LOUISIANA STATE UNIVERSITY
HEALTH CARE SERVICES DIVISION
BATON ROUGE, LA

POLICY NUMBER:	7508-13
CATEGORY:	HIPAA Policies
CONTENT:	Patient's Right to Request an Amendment to their Protected Health Information - For approved amendments (Attachment A) - Form to notify other entities of amendments (Attachment B) - Form to Notify Individuals of a delay in processing their amendment request (Attachment C) - Form for Individual to fill out when requesting an amendment (Attachment D) - Sample Letter to Patient, Re: Denial Requests for Amendment (Attachment E)
EFFECTIVE DATE:	April 14, 2003 Revised April 29, 2003
REVISED	December 26, 2007 January 27, 2009 July 11, 2012
REVIEWED	August 13, 2010 July 23, 2013
INQUIRIES TO:	**LSU HCSD** **Compliance Section** **Post Office Box 91308** **Baton Rouge, LA 70803** **Telephone: 225-354-7032**

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9/27/2013
Date

LOUISIANA STATE UNIVERSITY
HEALTH CARE SERVICES DIVISION

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

I. SCOPE

This policy is applicable to all workforce members of the LSU Health Care Services Division facilities, including employees, physician/practitioner practices, vendors, agencies, business associates and affiliates.

II. PURPOSE

To provide guidance to LSU HCSD facilities and providers 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.

III. POLICY

All LSU HCSD facilities and providers must provide patients with a right 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 or PHI) with which he or she disagrees. "Amend" does not include deleting or removing information from the content of a medical record.

All LSU HCSD facilities and providers including, but not limited to, all medical centers and clinics are referred to in this policy as "Facility or Clinic."

DEFINITIONS

1. **Protected Health Information (PHI)** – for purposes of this policy means individually identifiable health information held or transmitted by a covered entity or its business associate, in any form or media, whether electronic, paper, or oral. It includes demographic data that relates to that relates to:
   a) The individual's past, present, or future physical or mental health or condition;
   b) The provision of health care to the individual; or
   c) The past, present, or future payment for the provision of health care to the individual, and that identifies the individual or for which there is a reasonable basis to believe it can be used to identify the individual. PHI includes many common identifiers such as name, address, birth date, social security number, etc.

2. **Designated Record Set – is a group of** records maintained by or for the Facility or Clinic that is:

   - The medical records and billing records about individuals maintained by or for Facility or Clinic; or

   - Any records used, in whole or part, by or for the Facility or Clinic 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 Facility or Clinic or part of Facility or Clinic'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 the Facility or Clinic.

     - The term *record* also includes patient information originated by another health care provider and used by the Facility or Clinic 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.

IV. PROCEDURE

1. **Requests for Amendment**

   - 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 the Facility or Clinic.

   - The Facility or Clinic 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.

2. **HIM Director or designee** - is the individual identified by the Facility or Clinic to be responsible for receiving and processing requests for an amendment.

3. **Processing Requests for Amendments.**

   - Upon receipt of the completed form for request for amendment (See Attachment D), the HIM Director or designee shall review the request in consultation with any individual, including the patient's physician or person who created the record that the HIM Director or designee considers is necessary to decide whether to accept or deny the requested amendment in accordance with this policy.

   - If the requested amendment is accepted, it is the responsibility of the HIM Director or designee to process requests for amendment of patient's medical records.

   - If the requested amendment is accepted, it is the responsibility of the HIM Director or designee to process requests for amendment of patient's billing records.

   - The Facility or Clinic must act on the patient's request for an amendment no later than 60 days after receipt of such a request.

- If the Facility or Clinic 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 the facility or clinic 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.

4. **Deciding on Whether to Grant a Requested Amendment**

The Facility or Clinic may deny a patient's requested amendment to their Protected Health Information, if the Facility or Clinic determines that the Protected Health Information that is the subject of the request:

- Was not created by the Facility or Clinic, unless the patient provides a reasonable basis to believe that the originator of the Protected Health Information is no longer available to act on the requested amendment;

- Is not part of the Designated Record Set of the Facility or Clinic;

- Would not be available for inspection under the Facility or Clinic's policy for a Patient's Right to Access and Inspect Their Own Protected Health Information; or

- The Facility or Clinic considers the patient's Protected Health Information to be accurate and complete.

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.

5. **Granting Request for Amendment**

If a request for an amendment is accepted by Facility or Clinic, then the Facility or Clinic must do the following:

- 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.

- Inform the Patient. The HIM Director or designee must promptly inform the patient that the amendment is accepted and obtain the patient's identification of or an agreement to have the Facility or Clinic notify the relevant person with which the amendment needs to be shared as provided in this policy.

- Informing Others. The HIM Director or designee 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 the Facility or Clinic 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.

6. **Denial of Request for Amendment.**

If a request for an amendment is denied by a Facility or Clinic, then the Facility or Clinic must do the following:

- Request for amendment be denied in whole or in part.

- The HIM Director of designee must provide the patient or their personal representative a written denial within 60 days of the requested amendment. (See Attachment E for sample letter).

- Content of Written Denial Statement. A written denial statement from Facility or Clinic must contain the following:

    a. the basis of the denial;
    b. 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; and

c. a statement that, if the individual does not submit a statement of disagreement, the individual may request that the Facility or Clinic 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;
d. a description of how the patient may complain to the Facility or Clinic pursuant to our Complaint Policy or to the Secretary of Health and Human Services. The description must include the name, or title, and telephone number of the contact person of the Facility or Clinic.

