



## Individual's Access to Protected Health Information (PHI)

### Policy # 3.6

### Requests to Amend Records

Original Effective Date:

6/21/2016

Revised Date:

**Purpose:** Ensure the right of an Individual to request that PHI in his or her medical record be amended.

**Policy:** Travis County allows Individuals to request amendments to the PHI in a Designated Record Set and responds to these requests within the timelines required by HIPAA. When Travis County receives notice that another Covered Entity has agreed to amend an Individual's record, Travis County Covered Components append the amendment to the Individual's designated record set, or provide a link to the amendment within an electronic record set.

#### **Procedures:**

##### Receiving Requests for Amendments from Individuals:

1. Covered Components or the Privacy Officer provide Form 7, Request for Amendments to Protected Health Information, to any Individual who wishes to make such a request. The Privacy Liaison or Privacy Officer, as applicable, may assist the Individual in completing the form.
2. The Individual is instructed to submit the completed Form to either the Privacy Officer or Privacy Liaison. If the Form is submitted to the Privacy Liaison, the Privacy Officer must be provided a copy of the Form for tracking purposes.

##### Reviewing the Amendment

3. The request will be referred to the Privacy Liaison or the Privacy Officer, depending on the status of the Covered Component that received the request (i.e., Commissioner Court or Non-Commissioners Court department). The Privacy Liaison or Privacy Officer, as applicable, will work with appropriate Covered Component workforce members, and/or the Legal Counsel, to determine whether or not to accept an amendment in whole or in part.
4. The requested amendment will be evaluated by the appropriate workforce members against the denial criteria set forth below. If any of the denial criteria are met, the amendment may be denied. If none of the denial criteria are met, the amendment must be accepted.

##### Denial Criteria

- The PHI subject to the request is accurate and complete.
  - The PHI subject to the request was not created by the Covered Component, and the creator of the PHI is still available.
  - The PHI subject to the request is not part of a designated record set
  - The PHI subject to the request is contained in psychotherapy notes.
  - The PHI subject to the request would not be available for inspection under Policy entitled [“Access to Protected Health Information”](#) because it was compiled in anticipation of, or for use in a civil, criminal, or administrative action or proceeding.
5. Timeline: Regardless of which Covered Component receives the request, the Privacy Officer is the Workforce Member responsible for enforcing deadlines. The time period to respond to a request for amendment is 60 days after receipt of such request, unless there is a specific reason why such timeframe cannot be met.
- In the event that the timeframe cannot be met: the Privacy Officer may approve one 30 day extension.
  - The requesting Individual must be informed in writing of the extension, as well as the reason for the extension and the date by which the Covered Component will respond.

#### Accepting or Denying the Request for Amendment

6. *Accepting*. If the amendment is accepted, the Privacy Liaison or Officer, as applicable:
- a. makes the appropriate amendment, either by appending the amendment to the applicable written record or providing a link to the location of the amendment for electronic records; or arranges to have the necessary party make the amendment AND,
  - b. informs the requesting Individual of the determination in writing;
  - c. obtains the Individual’s agreement to notify such other persons as would need notice of the amendment;
  - d. makes reasonable efforts to inform and provide the amendment to persons identified by the Individual as needing the amendment; and
  - e. makes reasonable efforts to inform and provide the amendment to persons, including Business Associates, that the Covered Component knows have the affected PHI and that may have relied, or could foreseeably rely, on such information to the detriment of the Individual.
7. *Denying*.
- a. If the amendment is denied, the Privacy Liaison or Officer, as applicable, provides the Individual with a written denial in plain language that contains:
    - The basis for the denial
    - Information on the Individual’s right to submit a written statement disagreeing with the denial;
    - A description of how the Individual may submit such written **statement of disagreement** with the denial.

- A statement that the Individual may ask that the request for amendment be included with the PHI in future disclosures.
- A description of how the Individual may complain to the Covered Component, the Privacy Officer, or to the Secretary of Health and Human Services, as outlined in the Notice of Privacy Practices. The name and contact information, including phone number for the Privacy Officer must also be provided.

b. The Covered Component:

- Includes the Individual’s request for amendment with future disclosures of the PHI to which the request relates.
- Includes Statements of Disagreement, if any, with future disclosures of the PHI to which the statement relates.
  - If the statement is long, the Covered Component may provide an accurate summary of the statement with the disclosure.

8. *Note on Future Disclosures.* When processing a HIPAA standard transaction (under 45 C.F.R. Part 162), the information to be included in Procedure 7(b) may be sent separately if it cannot be transmitted with the standard transaction.

Statements of Disagreement (for amendments that were denied):

9. Individuals who wish to make a statement of disagreement may do so in writing, and may submit that statement to the Privacy Officer or the Privacy Liaison.

10. The Privacy Liaison or Privacy Officer:

- consults with the Covered Component Workforce Members and/or the Legal Counsel’s Office to determine whether or not a statement of rebuttal should be prepared.
  - If a rebuttal is prepared, a copy of the rebuttal is given to the Individual.
- Append or otherwise link the following to the designated record or PHI that is the subject of the disputed amendment:
  - the Individual’s request for an amendment;
  - the denial of the request;
  - the Individual’s statement of disagreement;
  - the Covered Component’s rebuttal, if any.

11. Document Retention: The Travis County Privacy Officer maintains copies of all requests for amendment, and any forms related to this process for 6 years.