Managing Information Privacy & Security in Healthcare

Access and Amendment

By Barbara Demster, MS, RHIA, CHCQM and Gary L. Kurtz, CHPS, FHIMSS
Revised by Angela Dinh Rose, MHA, RHIA, CHPS, FAHIMA

Complying with Requirements
Many federal and state laws exist (Privacy Act of 1974, HIPAA, CLIA, OSHA, among others) that provide access to and amendment of health information. The American Health Information Management Association (AHIMA) (www.ahima.org) offers guidelines and sample documents for managing access and amendment of protected health information (PHI) in several Practice Briefs and toolkits that include salient points from the various laws.

Generally, individuals have the right to view, copy, and request an amendment to the designated record set of the PHI collected and maintained about them. However, there are exceptions (e.g. psychotherapy notes etc.). General guidelines for an individual’s access to and amendment of PHI are summarized below. Requirements for individual access to PHI is found in the HIPAA privacy final rule at §164.524 and were updated by the final Omnibus Rule in January 2013. HIPAA regulations for managing and respond to amendment requests are found in §164.526.

Access Guidelines
The following are provided as guidelines for access best practices:

1. Verify the identity and credentials of the individual requesting access and/or amendment prior to allowing access to the information or releasing a copy of the record.
2. Contact the individual’s physician prior to disclosure when appropriate.
3. PHI may be disclosed to the subject individual’s legal representative with valid authorization from the individual and presentation of proper identification.
4. If the individual or her legal representative requests access to or a copy of protected health information:
   a. Document the request in writing.
   b. Encourage the attending physician to review the record with the individual or the legal representative.
   c. If a physician believes that disclosure of information would be harmful to the individual’s physical or mental well-being, this opinion should be documented in the record, and the
information should not be disclosed to the individual. With a valid authorization for release of information from the individual, copies of these records may be released to another physician unless otherwise prohibited by state law.

5. If the physician does not wish to meet with the individual or the legal representative and does not believe disclosure would be harmful to the individual, the information should be disclosed unless otherwise prohibited by state law.

6. Individuals should be permitted to review their records without charge.

7. To ensure the integrity of the record, the provider's health information management professional or designee should directly supervise such a review.

8. Questions regarding treatment, prognosis, or other clinical matters should be referred to the attending physician.

9. Individuals who request copies may be charged a reasonable fee to cover the cost of reproducing the copy of the record.

Amendment Guidelines
If the subject individual or their legal representative disputes information in a record, the following guidelines summarize the procedures for an individual's amendment of their own protected health information. The article "A Patient-friendly Approach to the Record Amendment Process" offers ideas from experts on designing an access and amendment process.

<http://library.ahima.org/xpedio/groups/public/documents/ahima/bok1_012246.hcsp>

1. Encourage the individual or their legal representative to discuss the issue with the health care provider who made the entry in question.

2. If the health care provider agrees the entry contains an error, he or she should make the correcting entry in the individual's record.

3. If the health care provider does not agree that a correction is warranted:
   a. He or she should discuss the matter with the individual or the individual's legal representative.
   b. The individual or legal representative may make a separate statement in writing or on a computer disputing the information and offering an amendment.
   c. Such a statement should be filed with the record or made a part of it and included with any future disclosures.

The proper procedure for correcting a paper record follows.

1. Never obliterate the original or disputed entry. Never use white-out, liquid paper type products or bold markers.

2. Draw a single line or series of X's through the entry containing the error.

3. Write "error" by the marked through entry, enter the date and initials of person making correction.

4. Enter the correct information.

5. The individual making the correction must sign and date the new entry.

For errors corrected in a computer-based record, the system should preserve the original entry and the amendment, as well as the identity of the person making the amendment and the date and time.
it was made. The Practice Brief: Correcting and Amending Entries in a Computerized Patient Record provides information on electronic amendments and their admissibility in court. It also provides ASTM and HL7 guidelines related to amending electronic documents. <http://library.ahima.org/xpedio/groups/public/documents/ahima/bok1_000045.hcsp>

Additional Resources

AHIMA Practice Brief: Patient Access and Amendment to Health Records discusses the regulations and addresses issues involved in implementing these requirements. http://library.ahima.org/xpedio/groups/public/documents/ahima/bok1_050401.hcsp

AHIMA Practice Brief: Requirements for Authorization to Disclose discusses the requirements that must be followed to properly disclose PHI. It also discusses certain types of PHI that require extra protections (i.e. psychotherapy notes)¹


Toolkit: Amendments in the Electronic Health Record² discusses the various processes for managing and processing amendment requests including proper direction for the actual change in the record. It also provides sample policies and forms. http://library.ahima.org/xpedio/groups/secure/documents/ahima/bok1_049731.pdf

¹ This resource is currently under development and will be published by the end of the calendar year.
² Note: Membership required to access.