


**COUNTY OF IMPERIAL
DEPARTMENT OF BEHAVIORAL HEALTH SERVICES
POLICY AND PROCEDURE MANUAL**

SUBJECT: Amendments to Protected Health Information	POLICY: 01-67
SECTION: Administration	EFFECTIVE DATE: 4-14-03
REFERENCE: 45 C.F.R. Part 164.526	PAGE: 1 of 6
AUTHORITY: 45 C.F.R. Part 164 42 C.F.R Part 2	SUPERSEDES: New Policy
	APPROVED BY: 

PURPOSE: To establish a policy regarding the right of individuals to amend information collected and maintained about them in their designated record set.

SCOPE: The information in this document applies to all members of the workforce which includes employees, contract employees, volunteers, trainees, etc., granted access to protected health information (PHI).

NOTES: HIPAA provides individuals with new right regarding how their health information is maintained and communicated. These patient rights provisions are mandatory and Mental Health and Alcohol & Drug programs as covered entities under HIPAA, must assure that individuals are allowed to request amendments to the information contained in their records. State laws that govern patient access to records may remain in force if they are "more stringent" than HIPAA.

California law does not give an individual the right to request an amendment to PHI. However, California law does have a similar provision, which is the right to have a written addendum included in the record. Under California law [Health and Safety Code 123111], an adult client who inspects his or her record has the right to provide a written addendum if the individual believes that an item or statement is incomplete or incorrect. The addendum is limited to 250 words per alleged incomplete or incorrect item. The addendum must clearly state that the individual wishes it to be a part of his or her record.

DEFINITIONS: Amendment: The request by an individual to make an addendum, alteration, or attachment to a designated record containing their protected health information. [45 C.F.R. 164.526]

Business Associate: A person or entity who provides certain functions, activities, or services for or to ICBHS, involving the use and/or disclosure of PHI. This includes, but is not limited to, lawyers, auditors, third party administrators, healthcare clearing houses, data processing firms, billing firms, and other covered entities. Disclosure of PHI by ICBHS to a healthcare provider for treatment purposes are not considered a business associate function.

Covered Entity: Health Plans, health care clearing-houses, and health care providers who conduct any standard electronic transactions. The standard electronic transactions are those provided in the Transactions and Code Sets Rule. [45 C.F.R. 160.103]

Designated Record Set: A group of records maintained by or for ICBHS that includes medical, billing, enrollment, payment, claims adjudication, and other records used to make a decision about an individual.

DHHS: The United States Department of Health and Human Services. This is the federal agency that is responsible for the implementation of the HIPAA Rule. Within DHHS, the Office of Civil Rights is the office responsible for the HIPAA Privacy Rule and the Centers for Medicare and Medicaid Services (CMS) is the organization responsible for the Transactions and Code Sets Rule.

HIPAA: Health Insurance Portability and Accountability Act. The federal law passed in 1994 that provides national standards for health care.

Individual: Under HIPAA, individual means the person who is the subject of PHI. [45 C.F.R. 164.501]

Personal Representative: A person who has authority under applicable law to make decisions related to health care on behalf of an adult or an emancipated minor, or the parent, guardian, or other person acting in loco parentis who is authorized under law to make health care decisions on behalf of an unemancipated minor, except where the minor is authorized by law

to consent to a health care service, or where the parent, guardian or person acting in loco parentis has assented to an agreement of confidentiality between the provider and the minor.

Protected Health Information (PHI): Individually identifiable information relating to past, present, or future physical or mental health condition of an individual, provision of health care to an individual, or the past, present, or future payment for health care provided to an individual transmitted or maintained in any form or medium including oral, written, or electronic communication.

Qualified Service Organization: A person or entity who provides certain functions, activities, or services for or to ICBHS, involving the use and/or disclosure of This includes, but is not limited to, data processing firms, dosage preparation, laboratory analysis, vocational counseling, medical and health care, legal, accounting, and other professional services.
[42 C.F.R. Part 2]

Record: Any item, collection, or grouping of information that includes PHI and is maintained, collected used or disseminated.

Workforce: Employees, volunteers, trainees, and other persons whose conduct, in the performance of work for the department, is under the direct control of the department, whether or not they are paid by the department.

