

UNIVERSITY POLICY

Policy Name:	Request for Amendment of Individual Health Information				
Section #:	100.1.7	Section Title:	HIPAA Policies		Formerly Book: 00-01-15-25:00
Approval Authority:	RBHS Chancellor/Executive Vice President for Health Affairs.		Adopted:	1/31/2003	Reviewed: 3/11/2016
Responsible Executive:	Senior Vice President and Chief Enterprise Risk Management, Ethics and Compliance Officer		Revised:	6/22/2011; 7/1/2013; 3/11/2016	
Responsible Office:	Office of Enterprise Risk Management, Ethics and Compliance		Contact:	Office of Enterprise Risk Management, Ethics and Compliance: 973-972-8093	

1. Policy Statement

This policy covers the rights of patients to request an amendment of their individual health information. This policy applies to:

- I. The Rutgers Covered Entity and Covered Components within that entity including faculty, employees, students, volunteers, trainees, and other persons whose conduct, in the performance of work for Rutgers and/or its units, is under the direct control of such Entity, whether or not they are paid by Rutgers.
- II. Any Rutgers University workforce member of any Rutgers school, unit or department that bills federal and/or state programs for the provision of medical care to patients, or engages in human subject research sponsored by federal, state or private programs.
- III. Any Business Associate, independent contractor or other vendor providing services engaged by the Rutgers Covered Entity.
- IV. Other University departments that assist the Rutgers Covered Entity in certain activities including, but not limited to the Office of Enterprise Risk Management, Ethics and Compliance, the Office of Information Technology and the Office of the Senior Vice President and General Counsel.

2. Reason for Policy

To establish guidelines for assuring that all Rutgers Covered Entities that create Designated Record Sets containing Protected Health Information (PHI) have a process to respond to patient requests for amendments of their individual health information.

3. Who Should Read This Policy

- I. The Rutgers Covered Entity and Covered Components within that entity including faculty, employees, students, volunteers, trainees, and other persons whose conduct, in the performance of work for Rutgers and/or its units, is under the direct control of such Entity, whether or not they are paid by Rutgers.

- II. Any Rutgers University workforce member of any Rutgers school, unit or department that bills federal and/or state programs for the provision of medical care to patients, or engages in human subject research sponsored by federal, state or private programs.
- III. Any Rutgers University workforce member of any Rutgers school, unit or department that is engaged in the provision, coordination, or management of health care and related services among providers including third parties, consultations regarding a patient and patient referrals
- IV. Other University departments that assist the Related Healthcare Entities in certain activities including, but not limited to, the Office of Enterprise Risk Management, Ethics and Compliance, the Office of Information Technology and the Office of the Senior Vice President and General Counsel.
- V. Any Rutgers University workforce member or any independent contractor, business associate or other vendor providing services and engaged by the Rutgers Covered Entity.

4. Related Documents

- I. 45 CFR 164.526, Code of Federal Regulations Title 45, Section 164, Part 526, Security and Privacy, Amendment of Protected Health Information.
- II. Uses and Disclosures of Health Information With and Without an Authorization
- III. Standards for Privacy of Individually Identifiable Health Information
- IV. Access of Individuals to Protected Health Information

5. Definitions

- I. Protected Health Information (PHI): Protected health information means individually identifiable health information that relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual or the past, present or future payment for the provision of health care to an individual and identifies or could reasonably be used to identify the individual.
 - A. Except as provided in paragraph two (2) of this definition that is: a) transmitted by electronic media; b) maintained in electronic media; or c) transmitted or maintained in any other form or medium.
 - B. Protected health information excludes individually identifiable health information in: a) Education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g; b) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); and c) Employment records held by a covered entity in its role as employer.
 - C. Relevant individually identifiable health information of deceased individuals should be considered active PHI for 50 years after death.
- II. Business Associates (BA): A business associate is any organization (an individual person can be an organization, e.g. an independent consultant) that creates, receives, maintains, or transmits PHI on behalf of a covered entity (CE) including but not limited to the following:
 - A. A function or activity involving the use or disclosure of individually identifiable health information, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, practice management and re-pricing; or
 - B. Any other function or activity regulated by HIPAA regulations; or

- C. Provides legal, actuarial, accounting, auditing, consulting, data aggregation (as defined in CFR § 164.501), management, administrative, accreditation, or financial services to or for Rutgers and/or its units, or to and/or for an organized health care arrangement in which Rutgers and or its units participate, where the provision of the service involves the disclosure of individually identifiable health information from such entities or arrangement, or from another Business Associate of such entities or arrangement, to the person.
- III. Workforce: Faculty, employees, students, volunteers, trainees, and other persons whose conduct, in the performance of work for Rutgers and/or its units, is under the direct control of such entity(ies), whether or not they are paid by Rutgers.
- IV. Designated Record Set: Medical or billing records about individuals maintained by or for a healthcare provider; the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or records used in whole or in part by or for the provider to make decisions about individuals.
- V. HITECH ACT (2009): Section 13402 of the Health Information Technology for Economic and Clinical Health (HITECH) Act, part of the American Recovery and Reinvestment Act of 2009 (ARRA) that was enacted on February 17, 2009.
- VI. HIPAA Omnibus Rule (2013): Enhancements to the HIPAA Privacy, Security, Enforcement and breach notification rules under HITECH and GINA. 45 CFR parts 160 and 164. See Federal Register, Vol 78 (17), Friday, January 25, 2013.
- VII. Covered Entity (CE): Either (1) A health care provider, (2) a health plan or (3) a health care clearinghouse who transmits any health information in electronic form in connection with a transaction covered by 45 CFR 160.103. Covered Entities must comply with the HIPAA Requirements to protect the privacy and security of health information and must provide individuals with certain rights with respect to their health information.
- VIII. Rutgers Covered Entity: The collective term referring to all units, schools or departments that meet the definition of a Covered Entity as put under 45 CFR 160.103 and are required to follow HIPAA regulation, including the HITECH Act (2009) and the Omnibus Rule (2013).
- IX. Rutgers Covered Component: Refers to a single unit, school or department within the Rutgers Covered Entity.

