



AMENDMENT OF PROTECTED HEALTH INFORMATION PROTOCOL

GUIDING PRINCIPLE

We are committed to a culture of recovery throughout our systems of care, in our interactions with one another, and with those persons and families who trust us with their care.

OVERVIEW

- Pursuant the Health Insurance Portability and Accountability Act (HIPAA) of 1996, individuals have the right to request an amendment of his/her protected health information (PHI) maintained in the designated record set for as long as the PHI is maintained by Department of Mental Health and Substance Abuse (DMHSA).

DEFINITIONS

- **Consumer:** Any individual who has received or is receiving services from DMHSA.
 - In the context of the protocol, when a consumer has a personal representative, the personal representative will fulfill the duties of the consumer in this protocol.
- **Designated Record Set:** A group of records maintained by or for DMHSA that are:
 - The medical records and billing records about consumers maintained by or for DMHSA;
 - The enrollment, payments, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
 - Used, in whole or in part, by or for DMHSA to make decisions about consumers.
- **Personal Representative:** A person with a court order appointing them as guardian, or with a valid Durable Power of Attorney, or an Advance Directive signed by the consumer specifying the authority to review and make decisions regarding medical, psychiatric, treatment or habilitation concerns.
- **Protected Health Information (PHI):** Individually identifiable health information that is transmitted or maintained in any form or medium, by a covered entity, health plan or clearinghouse as defined under the Health Insurance Portability Accountability Act (HIPAA), 45 CFR Part 160 and 164.
 - **Individually Identifiable Health Information:** Any form, including demographic information, collected from an individual that:
 1. Is created or received by a healthcare provider, health plan, employer, healthcare clearinghouse; and

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2. Related to the past, present, or future physical or mental health or condition of an individual; the provision of healthcare to an individual, and
 - a. Identifies the individual, or
 - b. There is reasonable basis to believe that the information can be used to identify the individual.

STANDARDS OF CARE

- Consumers at DMHSA have the right to request that the Department amend PHI collected and maintained about him/her in his/her designated record set.
- The Department is not required to comply with the request for amendment (in whole or in part), if it is determined that the PHI or record that is the subject of the request:
 - Was not created by the Department (i.e., an Advance Directive). An exception may be granted if the consumer provides a reasonable basis to believe that the creator of the PHI is no longer available to act on the requested amendment and it is apparent that the amendment is warranted.
 - For example, a hospital or clinic, which has given the Department information on a consumer, has since closed its doors and left no means of obtaining its past information or records that were destroyed by fire or flood with no backup copies available.
 - This should rarely be the case. Every other avenue will be explored before an amendment is made to information that was not created by the Department.
 - Is not part of the designated record set (i.e., information gathered on worksheets or daily communication sheets that do not become a part of the Medical Record and are not retained).
 - Would not be available for inspection under the HIPAA Privacy Rule.
 - Is accurate and complete.
- An amendment is not necessary to correct clerical errors.
- A request for amendment of PHI must be made in writing with a reason to support the request.
- Medical records personnel shall manage requests for amendments of PHI.

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PROTOCOL

Notification of Right:

- Staff shall inform the consumer that he/she have the right to request an amendment of his/her PHI if he/she feels is it incomplete or inaccurate.

Requests

- If a consumer asks to make an amendment of PHI, medical records personnel will provide the consumer with a Request for Amendment of PHI form.
 - The request must be provided in writing, signed and dated by the consumer.
 - A DMHSA professional may assist the consumer in completing the form, if necessary.

Receiving Requests:

- Medical records personnel shall receive the written requests.
 - The request will not be reviewed until the form is completed and signed by the consumer.

Reviewing Requests:

- It is best practices to have the author of the PHI relative to the request, review the request. If the author is unavailable (i.e. no longer working at the Department, on vacation, ect.) the request shall be reviewed by one of the consumer's treatment team members or a designee.
- Upon receipt of the completed form, medical records personnel will forward the form and the document/form/record relative to the request to the author/treatment team member/designee by the next working day.
- The author/treatment team member/designee will review the request to determine whether it will be approved.
- The author/treatment team member/designee shall complete the "DMHSA Professional Disposition" section of the form.
- If the Department is unable to act on the request for amendment within sixty (60) days of receipt of the request, the Department may have one extension of no more than thirty (30) days. Medical records personnel will notify the consumer of the extension, the reason for the extension and the date by which action will be taken.

Acceptance of Request to Amend:

- If the amendment is accepted, the author/treatment team member/designee shall make the amendment and forward the form and amended information to medical records personnel within thirty (30) working days of receiving the request.

