

<p>WEBER HUMAN SERVICES</p>	<p>Policy & Procedure</p>	<p>NUMBER 07</p>
	<p>HIPAA / PRIVACY CLIENT ACCESS TO PHI</p>	<p>APPROVED 2/21/2014</p>
		<p>REVIEWED 5/11/2017</p>
		<p>REVISED</p>

PURPOSE

To define clients' right to access their Medical Records and explain requirements imposed by the Health Insurance Portability and Accountability Act (HIPAA) Final Privacy Rule. The Privacy Rule explains the rights of clients, including access to their Medical Records, and specifies required time frames for responding to client requests for access.

POLICY

Every client has the right to access his or her Protected Health Information ("PHI"). The right of access is not absolute and there may be situations where access is not allowed; however, the Facility will respond to all requests to access a client's health information. The Privacy Rule specifies the time for responding to requests for access. These time lines must be adhered to.

PROCEDURE

1. A client will be notified of the right to access PHI in the Facility's *Notice of Privacy Practices*. The *Notice of Privacy Practices* is given to the client upon admission to the Facility.
2. A client has the right to inspect and obtain a copy of PHI in his or her Designated Record Set, except for information compiled in reasonable anticipation of, or for use in a civil, criminal, or administrative action or proceeding.
3. Requests for access to PHI and release of information will be managed by the Facility Privacy Officer or designee.
4. The client or representative will be provided with a copy of an *Authorization: To Request PHI ("Access")* form upon receiving an inquiry from a client to obtain copies of his or her PHI. The request will not be evaluated until the form is completed. (See sample *Access* form following this Policy.)
5. If a client or client's personal representative requests to view or review PHI, the Facility must respond to the request within 30 days.
6. A reasonable cost-based fee may be charged for the copies provided. The cost per page may not exceed the state statute for copying costs. In the absence of a state statute, the fee will include the cost of the supplies and labor used in preparing the copy and postage, if applicable.

7. Processing the Request and Providing Access to the PHI:

- a. The Facility must respond to a request from clients within 30 days of the receipt of the request.
- b. The Facility may have a one time extension of 30 days to the time frames noted in Item 7.a., provided that:
 - i. A written statement of the reasons for the delay are provided, and
 - ii. The date by which the Facility will complete its action on the request is stated.

(See sample *Notification of Time Extension* form following this Policy.)

- c. The Privacy Officer shall provide the client with permitted access to the PHI in an electronic format if requested. An electronic version of the PHI can only be downloaded on a WHS approved device.
- d. The Facility may provide a summary of the PHI requested if the client agrees, in advance, to this summary and to any fees imposed. (A summary is a recapitulation of the client's Medical Record done by a physician or health care professional.)

8. Guidelines for Denying the Request for Access to PHI:

- a. The Facility must provide a timely, written denial to the individual, which includes the basis for the denial, and, if applicable, a statement of the individual's review rights. In addition, it must provide a description of how the individual may complain to the Facility or to the Secretary of the Office of Civil Rights.
- b. The Facility may deny the request if the PHI is not contained in its Designated Record Set.
- c. The Facility may deny the request for access to a client's PHI without a right to review if:
 - i. The request is for information compiled in anticipation of a legal proceeding; or
 - ii. The request is for PHI created or obtained during the course of research which includes treatment for as long as the research continues, provided that the client has agreed to the denial of access and the Facility has informed the client that this right will be reinstated upon completion of the research; or
 - iii. The request is for PHI obtained from someone other than a provider under the promise of confidentiality and disclosure would likely reveal the source.
- d. The Facility may deny the request for access to a client's PHI provided that the client has been given a right to review the denial if:

- i. A licensed health care professional has determined, in the exercise of professional judgment, that the access of requested PHI is reasonably likely to endanger the life or physical safety of the individual or another person; or
- ii. The PHI refers to another person (unless such other person is a health care provider, for example, a doctor) and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person; or
- iii. The individual's personal representative makes a request for access and a licensed health care professional has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the individual or another person.

9. Providing a Review Process for Denied Requests for Access to PHI:

Clients have the right to request a review of the denial. If a request is received, the following steps must be taken:

- a. The Privacy Officer will promptly refer the request to review the denial to the Compliance Officer.
- b. The Compliance Officer shall refer the case to a licensed health professional who was not directly involved in the denial.
- c. The Facility shall promptly provide written notice of the results of the review and based on the review, take any necessary steps outlined in this Policy.

(See sample *Review Determination Letter* following this Policy.)