POLICY: An individual, or that person's personal representative, has the right to request amendment of information (PHI) in the designated record set if they believe the information is incomplete or inaccurate for as long as the information is maintained in the designated record set. [45 C.F.R. Section 164.526]

Request for Amendments

An individual/personal representative must make the request to amend the PHI in writing and provide a reason to support the requested amendment. Requests to amend PHI must be submitted on a Request to Amend Protected Health Information form.

ICBHS must accept all requests to amend protected health information in the designated record set; however, ICBHS

is not required to act on the individual's request if it is determined that the PHI or record that is the subject of the request:

1. Was not created by ICBHS, unless the originator of the information is no longer available to act on the requested amendment;
2. Is not part of the designated record set;
3. Would not be available for inspection under 45 C.F.R. 164.524(a)(2) or (3); or
4. Is accurate and complete.

(See Policy 01-94, Denial of a Request for an Amendment of Protected Health Information)

ICBHS is not required to make determinations of the accuracy or completeness of the amendment requests.

Timeline

ICBHS must act on an individual's request for an amendment no later than sixty (60) days of receipt of the request. If ICBHS is unable to act on the amendment within 60 days, ICBHS may extend the time for such action by no more than 30 days if ICBHS notifies the individual in writing of the delay, explains the delay, and the date by which action will be completed. The written notification must be given to the individual within the first 60 day time period. [45 C.F.R. Section 164.526(b)(2)]

Granting a Request for Amendment

If the amendment is granted, in whole or in part, ICBHS, pursuant to 164.526(c), must make the amendment to the PHI or record that is the subject of the request for amendment by, at minimum:

1. Identifying the challenged entry(ies) as amended and append or otherwise provide a link, particularly in regard to electronic health records, to the location of the amendments or corrected information.
2. Informing the individual in a timely manner that the amendment is accepted and obtain the individual's identification of and agreement to have ICBHS notify the relevant persons with which the amendment needs to be shared.

3. Making reasonable efforts to inform and provide the amendment within a reasonable time, to:
 - a. Persons identified by the individual as having received PHI about the individual and needing the amendment; and
 - b. Persons, including qualified service organizations and business associates that ICBHS knows have the PHI that is the subject of the amendment and that may have relied, or could foreseeably rely, on which information to the detriment of the individual.

45 C.F.R. Section 164.526(c)

When ICBHS accepts an amendment, it does not remove, obliterate, or alter existing protected health information in the individual's record. Individuals/personal representatives do not have the right to alter their records nor do they have any authority to determine the final outcome of their request.

Record keeping

ICBHS must, as appropriate, identify the record or PHI in the designated record set that is the subject of the disputed amendment and append or otherwise link the individual's request for an amendment, the denial of request, the individual's statement of disagreement, if any, and the rebuttal, if any, to the designated record set.

Amendments Received From Other Entities

ICBHS will amend the PHI in designated record sets when other covered entities informs the department of amendments that have been made to an individual's PHI. ICBHS must make the amendment by, at minimum, identifying the affected records and appending or otherwise providing a link to the location of the amendment. [45 C.F.R. Section 164.526(e)]

ICBHS will inform and require the department's business associates to amend PHI to append the information to the PHI in question.

Documentation

Under HIPAA, ICBHS must document the titles of the persons or offices responsible for receiving and processing requests for amendments and maintain documentation as required by section 164.530(j) for a minimum of six years. All requests for amendments and all correspondence, forms, including, but not limited to, a request for an amendment, any written denials, written statements establishing an extension to a response deadline, any statements of disagreements submitted by the individual, any statements of rebuttal submitted by ICBHS must also be retained for six years.

It is ICBHS' records retention policy that all records be kept a minimum of seven (7) years from the date of discharge, except for minors, whose records shall be kept at least one (1) year after the minor has reached the age of eighteen (18), but in no case less than seven (7) years.

Enforcement

Management and supervisors are responsible for enforcing this policy and associated procedure(s). Members of the workforce who violate this policy or associated policies or procedures are subject to disciplinary actions appropriate to the nature of the violation in accordance with the ICBHS sanction policy.