

Office of Compliance Programs

PRIVACY POLICY AND PROCEDURES

LSU Health Sciences Center New Orleans

Date Effective: April 14, 2003

Policy #: 2100.11

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Patient Information Policy

Patient's Right to Request an Amendment to Their Protected Health Information

SCOPE:

All Louisiana State University (LSU) System health care facilities and providers including, but not limited to hospitals, physician practices, clinics, schools, etc. on the LSU Health Sciences Center New Orleans Academic Campus.

Nota Bene: All LSU System health care facilities and providers including, but not limited to hospitals, physician clinics, schools, etc. on the LSU Health Sciences Center New Orleans Academic Campus, are referred to in this policy as LSUHSC-NO.

PURPOSE:

To provide guidance to the health care facilities and providers affiliated with the LSUHSC-NO on a patient's right to request an amendment to their Protected Health information as required by the Health Insurance Portability and Accountability Act, Standards for Privacy of Individually Identifiable Health Information (HIPAA Privacy Regulations), and any other applicable state or federal laws or regulations.

POLICY:

All LSUHSC-NO health care facilities and providers must provide patients with a right of to request an amendment as required by the HIPAA Privacy Regulations. A patient's request for an amendment should be handled in accordance with this policy and any applicable federal or state laws or regulations. For purposes of this policy, "amend" means a patient's right to add to information in their Protected Health Information (e.g. medical record) with which he or she disagrees. "Amend" does not include deleting or removing information from the content of a medical record.

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LSUHSC-NO acknowledges that under the HIPAA Privacy rule an individual has the right to amend their Protected Health Information. LSUHSC-NO understands that an individual may request that information be deleted or may request the addition of information into the record. When requesting an amendment, LSUHSC-NO may deny an individual's request for an amendment, if it determines that the protected health information or records that is the subject of the request:

- (i) was not created by LSU, unless the individual provides a reasonable basis to believe that the originator of protected health information is no longer available to act on the requested amendment;
- (ii) is not part of a designated record set;
- (iii) would not be available for inspection under section 164.524 (restriction on access to records) or;
- (iv) is accurate and complete

DEFINITIONS:

Protected Health Information (sometimes referred to as "PHI") – for purposes of this policy means individually identifiable health information, that relates to the past, present or future health care services provided to an individual. Examples of Protected Health Information include medical and billing records of the patient.

Designated Record Set – is a group of records maintained by or for LSUHSC-NO that is:

- The medical records and billing records about individuals maintained by or for LSUHSC-NO; or
- Any records used, in whole or part, by or for LSUHSC-NO to make decisions about individuals.
- Any record that meets this definition of Designated Record Set and which is held by a HIPAA Business Associate of LSUHSC-NO or part of LSUHSC-NO 's Designated Record Set.
 - The term record means any item, collection, or grouping of information that includes PHI and is maintained, collected, used or disseminated by or for LSUHSC-NO.
 - The term record also includes patient information originated by another health care provider and used by LSUHSC-NO to make decisions about a patient.
 - The term record includes tracings, photographs, videotapes, digital and other images that may be recorded to document care of the patient.

Privacy Officer - person designated by LSUHSC-NO to be the Privacy Official and who is responsible for the development and implementation of the patient privacy policies and procedures.

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PROCEDURE:

1.0 Requests for Amendment.

- 1.1 Patients have the right to request an amendment to their Protected Health Information for as long as it is maintained in a Designated Record Set of LSUHSC-NO.
- 1.2 LSUHSC-NO may require a patient to make a request for an amendment to their Protected Health Information to be in writing and that this written request include a reason to support the amendment.
- 1.3 The Privacy Officer is the individual identified by LSUHSC-NO to be responsible for receiving and processing requests for an amendment.

2.0 Processing Requests for Amendments.

- 2.1 Upon receipt of the completed form for request for amendment (See Attachment D), [person designated by the facility or clinic] shall review the request in consultation with any individual, including the patient's physician or person who created the record that [designated person] considers is necessary to decide whether to accept or deny the requested amendment in accordance with this policy.
- 2.2 If the requested amendment is accepted, it is the responsibility of [designated person] to process requests for amendment of patient's medical records.
- 2.3 If the requested amendment is accepted, it is the responsibility of [designated person] to process requests for amendment of patient's billing records.
- 2.4 LSUHSC-NO must act on the patient's request for an amendment no later than 60 days after receipt of such a request.
- 2.5 If LSUHSC-NO is unable to act on the request for amendment within the 60 day time limit, it may extend the time for such action by no more than 30 days, provided the patient or their personal representative is provided with a written statement of the reason for the delay and the date LSUHSC-NO will complete its action on the request (See Attachment C for sample letter). The time period to respond to a request may only extend the 60 day time limit for handling requested amendments for an additional 30 days.

