

	Title: HIPAA - Right to Access of Protected Health Information by the Patient Policy	Review Frequency: Annual	Effective Date: 6/15/2018
	Document Category / Document Type: Cascaded / Policy	Doc Control No.	HS-312
		Revision Letter/No.	2

1.0 Purpose/Objectives.

To provide clarity for members of the workforce regarding patients' rights to access their health information and the process for access.

2.0 Scope.

Patients will be provided the right to inspect and obtain a paper copy of their protected health information that is contained within the designated record set. Exceptions include psychotherapy notes and information compiled for use in civil, criminal or administrative actions. The facility may deny a request under certain circumstances outlined in this policy. All questions, concerns or complaints will be addressed to the UNMH Executive Director of Health Information Management (HIM) or designee.

To ensure the patients' right to inspect and/or obtain a paper copy of their protected health information as required by the Health Insurance Portability and Accountability Act, Standards for Privacy of Individually Identifiable Health Information, 45 CFR Parts 160 and 164, and any and all other Federal regulations and interpretive guidelines promulgated thereunder.

This policy applies to ALL Health Sciences faculty and staff regardless of their department, unit, clinic, college or facility affiliation. Health Sciences cascaded policies shall be sent to Health Sciences Components for their respective adoption, dissemination and implementation.

3.0 Content.

1. Workforce Requirements

- 1.1 Workforce members may not access their own medical records through the UNMHSC electronic health records system. Workforce members can either access their medical records through our patient portal or request copies of their medical records information following the procedures established for all patients through HIM.
- 1.2 Workforce members may not access other patients' medical records, even if they have a right to them by being a guardian or having Power of Attorney or if the patient gives them consent. Access to these records must be through our patient portal or request copies of these medical records information following the procedures established for all patients through HIM.
- 1.3 Workforce members should only access the UNMHSC electronic health records system to access patient information within their job responsibilities.

2. Patient Requests for Access and Timely Action

A patient has the right to request access to or be provided with a paper copy of their protected health information as contained in the designated record set. The facility must produce protected health information from the primary source or system as outlined in the definition for designated records set.

Requests for access must be presented in writing, and be sent to the Health Information Management Department (HIM).

Except as outlined below and where New Mexico State law is more stringent, the facility must act on a request for access no later than 30 days after receipt.

Extenuating Circumstances:

- 2.1. If the facility is not able to provide access to the record within 30 days from date of receipt of the request, or 60 days if the record is stored at an offsite location, the Executive Director of

HIM or designee must provide the patient with a written statement outlining the reasons for the delay and the date by which the request will be fulfilled.

- 2.2. If it is foreseeable that the request cannot be met within 30 days from date of receipt of the request the Director of HIM or designee must inform the Privacy Officer of the delay no later than ten business days prior to the deadline.
- 2.3. If records have been destroyed in accordance with the HSC Maintenance, Retention, Secure Disposition and Destruction of Confidential Documents and Records Procedure, the Executive Director of HIM or designee must provide the patient with a written statement advising that the request cannot be fulfilled within 30 days from the date of receipt of the request.

3. Providing Access

The following steps should be followed when providing patients access to their records: The facility must offer the patient a convenient time and place to inspect or obtain a copy of the record or make arrangements to mail the copy.

Reasonable, cost-based fees will be imposed for copying, postage, and preparing a summary or explanation as outlined in the Fees for Copies and Summaries of Designated Record Set policy.

4. Denial of Access

- 4.1. Access may be denied under the following circumstances. These are unreviewable grounds for denial.
 - 4.1.1. If the facility is acting under the direction of a correctional institution and the information could jeopardize the health, safety, security, custody or rehabilitation of the individual, any officer, employee or other inmates.
 - 4.1.2. In the course of research that includes treatment, provided the patient has agreed to the denial of access when consenting to participate. The right of access will be reinstated upon completion of the research.
 - 4.1.3. If the information that is contained in the records is subject to the Privacy Act, 5 U.S.C. Section 522A, and the denial meets the requirements of that law.
 - 4.1.4. The facility does not maintain the information; however, if the facility knows where the information is maintained, the facility should inform the individual where to direct his or her request, if known.
 - 4.1.5. The protected health information is exempted as outlined in the policy statement above.
- 4.2. An individual may be denied access in the following circumstances, provided the individual is given a right to have such denials reviewed:
 - 4.2.1. A licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person;
 - 4.2.2. The protected health information makes reference to another person (unless such other person is a health care provider) 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
 - 4.2.3. The request for access is made by the individual's personal representative, 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.

