



HIPAA Privacy Procedure #4

Effective Date: April 14, 2003

Reviewed Date: February, 2011

Revised Date: February, 2011

Scope: Radiation Oncology

Amendment of Protected Health Information

Policy Expectation:

Washington University (WU) has adopted a policy to accommodate the right of an Individual to request an Amendment of Protected Health Information (PHI) created, received or held on behalf of the Individual.

Information not contained within a Designated Record Set is not subject to this Policy: including information compiled in reasonable anticipation of civil, criminal, or administrative action or other proceeding; and prohibited or exempt from Disclosure under that Act.

Individuals do not have the right to request an Amendment of PHI if Radiation Oncology did not create the PHI, unless the Individual provides reasonable basis to believe that the originator of the PHI is no longer available.

Why is this important?

- Compliance with all HIPAA privacy regulations is required of all Radiation Oncology Divisions creating or collecting PHI from or on behalf of Individuals.
- Failure to comply may result in being liable for civil and criminal penalties under the HIPAA regulations.

What do you need?

- Copy of the HIPAA Policy on Amendment of Protected Health Information

IMPORTANT NOTE ON HOW TO USE THIS PROCEDURE:

A change in demographic information (i.e., name, address, religion) and insurance information (i.e., plan, ID number) is an account update and NOT an amendment under HIPAA. Therefore, a Request to Amend is not necessary.

Radiation Oncology patient medical records are owned by Barnes-Jewish Hospital. Requests for amendment in the patient medical record should be directed to BJH HIPAA contact.

Requests for amendment of billing records (i.e., diagnosis on an insurance claim) should be directed to both BJH HIPAA contact and WU-RO Privacy Liaison.

Steps:

1. Guide the inquiring Individual in completion of a Written Request to Amend PHI.
 - ✓ Make sure that the completed form includes the reason for the request.
 - ✓ Make the form available in hard copy or by electronic means.

2. Forward the request to the Radiation Oncology Privacy Liaison

3. The RO Privacy Liaison, after reviewing the request and determining the necessity for review, will then contact the provider and notify them of the request and the time period the response is required within (within 60 days from date request was received.)

4. The RO Privacy Liaison will communicate with the patient if there is a need to extend the response time to the Individual past the 60 day period. State in the request for extension the reason for the delay. Only one 30 day extension is allowed.

Additional Information

Most requests for amendment will likely occur at the local level (one item in one medical record).

If the University Privacy Office is the first recipient of the request, the request will be forwarded to Radiation Oncology Privacy Liaison.

See **Exhibit A**, Request for Amendment of Protected Health Information.

This form can be kept on your computer and e-mailed as an attachment to individuals.

If the reason for the request is not stated the request may be denied.

RO Privacy Liaison

Kevin Sharkey

ksharkey@radonc.wustl.edu

Tel: 286-1076

Fax: 362-8521

Campus Box 8224

See Appendix B

Request for Extension of Time to Respond to Amendment.

5. Granting the Request for Amendment:
The RO Privacy Liaison will:

- ✓ Identify the documents/data in the Designated Record Set that are subject to the request for amendment
- ✓ Determine the portion(s) of the Designated Record Set to which the amendment request pertains.
- ✓ Clearly mark each area for review by the provider
- ✓ If the request is **accepted**, the RO Privacy Liaison will notify the individual requesting.
- ✓ Confirm with the requesting Individual the names of persons who may have received this PHI and will need the amendment.
- ✓ Check department resources to determine to whom the Original PHI was sent and will now need amended PHI.
- ✓ Obtain the requesting Individuals agreement to permit RO to notify the RO Business Associates and others to share the amendment with them.
- ✓ Make reasonable efforts to inform and provide the amended PHI to all parties authorized by the requesting Individual.

6. RO Privacy Liaison will send to BJH Medical Records Staff or appropriate PHI Record custodian the completed request form with resolution for filing.

Do not remove records. Keep entire chart intact. Do not change records.

Identify the Business Associates and others that WU knows have PHI subject to the amendment.

7. Denying the Request to Amend PHI:

- ✓ Provide a written notice of denial within 60 days (unless extension has been obtained) of the written request.
- ✓ A copy of this denial letter should be sent to the BJH medical record custodian to secure to the same page as the information the patient was requesting amended.
- ✓ A copy of the Denial letter must be forwarded to the University Privacy Office.

• The notice of denial must include information on:

- the individual's right to submit a written Statement of Disagreement with the denial
- an explanation of how the individual may file the Statement of Disagreement
- the right of the individual to have the request for amendment included with any future disclosures of PHI, if no Statement of Disagreement is filed.
- a description of the complaint process to be followed for complaint related to privacy concerns in this matter

8. Record keeping of Denials

Identify the PHI in the Designated Record Set that is the subject of the requested amendment and append or otherwise link:

- the individual's request for amendment
- RO's denial of the request for amendment
- the individual's Statement of Disagreement (if one is submitted)
- the response to the Statement of Disagreement (if one is prepared)

9. A copy will be sent by WU-RO Privacy Liaison to the RO Medical Records Custodian to place documentation in the medical record.

See Exhibit A Request form for the section to be completed in denials.

See example of denial letter.

Statements of Disagreement must be accepted but may be limited to 2 pages.