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Making an Amendment:

- The author/treatment team member/designee shall make a note at the site in the record to which the amendment applies and that an amendment exists by appending or otherwise providing a link to the location of the amendment.
- The author/treatment team member/designee may document any additional information relative to the amendment in the designated record set.
- The documentation must retain the original entry, state the new information, and reflect the author/treatment team member/designee identity and date of change.
- In paper documents, an amendment may be made by drawing a single line through the replaced information, initialing and dating.

Denial of Request to Amend

- If the amendment is denied, the author/treatment team member/designee shall forward the form to medical records personnel by the tenth (10th) working day of receiving the completed request.
- The author/treatment team member/designee must make a note at the site in the record to which the amendment applies that an amendment was requested and denied by DMHSA.

Notification of Outcome:

- Within five (5) working days of receiving the professional's disposition, medical records personnel shall mail the Notice of Outcome letter.
 - A copy of the completed form shall be included in the letter.
- The original form shall be filed in the consumer's record.

Notification of Amendment to Identified Persons:

- If the request is accepted, in whole or in part, and additional persons are identified as needing notification of the amendment, medical records personnel shall make reasonable efforts to inform and provide the amendment within a reasonable timeframe to:
 - The relevant persons with whom the amendment needs to be shared, as identified by the consumer on the original Request for Amendment form.
 - Other persons, including business associates, that medical records personnel 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 consumer.
- For the persons identified by the consumer on the request form, medical records personnel shall mail the Notification of Amendment of PHI letter and include a copy of the amended PHI.

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- For other persons that medical records personnel requested consent to notify in the Notification of Outcome letter, medical records personnel shall mail the Notice of Amendment of PHI letter and include a copy of the amended PHI upon receipt of the signed and dated consent for notification form.

Statement of Disagreement/Rebuttal:

- The consumer may submit a written statement of disagreement. This statement must be contained on not more than one (1) typed page of at least 10 point font or two, one-sided handwritten pages.
- If the consumer submits a written statement of disagreement, medical records personnel shall forward the statement to designated professional, different from the professional who denied the original request to amend by the next working day.
- The professional shall review the statement and original request and forward his/her final disposition to medical records personnel by the tenth (10th) working day of receiving the statement.
 - If the professional upholds the denial, the professional may or may not prepare a written rebuttal to the statement based on his/her professional judgment. If the professional decides to write a rebuttal statement they must forward the rebuttal statement along with his/her final disposition.
 - If the professional accepts the request, the professional must make the amendment according to the protocol outlined above and forward the amended information and final disposition to medical records personnel.

Notification of Outcome based on Statement of Disagreement:

- Within five (5) working days of receiving the professional's final disposition, medical records personnel shall mail the Response to Statement of Disagreement letter.
 - If the professional wrote a rebuttal statement, a copy shall be included in the letter.

Appendices:

- The following documentation must be appended (or otherwise linked) to the PHI that is the subject of the disputed amendment:
 - The consumer's Request for Amendment of PHI form;
 - The Department's outcome of request for amendment of PHI letter;
 - The consumer's statement of disagreement, if any; and
 - The Department's written rebuttal, if any.

Future Disclosures of PHI that is the Subject of Dispute Agreement

- If the consumer submitted a statement of disagreement, the Department will disclose an accurate summary with all future disclosures of the PHI to which the disagreement relates.

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- If the consumer did not submit a statement of disagreement, and if the consumer has requested that the Department provide the Request for Amendment form and the outcome letter with any future disclosures, the Department shall include these documents (or an accurate summary of that information) with all future disclosures of the PHI to which the disagreement relates.

Actions on Notice of Amended PHI

- If another covered entity notifies the Department of an amendment to PHI it maintains, medical records personnel shall make the amendment to the consumer's Designated Record Set.
 - Amendments to the Designated Record Set shall be filed with that portion of the PHI to be amended.
 - Amendments that cannot be physically placed near the original PHI will be filed in an appropriate location.
 - If it is not possible to file the amendment(s) with that portion of the PHI to be amended, a reference to the amendment and its location will be added near the original information location.
 - If the actual amendment is not in an easily recognized location near the original information, the reference should indicate where it could be found.
 - General information regarding requests for amendment, forms relating to amendments and correspondence relating to denial or acceptance of requests to amend will be filed in the consumer's record.

Retention of Form:

- DMHSA will maintain a record of approved requests for amendment of PHI. This record shall be retained for six (6) years from the date it was created or the date it was last in effect, whichever is later.