SAMPLE ACCESS TO PROTECTED HEALTH INFORMATION

Authorization For Weber Human Services to Request Other Protected Health Information

Client Name	WHS#
Former Names	
Birth Date	
Address	
City	State Zip

I am requesting the following:	Request Records
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The reason the information will be used or disclosed:
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I authorize Weber Human Services and the person or entity listed below to use and/or disclose my medical, mental health, and/or substance abuse treatment records:

Person/Entity		
Entity Address		
Entity City	Entity State	Entity Zip
Entity Phone	Entity Fax	

Weber Human Services Contact Information		
Program Name Records Department		
Contact Address 237 26th St.		
Contact City Ogden	Contact State UT	Contact Zip 84401
Contact Phone (801) 625-3831	Contact Fax (801) 778-6803	

I am requesting the following information for use and/or disclosure:	
<input type="checkbox"/> Evaluations <input type="checkbox"/> Medication History <input type="checkbox"/> Discharge <input type="checkbox"/> Drug Testing Results <input type="checkbox"/> Diagnosis <input type="checkbox"/> Tx/Care Plan <input type="checkbox"/> Treatment Compliance Reports <input type="checkbox"/> Admission <input type="checkbox"/> Other Information (explain)	
Date Range Begin Date	Date Range End Date (optional)

- By signing this form I understand the following:**
- I may revoke this authorization at any time, except to the extent that action has already been taken. In the event I am court ordered to treatment, I understand revocation may put me in violation of the court order. To revoke this authorization, I must notify the Records Department in writing using the contact information above. Authorizations related to substance abuse records may be revoked verbally or in writing.
 - There is the potential for re-disclosure of my mental health records by the receiver, and this re-disclosure may no longer be protected by federal or state law. Because of additional federal privacy rules (42 CFR Part 2), Substance abuse treatment records are prohibited from being re-disclosed without my written consent, unless permitted by federal or state law.
 - I can request a copy of my record and/or inspect my record with my therapist. A supervisor will review and approve this request. I will receive an answer to my request within 60 days. My request may be denied if the supervisor of my case believes that access to my information could be harmful to me. If my request is denied I will be informed in writing.
 - If this disclosure is set to expire based on an event, it is my responsibility to notify Weber Human Services when this event occurs.
 - Signing this form is voluntary. It is not required to assure treatment with Weber Human Services. The parent/guardian and the minor must both sign to release substance abuse treatment records of a minor.

Expiration Date (if left blank, expires one year from today's date unless revoked)
Expiration Event

Client Signature	Client Signature Date
If Minor, Authorized Representative Signature	If Minor, Authorized Representative Signature Date
Printed Name of Authorized Representative	Relationship
Witness Signature	Witness Signature Date

ACCESS TO PROTECTED HEALTH INFORMATION

Request for access or copy is Accepted Denied

If denied, check the reasons for denial:

- PHI is not part of the client's Designated Record Set
- Federal law forbids making the requested information available to the client for inspection (e.g., CLIA or Privacy Act of 1974)
- The requested information is psychotherapy notes
- The requested information has been compiled for legal proceeding
- The requested information was obtained under promise of confidentiality and access would be reasonably likely to reveal the source of the information
- The requested information is temporarily unavailable because the individual is a research participant
- Licensed health care provider has determined that access to the requested information would result in physical harm to the individual or others
- Licensed health care provider has determined that the requested information identifies a third person who may be physically, emotionally, or psychologically harmed if access to the information is granted
- Licensed health care provider has determined that access to the requested information by the client's personal representative could result in harm to the individual
- We are acting under the direction of a correctional institution and letting the inmate access or obtain a copy of the requested information would jeopardize the health, safety, security, custody, or rehabilitation of another person at the correctional institution
- The requested information is not maintained by our Facility

RIGHT TO REVIEW:

- Yes
- No – Contact the Facility Privacy Officer with any questions.

You have a right to file a complaint with our Facility and may do so by contacting the Facility Privacy Officer at: 801-625-3700 (Facility phone number). You also have the right to file a complaint with the Secretary of the U.S. Department of Health and Human Services. Contact the Facility Privacy Officer for additional information.

Signature of Privacy Official

Date

Print name

If your request to copy the requested information has been granted, you will be charged a reasonable fee for photocopying and mailing.

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

**SAMPLE
NOTIFICATION OF TIME EXTENSION**

Client Name: _____ Medical Record No: _____

Facility Name: _____

TYPE OF REQUEST:

- _____ Request for Access to PHI of client
- _____ Request to Amend PHI
- _____ Request for an Accounting of Disclosures

Date of original request: _____

Original Due Date: _____

Request to Access: 30 days from receipt of request.

Request for Amendment or Accounting: No more than 60 days from receipt of request.

Revised Due Date (may not be more than 30 days from original due date):

Reason that extension of time to respond is needed:

A copy of this *Notice of Time Extension* has been provided to the client or the client's personal representative.

Signature of Privacy Officer

Date

Print Name

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

***SAMPLE
REVIEW DETERMINATION LETTER***

[DATE]

[CLIENT NAME]
[ADDRESS]

Dear [CLIENT]:

Your request for review of the denial of access to your health information (see attached form) continues to be denied for the following reason(s):

You may file a complaint with our Facility by contacting the 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 Privacy Officer for further information.

Very truly yours,

[SIGNATURE}

[PRINTED NAME AND TITLE]