

<p style="text-align: center;">Policy & Procedure</p> <p>WEBER HUMAN SERVICES</p> <p style="text-align: center;">HIPAA / PRIVACY AMENDMENT OF PHI</p>	<p>NUMBER 06</p>
	<p>APPROVED 2/21/2014</p>
	<p>REVIEWED 5/11/2017</p>
	<p>REVISED</p>

PURPOSE

This Policy is to provide a process for responding to a client’s request for an amendment to Protected Health Information (“PHI”).

POLICY

A client has the right to request that the Facility amend his PHI maintained in the Designated Record Set for as long as the PHI is maintained. The policy of this Facility is to respond to a client’s request for amendment of PHI in accordance with the HIPAA Privacy Rule. This policy contains the procedures for approving an amendment, denying an amendment and making an amendment at the request of another covered entity.

Note: The *Notice of Privacy Practices* states that an amendment is not necessary to correct clerical errors.

PROCEDURE

1. The client will be notified of the right to amend his PHI in the *Notice of Privacy Practices*.
2. The Facility Privacy Officer (“Privacy Officer”) will process all requests for amendment.
3. Upon receiving an inquiry from a client regarding the right to amend his/her PHI, the Privacy Officer will provide the client with a copy of an *Amendment of Protected Health Information* (“*Amendment of PHI*”) form. A request for amendment will not be evaluated until the request form is completed and signed by the client or personal representative. (See sample *Amendment of PHI* form following this Policy.)

Evaluating and Responding to the Request for Amendment

1. The Privacy Officer will date stamp or write the date received and initial the *Amendment of PHI* form.
2. The Privacy Officer will make a determination to accept or deny the amendment after consultation with the appropriate staff, if needed.
3. The Privacy Officer shall act on the request for amendment no later than 60 days after receipt of the request.

- a. If the amendment is accepted, Facility staff shall make the amendment and inform the client within 60 days of the written request.
 - b. If the amendment is denied, the Facility shall notify the client in writing of the denial within 60 days of the written request.
4. If the Facility is unable to act on the request for amendment within 60 days of receipt of the request, it may have one extension of no more than 30 days. The Privacy Officer will notify the client in writing of the extension, the reason for the extension and the date by which action will be taken. (See the sample *Notification of Time Extension* in the Policy “Client’s Access to Protected Health Information.”)

Denial of Request for Amendment

1. The Facility may deny the request for amendment in whole or in part if:
 - a. The PHI was not created by the Facility (i.e., an Advance Directive). An exception may be granted if the client 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 Facility information on a client, 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.

Note: 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 Facility.
 - b. The PHI 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).
 - c. The PHI would not be available for inspection under the HIPAA Privacy Rule.
 - d. The PHI that is subject to the request is accurate and complete.
2. If the Privacy Officer, in consultation with the appropriate staff, determines that the request for amendment is denied in whole or in part, the Privacy Officer will provide the client with a timely amendment denial letter. The denial shall be written in plain language and shall contain:
 - a. The basis for the denial;
 - b. A statement that the client has a right to submit a written statement disagreeing with the denial and an explanation of how the client may file such statement;
 - c. A statement that, if the client does not submit a statement of disagreement, the client may request that the Facility include the client’s request for amendment and the denial with any future disclosures of the PHI that is the subject of the amendment;

- d. A description of how the client may file a complaint with the Facility or to the Secretary of the U.S. Department of Health and Human Services. The description must include the name or title and telephone number of the contact person for complaints. (See the Policy “Complaints.”)
3. The client may submit a written statement of disagreement.
4. If the client submits a written statement of disagreement, the Facility may prepare a written rebuttal to the statement. The Facility shall provide a copy of the written rebuttal to the client who submitted the statement.
5. The following documentation must be appended (or otherwise linked) to the PHI that is the subject of the disputed amendment:
 - a. The client’s *Amendment of PHI* form;
 - b. The Facility’s amendment denial letter;
 - c. The client’s statement of disagreement, if any; and
 - d. The Facility’s written rebuttal, if any.

Future Disclosures of PHI that is the Subject of the Disputed Amendment

1. If the client submitted a statement of disagreement, the Facility will disclose all information listed in Item 5 above or an accurate summary of such information with all future disclosures of the PHI to which the disagreement relates.
2. If the client did not submit a statement of disagreement, and if the client has requested that the Facility provide the *Amendment of PHI* form and the amendment denial letter with any future disclosures, the Facility shall include these documents (or an accurate summary of that information) with all future disclosures of the PHI to which the disagreement relates.

Acceptance of the Request for Amendment

If the Facility accepts the requested amendment, in whole or in part, the Facility will take the following steps:

1. The Facility Privacy Officer shall place a copy of the amendment in the client’s Medical Record or provide a reference to the location of the amendment within the body of the Medical Record.
2. The Privacy Officer shall notify the relevant persons with whom the amendment needs to be shared, as identified by the client on the original *Amendment of PHI* form.
3. The Privacy Official shall identify other persons, including Business Associates, that it knows have the PHI and that may have relied on, or could foreseeably rely on, such information to the detriment of the client. The Privacy Officer will inform the client of, and obtain the client’s agreement to notify such other persons or organizations of the amendment.
4. The Privacy Officer shall make reasonable efforts to inform and provide the amendment within a reasonable time to:

- a. Persons identified by the client as having received the PHI and needing the amendment;
 - b. Persons, including Business Associates, that the Facility knows have the PHI and may have relied, or could foreseeably rely, on such information to the detriment of the client.
5. If no additional persons needing notification of the amendment are identified, the Privacy Officer shall inform the client in writing that the amendment has been accepted.