- Statement of Disagreement. The Facility or Clinic must permit the patient or their personal representative to submit a written statement disagreeing with the denial and the basis for the disagreement.

- Rebuttal Statement. The Facility or Clinic 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.

- Record Keeping. The Facility or Clinic 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 the Facility or Clinic's rebuttal to the Designated Record Set.

- Future Disclosures. If a statement of disagreement has been submitted, the Facility or Clinic must include the request for amendment, Facility or Clinic denial, the statement of disagreement, if any, and the Facility or Clinic rebuttal, if any, in any subsequent record request for that portion of the record to which the request for amendment pertains.

- If a statement of disagreement was not submitted, Facility or Clinic must include the request for amendment and the Facility or Clinic 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.

7. **Notice of Amendment from Others**
   If the Facility or Clinic is informed by another health care provider of an amendment to an individual's protected health information, the Facility or Clinic must amend the PHI in its Designated Record Set.

REFERENCES: 45 C.F.R. § 164.526

Attachment A
(For Approved Amendments)

Date

Patient Name
Address
City, State Zip

Dear (enter Patient Name):

Your request to amend your health information (see attached form), has been approved and we are in the process of notifying the individuals and or organizations that you have identified.

In addition, we have identified the following individuals and/or organizations that received your health information. If you would like us to notify the individuals and organizations listed below, please sign, date, and return this statement and we will continue with the notification process. Please include the name and address of anyone else that you believe we may have disclosed information to in the past and that you would like to receive your amended health information.

_____

_____

_____

_____

If you consent to this please sign and date below and we will proceed with the notification process:

_____ _____
Signature of Patient or Patient's Personal Representative Date

_____
Description of Representative's Authority to Act for Patient

Attachment B
(To notify other entities of amendments)

Date

Name
Address
City, State Zip

RE: Amendment of Patient Information

Patient Name

Dear _____:

We have agreed to a request from the above listed patient to amend his/her health information as outlined on the attached form titled "Request for Amendment of Health Information."

In compliance with 45 CFR, Standards for Privacy of Individually Identifiable Health Information, Section 164.526 – Amendment of Protected Health Information, we are notifying you of this information.

Sincerely,

Attachment C
(To notify individuals of a delay in processing their amendment request)

Date

Patient or Representative
Address
City, State Zip

Dear (Patient Name):

Your request for an amendment of your health records, dated _____, is still under consideration. We are experiencing a delay in responding to your request because _____ and we will act upon your request within the next 30 days.

We will notify you of our decision by _____(date).

Sincerely,

HIM Director, Business Office Director, or Record Custodian Representative

cc: Medical or Billing Record of Patient

Attachment D
(Form for Individual to fill out when requesting an Amendment)

Patient Name: _____
Patient Account #: _____ **Medical Record #:**_____
Patient Address: _____
Date of entry to be amended: _____ **Type of entry to be amended:** _____

Please explain how the entry is incorrect or incomplete. What should the entry say to be more accurate or complete? _____

I authorize the release of the amended information described on the form to the following parties (additional parties can be listed on the back of this form):

_____ _____
Name Address

_____ _____
Signature of Patient or Personal Representative Date

For LSU HCSD – Hospital Use Only:

Date Received _____ Amendment has been: ☐ Accepted ☐ Denied

If denied, check reason for denial:

☐ PHI was not created by this organization

☐ PHI is not a part of patient's designated record set

☐ PHI is not available to the patient for inspection as required by federal law (e.g. psychotherapy notes)

☐ PHI is accurate and complete

Comments of Healthcare Practitioner (Clinician-author):

_____

_____

_____ _____
Name of Healthcare Practitioner Title

_____ _____
Signature of Healthcare Practitioner Date

Attachment E
(Sample letter to Patient Re: Denial Requests for Amendment)

Patient or Representative
Address
City, State, Zip Code

Dear (Patient Name):

This is to inform you that your request to amend information in your medical or billing records is denied because the:

☐ Information was not created by us. If you can provide a reasonable basis for us to believe the originator of your protected health information is no longer available to act on your request, we will reconsider this decision and may proceed with the amendment. If you believe this to be the case, please contact the person named above at (*phone, address*).
☐ Information is not part of the medical information of our facility
☐ Information is not part of the medical information that you would be permitted to inspect or copy.
☐ Information is accurate and complete

If you disagree with our conclusion, you may file a statement of disagreement with the facility. Submit your written statement to (*name, title, and phone number of contact person or office responsible for handling amendments of medical or billing records.*)

- If the facility does not agree with your statement of disagreement, we will provide you with a copy of our rebuttal.
- If you do not wish to submit a written statement of disagreement, you may still request that we provide your request for amendment and our denial with any further disclosures of the related protected health information. Submit your written request to (*name, title, and phone number of contact person or office responsible for handling amendments of medical or billing records.*)

Should you wish to file a complaint regarding this issue, you may submit your complaint in writing to the Privacy Officer at (*name of facility, phone number*). You may also file a complaint with the Secretary of the Department of Health and Human Services (*name, address, phone number*).

_____
Signature of Facility Representative