6. The Policy

- I. The Rutgers Covered Entity must maintain a process to enable its patients to request an amendment of their individual health information held by the Rutgers Covered Entity. Such requests must be made in writing and include a reason supporting the amendment.

A. Requirement:

An individual has the right to request a Rutgers Covered Entity to amend his or her Protected Health Information or a record about the individual in a Designated Record Set for as long as the Protected Health Information is maintained in a Designated Record Set. The Rutgers Covered Entity will require individuals to make such requests in writing and to provide a reason to support the amendment. The Rutgers Covered Entity's Notice of Privacy Practices informs individuals in advance of such requirements. An example of a Request for Amendment or Correction of Individual Health Information form can be accessed at the Office of Enterprise Risk Management, Ethics and Compliance.

B. Responsibilities:

- 1. The Rutgers Covered Entity may deny the request if the health information that is the subject of the request meets the following conditions:

- a. The health information was not created by the Rutgers Covered Entity, unless the originator is no longer available to act on the request.
 - b. The health information is not part of the individual's designated health record.
 - c. The health information would not be accessible to the individual for the reasons under University policy, Access of Individuals to Protected Health Information.
 - d. The health information is accurate and complete.
2. The Rutgers Covered Entity must act on the individual's request for amendment no later than sixty (60) days after receipt of the request for an amendment. The Rutgers Covered Entity may have a one-time extension of up to thirty (30) days for an amendment request provided the Rutgers Covered Entity gives the individual a written statement of the reason for the delay, and the date by which the amendment will be processed.
 3. If the request is granted, the Rutgers Covered Entity must:
 - a. Insert the amendment or provide a link to the amendment at the site of the information that is the subject of the request for amendment.
 - b. Inform the individual that the amendment is accepted.
 - c. Obtain the individual's identification of and, agreement to, have the Rutgers Covered Entity notify the relevant persons with whom the amendment needs to be shared.
 - d. Within a reasonable time frame, make reasonable efforts to provide the amendment to persons identified by the individual, and persons, including business associates, that the Rutgers Covered Entity knows have the PHI that is the subject of the amendment and that may have relied on or could foreseeably rely on the information to the detriment of the individual.
 4. If the Rutgers Covered Entity denies the requested amendment, it must provide the individual with a timely, written denial in plain language that contains:
 - a. The basis for the denial.
 - b. The individual's right to submit a written statement disagreeing with the denial and how the individual may file such a statement.
 - c. A statement that if the individual does not submit a statement of disagreement, the individual may request that the Rutgers Covered Entity provide the individual's request for amendment and the denial with any future disclosures of PHI.
 - d. A description of how the individual may complain to the Rutgers Covered Entity pursuant to procedures established in 45 CFR 164.530(d) or to the Secretary of the Department of Health and Human Services (DHHS) pursuant to procedures in 45 CFR 160.306.
 - e. The name or title, and telephone number of the designated contact person who handles complaints for the Rutgers Covered Entity. The correct individual is the Rutgers University Director of Privacy in the Office of Enterprise Risk Management, Ethics and Compliance at 973-972-8093.
 5. The Rutgers Covered Entity must permit the individual to submit to the Rutgers Covered Entity a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such disagreement. The Rutgers Covered Entity may reasonably limit the length of a statement of disagreement.
 6. The Rutgers Covered Entity may prepare a written rebuttal to the individual's statement of disagreement. Whenever such a rebuttal is prepared, the Rutgers Covered Entity must provide a copy to the individual who submitted the statement of disagreement.

7. The Rutgers Covered Entity must, as appropriate, identify the record of PHI that is the subject of the disputed amendment and append or otherwise link the individual's request for an amendment, the Rutgers Covered Entity's denial of the request, the individual's statement of disagreement, if any, and the Rutgers Covered Entity's rebuttal, if any.
8. If a statement of disagreement has been submitted by the individual, the Rutgers Covered Entity must include the material appended or an accurate summary of such information with any subsequent disclosure of the PHI to which the disagreement relates.
9. If the individual has not submitted a written statement of disagreement, the Rutgers Covered Entity must include the individual's request for amendment and its denial, or an accurate summary of such information, with any subsequent disclosure of PHI only if the individual has requested such action.
10. When a subsequent disclosure is made using a standard transaction that does not permit the additional material to be included, the Rutgers Covered Entity may separately transmit the material required.
11. A Rutgers Covered Component that is informed by another Rutgers Covered Component of an amendment to an individual's PHI, the Covered Components must amend the PHI in written or electronic form, as requested by the individual.
12. A Rutgers Covered Entity must document the titles for the persons or offices responsible for receiving and processing requests for amendments.