Actions on Notices of Amendment

If another Covered Entity notifies the Facility of an amendment to PHI it maintains, the Privacy Official shall make the amendment to the client's Designated Record Set.

1. Amendments to the Designated Record Set shall be filed with that portion of the PHI to be amended.
2. Amendments that cannot be physically placed near the original PHI will be filed in an appropriate location.
3. 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.
4. If the actual amendment is not in an easily recognized location near the original information, the reference should indicate where it could be found.
5. 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 client's Medical Record.

(See sample Acceptance, Denial, and Notification letters following this Policy.)

SAMPLE
AMENDMENT OF PROTECTED HEALTH INFORMATION

Date Received: _____

Initials of Privacy Official: _____

SECTION A: Client to complete the following information

Date: _____

Client Name: _____ Medical Record Number _____

Address: _____

REQUEST:

I hereby request that the Facility amend the following in my Designated Record Set (**check all that apply**):

_____ My Medical Records

_____ My Business Files

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

The information is incorrect or incomplete in the following manner:

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

The information should be amended as follows:

I understand that the Facility may or may not supplement my record with an addendum based on my request. I also understand that the Facility 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 Medical Record and will be sent as part of the Medical Record in response to any authorized requests for release of my Protected Health Information.

Signature of Client or Personal Representative

Date

Print Name

Personal Representative's Title (e.g., Guardian, Executor of Estate, Health Care Power of Attorney)

AMENDMENT OF PROTECTED HEALTH INFORMATION - side 2

SECTION B: Facility to complete the following

Date of Receipt of Request _____

Request for correction / amendment has been: _____ Accepted _____ Denied

If denied, check reason for denial:

_____ The PHI was not created by this Facility.

_____ The PHI is not part of client's Designated Record Set.

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

_____ The PHI is accurate and complete.

NOTICE TO CLIENT/OTHERS

Client and/or others notified of determination via one or more of the following **(check all that apply)**:

_____ *Amendment Acceptance Letter* sent to client on _____ (date).

_____ *Amendment Acceptance with Consent to Notify* sent to client on _____ (date).

_____ *Notification of Amendment* sent to identified persons pursuant to client authorization on _____ (date).

Signature of Privacy Officer

Date

Print Name

Distribution of copies: Original to client's Medical Record, copy to client

***SAMPLE
AMENDMENT ACCEPTANCE LETTER***

[DATE]

[CLIENT NAME]

[ADDRESS]

Dear [CLIENT]:

Your request to amend your Protected Health Information (see attached form) has been approved. We will notify the individuals and/or organizations that you identified in the original amendment request.

Very truly yours,

[AUTHOR SIGNATURE]

[PRINTED NAME AND TITLE]

SAMPLE
AMENDMENT ACCEPTANCE WITH CONSENT TO NOTIFY LETTER

[DATE]

[CLIENT NAME]

[ADDRESS]

Dear [CLIENT]:

Your request to amend your Protected Health Information (see attached form) has been approved. We will notify the individuals and/or organizations that you identified in the original amendment request.

In addition, we have identified the following individuals and/or organizations that received your Protected Health Information. We are not permitted to notify these individuals and/or organizations without your written agreement. If you would like us to notify the individuals and/or organizations listed below, you must sign, date, and return this statement to us.

Very truly yours,

[AUTHOR SIGNATURE]

[PRINTED NAME AND TITLE]

I hereby request and consent to the notification of the above-identified persons and/or organizations who have previously received my Protected Health Information regarding the approval of my request for amendment.

Signature of Client or Personal Representative

Date

Print Name

Personal Representative's Title (e.g., Guardian, Executor of Estate, Health Care Power of Attorney)

SAMPLE
NOTIFICATION OF AMENDMENT LETTER

[DATE]

[Name of Individual/Organization to Receive *Notification of Amendment*
[ADDRESS]

Re: [CLIENT]
Approval of *Amendment of Protected Health Information*

Dear [RECIPIENT]

We have agreed to a request from the above-referenced client to amend his/her Protected Health Information as outlined on the attached form entitled "*Amendment of Protected Health Information.*"

In compliance with the HIPAA Privacy Rule (45 CFR §164.526—Amendment of Protected Health Information), we are providing you with proper notification of this approved amendment.

Thank you.

Very truly yours,

[AUTHOR SIGNATURE]

[PRINTED NAME AND TITLE]

SAMPLE
AMENDMENT DENIAL LETTER

[DATE]

[CLIENT NAME]

[ADDRESS]

Dear [CLIENT]:

Your request to amend your Protected Health Information (see attached form) has been denied for the following reason(s):

You have the right to submit a written statement disagreeing with the denial. If you choose to do so, submit your statement to the Facility Privacy Officer.

If you do not submit a statement of disagreement, you may request that the Facility include your request for amendment and the denial in any future disclosures of your Protected Health Information.

You may file a complaint with our Facility by contacting the Facility Privacy Officer at 801-625-3700 (Facility phone number). You also may file a complaint with the Secretary of the U.S. Department of Health and Human Services. Please contact the Facility Privacy Officer for contact information.

Very truly yours,

[SIGNATURE]

[PRINTED NAME AND TITLE]