The facility must, to the extent possible, provide any other protected health information after excluding the information to which the facility has a ground to deny access.

A timely, written denial to the patient must be provided from the Executive Director of HIM or designee using the applicable Denial Letter (reviewable or unreviewable). If the facility does not maintain the information requested by the patient and the facility knows where the information is maintained, the facility should inform the patient where to direct the request.

The patient may request a review of a denied request for access only under circumstances outlined in 4.2.1 – 4.2.3. The facility must promptly refer the request for review to a licensed health care professional who is designated by the UNMHSC Component to act as a reviewing official. The reviewer may not have been a participant in the original decision to deny access. The reviewing official must determine, in a reasonable period of time but no later than 60 days, whether or not to deny the access requested. The Executive Director of HIM or designee will promptly provide a written notice to the individual outlining the outcome of the review.

5. Required Documentation

The facility must document the following and retain documentation.

The designated record sets that are subject to access by patients.

The applicable Health Information Management Department responsible for receiving and processing requests for access by individuals.

All correspondence and associated documentation related to patient access to designated record sets, including denials, must be maintained/retained in the individuals designated record set.

4.0 Responsibilities.

RESPONSIBILITIES	
Position/Title/Group	Requirements/Expectations/Duties
Privacy Office	Policy Management
Executive Director Health Information Management	<ul style="list-style-type: none"> Act on written request within 30 days Receive and process all requests All record sets must be maintained in individual's record set

5.0 Records. Applicability/Retention.

To ensure the patients' right to inspect and/or obtain a paper copy of their protected health information as required by the Health Insurance Portability and Accountability Act, Standards for Privacy of Individually Identifiable Health Information, 45 CFR Parts 160 and 164, and any and all other Federal regulations and interpretive guidelines promulgated thereunder.

6.0 External Reference(s).

- Health Insurance Portability and Accountability Act, Standards for Privacy of Individually Identifiable Health Information, 45 CFR Parts 160 and 164
- Privacy Act, 5.U.S.C.Section 522A

7.0 Internal Reference(s).

- Health Information Management Department
- Privacy Office
- Health Sciences Policy on Policies

8.0 Definitions.

For the purposes of this guideline "designated record set" is defined as a group of records maintained by or for a covered entity that is:

- The medical and billing records about individuals maintained by or for a covered healthcare provider;
- The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
- Information used in whole or in part by or for the covered entity to make decisions about individuals.

9.0 Key Words.

Health Information Management (HIM), Health Insurance Portability and Accountability Act (HIPAA)

10.0 Attachments.

Not Applicable

11.0 Approval Authority.

APPROVAL and Information			
Item	Contact Information	Date	Reviewed / Approved
Document Owner	<i>Privacy Office, Laura Putz, Privacy Officer, 272-1493</i>		
Consultant	Executive Director Health Information Management		<i>Reviewed</i>
Committee	Executive Compliance Committee	<i>3/21/2018</i>	<i>Approved</i>
Group	HSC Core Team	<i>4/9/2018</i>	<i>Approved</i>
Office	HSC Legal Office	<i>1/22/2018</i>	<i>Reviewed</i>
Official Approver	<i>Paul B. Roth, Chancellor for Health Sciences & Dean of School of Medicine.</i>		<i>Approved</i>
Official Signature	On File Health Sciences Policy Office	<i>6/13/2018</i>	
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12.0 Document History.

HISTORY LOG				
Date and Date Type: (Specify: Origination, Effective or Retired Date) In addition: Add Review Date when effective date does not change due to no major updates.	New Revision/ Letter/#:	Title of Document:	Description of Change(s):	Approved By: Print Name/Title
12/2002, Origination Date	Original	Right to Access of Protected Health Information by the Patient	Original	
4/12/2012, Effective Date	Revision 1	Right to Access of Protected Health Information by the Patient	Replaces document with the same name, last revision, 2003	Dr. Paul Roth, Chancellor Health Sciences
6/15/2018, Effective Date	Revision 2	HIPAA - Right to Access of Protected Health Information by the Patient Policy	Reformatted Identified Responsibilities separately Thoroughly updated	Dr. Paul Roth, Chancellor Health Sciences
11/1/2019 Reviewed. Effective Date remains 6/15/2018, as only minor edits were made.	Revision 2	HIPAA - Right to Access of Protected Health Information by the Patient Policy – HS 312	Modification to Section 3 to clarify workforce requirements from patient requirement. Updated Document Owner	N/A