (April 14, 2003).

##### **B. Temporary Suspension of the Right to Accounting of Disclosures**

The Health Care Component must temporarily suspend an individual's right to receive an accounting of disclosures made to a health oversight agency or a law enforcement official if the agency or official informs the Health Care Component, orally or in writing, that such an accounting would be reasonably likely to impede the agency's activities. Such a written statement must specify the time period for which the suspension is required. If oral notice is provided, the Health Care Component must:

- 1) document the oral statement, including the identity of the agency or official making the statement;
- 2) temporarily suspend the individual's right to an accounting; and
- 3) limit the suspension to no longer than thirty (30) days from the date of the oral statement, unless the agency provides a written statement as set forth above.

##### **C. Requests for Accounting of Disclosures**

Requests for an accounting of disclosures must be made in writing to the covered Health Care Provider unit concerned, as described in its Notice of Privacy Practices, or to the University's HIPAA Privacy Officer.<sup>5</sup>

The Health Care Component must act upon a request within sixty days, or within thirty additional days if the unit cannot comply earlier, but only with appropriate notification to the individual in writing.

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<sup>5</sup>See footnote 3 above.

#### **D. Responses to Requests for Accounting of Disclosures**

The response to a request for an accounting must be in writing and contain the required disclosures<sup>6</sup> that occurred up to six (6) years prior to the date of the request (or a shorter time period, if requested by the individual), including disclosures made to or by the Health Care Component's business associates.

The accounting must also:

- 1) include the date of each disclosure;
- 2) identify the name (and address, if known) of the entity or person that received the information;
- 3) include a brief description of the information disclosed; and
- 4) include a brief statement of the purpose for the disclosure.

More limited accountings may be provided in accordance with the Privacy Rule<sup>7</sup> for disclosures in connection with HHS compliance activities, under circumstances in which individual authorization or opportunity to agree or object is not required, and/or for research pursuant to a documented Institutional Review Board waiver of authorization requirements.

The Health Care Component must provide the first accounting to an individual in any twelve (12) month period without charge. Thereafter, for any additional accounting requested within that same twelve (12) month period, it may charge a reasonable, cost-based fee, as permitted by law. The Health Care Component must provide advance notice of a fee in order to give the individual an opportunity to withdraw or modify the request.

The Health Care Component must maintain all information that is required to be included in an accounting, and must also maintain the written accounting provided to an individual pursuant to the individual's request. The titles of the persons or offices responsible for receiving and processing requests must also be maintained.

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<sup>6</sup>Section IV. A. above.

<sup>7</sup>See 45 CFR 164.528(b)(3) and (4).