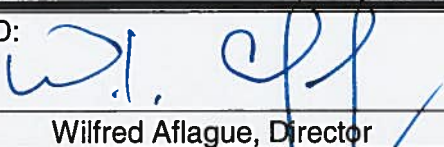
REFERENCES

- 45 CFR 164.526

FORMS

- Response to Statement of Disagreement for Denial of Amendment of PHI letter
- Request For Amendment of PHI form
- Notice of Outcome for Request for Amendment of PHI letter
- Notification of Amendment of PHI for [Consumer] letter
- Complaint of Privacy Violation form

APPROVED:



Wilfred Aflague, Director

Date: 6/14/12



Department of Mental Health & Substance Abuse

DIPATTAMENTON SALUT HINASSO YAN ABUSON AMOT

790 Governor Carlos G. Camacho Road

Tamuning, Guam 96913

Tel.#: (671) 647-5325 / 5440 Fax#: (671) 647-0250



REQUEST FOR AMENDMENT OF PROTECTED HEALTH INFORMATION

Consumer Last Name		Consumer First Name		Chart Number		Date of Birth	
Consumer's Street Address							
City, State, Zip Code				Phone Number			

1. I hereby request that DMHSA amend the following in my Designated Record Set (check all that apply):

My Medical Records My Business Office Files

2. Date(s) of information to be amended (i.e., date of visit, treatment, or other health care services):

3. The information is incorrect or incomplete in the following manner:

4. I request this amendment for the following reason(s):

5. The information should be amended as follows:

6. (Optional) I would like this amendment sent to the following persons who may have received by PHI in the past (please be specific, name and address of the individuals/organizations):

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7. CONSUMER ACKNOWLEDGEMENT OF CONDITIONS OF AMENDMENT

- I understand that DMHSA may or may not supplement my record with an addendum based on my request.
- I understand that the Department is not able to alter the original documentation in a record under any circumstances.
- Regardless whether my request is granted or denied, I understand that this request will be made a part of my permanent record and will be sent as part of the record in response to any authorized requests for release of my Protected Health Information (PHI).
- I understand DMHSA must respond to my request within sixty (60) days.

By signing below, I acknowledge I understand the conditions of Amendment.

Signature of Consumer or Personal Representative

Date

Print Name

Personal Representative's Title (e.g., Guardian)

DEPT. MENTAL HEALTH AND SUBSTANCE ABUSE USE ONLY

Date Received by Medical Records Personnel: _____ Rcvr Signature: _____

DMHSA PROFESSIONAL DISPOSITION:

____ Your request for restriction has been accepted and the appropriate amendment has been made.

____ Your request for restriction has been declined because:

____ The PHI was not created by DMHSA.

____ The PHI is not part of the consumer's Designated Record Set.

____ The PHI is not available to the consumer, for inspection as required by federal law (i.e., psychotherapy notes)

____ The PHI is accurate and complete.

(If you feel your privacy rights have been violated you may file a complaint, in writing, on the Complaint of Privacy Violation form available at Medical Records at the address at the top of this form)

Comments: _____

Professional Name:	Date:	Time:
Signature:		

NOTE: If you approve the request, make sure to amend the information, notate it properly in the record, and turn in the amended information and completed form to medical records personnel.

(OPTIONAL) DMHSA PROFESSIONAL DISPOSITION BASED ON STATEMENT OF DISAGREEMENT

____ The request will be honored and the appropriate amendment has been made.

____ The request continues to be denied.

____ I have prepared a rebuttal statement [attached]

____ I have not prepared a rebuttal statement.

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(If you feel your privacy rights have been violated you may file a complaint, in writing, on the Complaint of Privacy Violation form available at Medical Records at the address at the top of this form)

Comments: _____

Professional Name:	Date:	Time:
Signature:		

NOTE: If you approve the request, make sure to amend the information, notate it properly in the record, and turn in the amended information and completed form to medical records personnel.

MEDICAL RECORDS RESPONSIBILITIES *(initial appropriate items/lines below)*

IF APPROVED:

____ Received amended information on _____ (date).

NOTIFICATION IF APPROVED OR DENIED:

____ *Notice of Outcome for Request for Amendment of PHI Letter* mailed to consumer on _____ (date).

____ *(Optional, and if approved) Notification of Amendment of PHI letter* sent to identified persons on consumer's request form on _____ (date).

Medical Records Personnel:	Date:	Time:
Signature:		

CONSENT TO NOTIFY *(Optional, and if approved):*

____ *Consent to Notify* received on _____ (date).

____ *Notification of Amendment of PHI letter* sent to identified persons based on received consent to notify form on _____ (date).

Medical Records Personnel:	Date:	Time:
Signature:		

CONSUMER'S DISAGREEMENT *(Optional, if denied)*

____ Received Statement of Disagreement from consumer on _____ (date).

____ *Response to Statement of Disagreement letter* mailed to consumer on _____ (date).

____ Consumer requested to include Request to Amend form and outcome letter in future disclosures of PHI relating to request on _____ (date).

Medical Records Personnel:	Date:	Time:
Signature:		

→**Routing:** Original to consumer's chart. Copy to consumer/personal representative.