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3.0 Deciding on Whether to Grant a Requested Amendment.

LSUHSC-NO may deny a patient's requested amendment to their Protected Health Information, if LSUHSC-NO determines that the Protected Health Information that is the subject of the request:

- 3.1 Was not created by LSUHSC-NO, unless the patient provides reasonable basis to believe that the originator of the Protected Health Information is no longer available to act on the requested amendment;
- 3.2 Is not part of the Designated Record Set of LSUHSC-NO;
- 3.3 Would not be available for inspection under LSUHSC-NO 's policy for a Patient's Right to Access and Inspect Their Own Protected Health Information; or
- 3.4 LSUHSC-NO considers the patient's Protected Health Information to be accurate and complete.
- 3.5 If the requested amendment is granted, then follow the section below on Granting Request for Amendment, and if the request is denied, then follow the section below on Denial of Requests for Amendment.

4.0 Granting Request for Amendment.

If a request for an amendment is accepted by LSUHSC-NO, then LSUHSC-NO must do the following:

- 4.1 Make the Amendment. The amendment should be made to the Protected Health Information or record that is the subject of the request for amendment by, at a minimum, identifying the records in the Designated Record Set that are affected by the amendment and appending, or otherwise providing, a link to the location of the amendment.
- 4.2 Inform the Patient. LSUHSC-NO must promptly inform the patient that the amendment is accepted and obtain the patient's identification of or an agreement to have LSUHSC-NO notify the relevant person with which the amendment needs to be shared as provided in this policy. (See Attachment A for sample letter).
- 4.3 Informing Others. LSUHSC-NO must make reasonable efforts to inform and provide the amendment within a reasonable time to the persons identified by the patient as having Protected Health Information about the patient and needing the amendment, and persons and HIPAA Business Associates that LSUHSC-NO knows have the Protected Health Information that is the subject of this amendment, or could foreseeably rely on such information to the detriment of the patient. (See Attachment B for sample letter).

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5.0 Denial of Request for Amendment.

- 5.1 If a request for an amendment is denied by LSUHSC-NO, then LSUHSC-NO must do the following:
 - 5.1.1 Requests for amendment may be denied in whole or in part.
 - 5.1.2 LSUHSC-NO must provide the patient or their personal representative a written denial within 60 days of the requested amendment. (See Attachment E for sample letter).
- 5.2 Content of Written Denial Statement. A written denial statement from LSUHSC-NO must contain the following:
 - 5.2.1 the basis of the denial;
 - 5.2.2 a statement of the right of the patient or their personal representative to submit a written statement disagreeing with the denial and how the individual may file such a statement;
 - 5.2.3 a statement that, if the individual does not submit a statement of disagreement, the individual may request that LSUHSC-NO provide the patient's request for amendment and the denial with any future disclosures of the Protected Health Information that is the subject of the amendment; and
 - 5.2.4 a description of how the patient may complain to LSUHSC-NO pursuant to our Complaint Policy or to the Secretary of Health and Human Services and to file a complaint with (office/physician) regarding the denial. The description must include the name, or title, and telephone number of the contact person of LSUHSC-NO.
- 5.3 Rebuttal Statement. LSUHSC-NO may prepare a written rebuttal to the patient's statement of disagreement. If a rebuttal is prepared, a copy must be provided to the individual who submitted the statement of disagreement.

6.0 Record Keeping.

LSUHSC-NO must identify the record or Protected Health Information in the Designated Record Set that is the subject of the denied amendment and link the individual's requested amendment, the denial of the request, the individual's statement of disagreement, and LSUHSC-NO's rebuttal to the Designated Record Set.

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7.0 Future Disclosures.

If a statement of disagreement has been submitted, LSUHSC-NO must include the request for amendment, the LSUHSC-NO denial, the statement of disagreement, if any, and LSUHSC-NO rebuttal, if any, in any subsequent record request for that portion of the record to which the request for amendment pertains.

7.1 If a statement of disagreement was not submitted, LSUHSC-NO must include the request for amendment and LSUHSC-NO denial, or an accurate summary of such information, with any subsequent record request for that portion of the record to which the request for amendment pertains.

8.0 Notice of Amendment from Others.

If LSUHSC-NO is informed by another health care provider of an amendment to an individual's protected health information, LSUHSC-NO must amend the PHI in its Designated Record Set.

REFERENCES:

45 C.F.R. § 164.526