

## **INDIVIDUAL REQUESTS TO AMEND HEALTH INFORMATION POLICY**

**RESPONSIBILITY:** Privacy Official or Designee(s), Department Managers

### **BACKGROUND:**

Patients have the right to request Behavioral Health and Health Facilities (BHHF) to amend certain protected health information. BHHF will consider such requests in accordance with this policy.

### **POLICY:**

Patients may request BHHF to amend protected health information that it maintains in designated record sets. (See the DESIGNATION OF RECORD SETS policy.)

BHHF will make the requested amendment UNLESS:

1. The request is not received in writing, stating a reason to support the requested amendment; or,
2. BHHF was not the originator of such information, unless the patient provides a reasonable basis to believe that the originator is no longer available to act on the requested amendment, or,
3. The information to be amended is not maintained in a designated record set; or,
4. The patient would not have access to the information under the provisions of BHHF's RIGHT OF ACCESS TO PROTECTED HEALTH INFORMATION POLICY; or
5. BHHF considers the information to be accurate and complete.

### **Time frames**

BHHF will respond to requests to amend protected health information within the following time frames:

1. Within 60 days from the date of the written request for amendment, BHHF will either make the requested amendment, request an extension, or issue a notice of denial of request.
2. One 30-day extension is permitted. A request for extension must be in writing, and must include the reason for the delay and the date by which BHHF will complete its action on the request.

### **Accepted Amendments**

1. The amendment(s) will be made by identifying each amended datum, and providing a reference or link to the location of the amendment. No data will be erased. This applies to both paper and electronic records.
2. The patient will be informed that the amendment was accepted, within the time frame specified by this policy.
3. The patient will be requested to identify other entities to which the amended information needs to be communicated, and to authorize such communication.
4. BHHF will make reasonable efforts to provide the amended information to entities which the patient identifies as needing the amendment, and to others that BHHF knows to have received the unamended information and who may rely or may have relied on that information to the detriment of the patient.

### **Denied Amendments**

When a request to amend protected health information is denied, the notice of denial will:

1. Be sent in compliance with the time frames of this policy.
2. State the basis for the denial, according to this policy.
3. State that the patient may appeal the denial in writing, with instructions how to file an appeal
4. State that, if the patient does not appeal the denial, the patient may request that BHHF provide copies of the patient's request for amendment, and the notice of denial, with any further disclosures of the information that is subject to the request to amend.
5. Include a statement of how the patient may complain to BHHF or to the Secretary, U.S. Department of Health and Human Services.

### **Appeal and Rebuttal**

A patient whose request to amend protected health information has been denied (in whole or in part) may appeal the denial by submitting a statement of disagreement. This is a statement of the reasons why the patient disagrees with the denial.

If BHHF decides to make a requested amendment on the basis of a statement of disagreement, the amendment will be made in accordance with this policy.

If BHHF does not accept the reasoning of the statement of disagreement, it will send the patient a written rebuttal, stating why it is not accepting the requested amendment.

### **Record Keeping**

If the amendment is denied, BHHF will identify each datum to which the denied request applied, and for each, provide a reference or link to a copy of the patient's request for amendment, the denial letter, any statement of disagreement, and any rebuttal. This applies to both paper and electronic records.

### **Future Disclosures**

1. Future disclosures of amended information will include the amendment.
2. If the patient has appealed a denial of amendment, future disclosures of the subject information will include copies of the patient's request for amendment, the denial letter, the statement of disagreement, and the rebuttal, or an accurate summary of the original request, the denial, the letter of disagreement and the rebuttal.
3. If the patient has not appealed a denial of amendment, future disclosures of the subject information will include copies of the patient's request for amendment, and the denial letter, or an accurate summary of the request and denial, only if the patient has requested BHHF to do so.

### **Amendments Made by Others**

If another entity amends protected health information which it had previously sent to BHHF, and informs BHHF of the amendment, the subject information will be amended in all BHHF designated record sets in which it is maintained.

### **Designation of Responsibility for Receiving and Processing Patient Requests for Amendment of PHI**

The Privacy Official or Designee(s) is responsible for receiving and processing individual requests for amendment of PHI.

Effective Date: 4/14/03

Dates Revised:



Jerome E. Lovrien, Commissioner, Bureau for Behavioral Health and Health Facilities