10. If the patient submits a Statement of Disagreement, this must be:

- a. Sent to the medical record custodian to secure to the Request for Amendment and Denial Letter.
- b. Forwarded to the RO Privacy Liaison
- c. It is recommended that it be flagged on the chart in the following manner by the Medical Record Custodian. In red marker on the front of the chart a notation "STATEMENT OF DISAGREEMENT"

11. Response Statements - If the RO Privacy Liaison or provider feels that there should be a written response to any Statement of Disagreement submitted by an Individual:

- a. RO Privacy Liaison will provide a copy of this to the Individual and send a copy to RO Medical Records to be placed in the chart and secured to the same page as the Request for Amendment, Denial and Statement of Disagreement.
- b. Recommend the chart be flagged by the Medical Record Custodian in red marker, on the front "REBUTTAL STATEMENT"

12. This Rebuttal Statement, along with the Statement of Disagreement, must also be included in any disclosures of PHI to which the Statement of Disagreement applies.

13. For transactions involving billing, WU-Physician Billing representative will separately transmit Statements of Disagreement or the original request and denial for physician health care claims.

This Statement of Disagreement must be included in all releases of the medical records to which the Statement applies.

The record should be flagged to alert staff to send the Statement of Disagreement with any PHI pertaining to the denied Amendment request.

WU-Physician Billing
Campus Box 8239

14. If a notice of amendment is received from another covered entity, amend the individuals PHI in the Designated Record Set held by RO.

- ✓ A copy must be forwarded to the RO Medical Records to file the amendment in Patient's Medical Record.
- ✓ The RO HIPAA Privacy Liaison will record receipt of amendment in log with date received.

RO Chief of Service to review and make the amendment.

15. Future Disclosures of Denied PHI Amendment
If a Statement of Disagreement is submitted by the individual, include Statement and Denial Letter, in any future disclosures of the PHI to which the disagreement relates.

Must include either the original Statement of Disagreement or an accurate summary of the denial circumstances. The record should be flagged by RO Medical Records to alert staff to send the Statement of Disagreement with any PHI pertaining to the denied amendment request.

16. If a Statement of Disagreement is not submitted, the individual must make known in writing his/her wishes related to the Request for PHI Amendment and the denial being included in any future disclosure of the disputed PHI.

If no such request is made the information, does not have to be included in future disclosures.

17. Each request will be logged, monitored for timely review, processing steps and final resolution by the RO Privacy Liaison.

Exhibit A
Request for Amendment of Protected Health Information

Request Date: _____

Individual Name: _____

Date of Birth: _____ SSN: _____

Patient Address: _____

Telephone Number: (H) _____ (W) _____

Medical Record # : _____

After review of my medical record, I am requesting that information on the following service date(s) _____ be amended/supplemented with clarifying information and added in the form of an addendum to my medical record. I am requesting this amendment because: _____

I understand that Washington University may or may not amend/supplement my medical record based on my request. Under no circumstances, may Washington University alter the original documentation of my medical record.

Amendment Request:

I request the following amendment/supplement be made to my medical record:

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I hereby agree and acknowledge that Washington University will notify those persons I have designated below as well as others with whom Washington University has previously shared my health information of this amendment of my health information.

Signature (Individual or Legal Representative)

Date

Do you know of anyone who may have received or relied on the information in question (such as your doctor, pharmacist, health plan, or other health care provider)?

Yes No

If yes, please specify the name(s) and address(es) of the organization(s) or individual(s):

For Washington University Use Only:

Amendment has been: Accepted Denied

In response to your request, an amendment/supplement will be made part of your permanent medical record.

Your request has been denied for the following reasons:

- Information was not created by this organization.
- Information is not part of the Designated Record Set.
- Federal law prohibits making the Information available to the patient for inspection (e.g. psychotherapy notes).
- Information is accurate and complete.
- Other: _____

Staff comments:

Signature of Staff Person

Date

Print Name & Title

Statement of Disagreement:

If you do not agree with the above information, you may submit a Statement of Disagreement that will become part of your permanent record and included in any future disclosure of the subject medical information. Please outline the reason for your disagreement in the space provided below: (may attach no more than 2 pages)

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I do not wish to submit a Statement of Disagreement. However, I am requesting that Washington University include in any future disclosure my request for amendment form and Washington University's denial.

Individual or Legal Representative Signature

Date

Forward or mail, postage pre-paid, this form to: Washington University
ATTN:

Exhibit B

Request for Extension of Time to Respond to Amendment

To [Individual]:

We have received your Request for Amendment of Protected Health Information maintained by Washington University and are in the process of responding to your request.

Federal regulations require us to respond to your request within 60 days of our receipt of the request. If we are unable to respond within such time, we may receive a one-time extension of 30 days within which we will provide you with a response to your requested amendment. Currently, we are experiencing delays in our processing of the review of your request due to [INSERT REASON FOR DELAY] and will require an additional 30 days to respond to your request. We appreciate your patience in this matter and will provide you with a response to your requested amendment by [Date that is not greater than 90 days from the receipt date].

If you have questions concerning your request, please contact [INSERT NAME OR TITLE OF PERSON] at Washington University [INSERT CONTACT INFORMATION].

Sincerely,