



MICA Sample Policy Template- Patient Requests to Amend the Medical Record

DO NOT USE "AS IS" – requires insertion of practice-specific information in highlighted areas and should be tailored to fit practice operations

Policy Name: Patient Requests to Amend Medical Record

Policy Number: _____

Initial Date: _____

Revision Date: _____

Policy Statement

HIPAA gives patients the right to request that [name of practice] amend their protected health information ("PHI"). This right continues for as long as [name of practice] maintains the patient's PHI in the designated record set. HIPAA defines the "designated record set" to include medical records, billing and payment records, health insurance information, clinical laboratory results, medical images such as x-rays, wellness and disease management program files, clinical case notes, and other information used to make decisions about patients.

Purpose

The purpose of this policy is to establish a procedure in accordance with the requirements of [45 CFR 164.526](#) for receiving, processing, and timely responding to patients' requests to amend PHI.

Policy and Procedure

A. General

1. Patients may submit requests to amend their PHI.
2. [name of practice] will designate one staff member as the point of contact for patient questions about amendment requests. This staff member will also be responsible for overseeing the process of responding to each patient request, according to the procedures below.
3. [name of practice] will maintain a log of all requests to amend, including patient name, date request received, action taken, and date(s) of patient notifications.
4. Under no circumstances will patients be charged for any work or materials related to processing patient amendment requests.

B. Requests

1. **Select one:** [Patients will be advised that they must submit a written request that includes a brief statement of reasons for the request.] OR
[Patients will be advised that they must submit a written request using the form provided by [name of practice].]

C. Response Timeline

1. [Designated staff member title] will receive and immediately log the patient's written request.
2. Within 5 days [or other time period practice prefers] of receipt, [designated staff member title] will scan the original into the patient medical record and forward a copy to the clinician who authored the medical record entry.
3. To ensure that [name of practice] is able to fully act on the request within 60 days, the clinician will have 30 days [or other time period practice prefers] to review and determine whether to grant or deny the request.
4. After review (and any consultation with patient that may be necessary), clinician will communicate a decision on the request to [designated staff member title] so that the practice will be able to act on the patient request **within 60 days of receipt**, according to paragraphs D or E below.
5. [Insert name of practice] will strive to act on all patient requests within this 60-day period. However, if it appears that [insert name of practice] will be unable to fully act on the request within 60 days after receipt, then (prior to the expiration of the 60 days) designated staff member title will notify the patient in writing of the **reason** for the delay and the **date** by which action on the request will be completed. **The date for completion must be within 90 days after receipt of the patient's request. No additional extensions are permitted.**

D. Procedure for Denying Requests

1. [name of practice] will deny a request to amend if the PHI:
 - ▶ Is accurate and complete
 - ▶ Is not part of the designated record set
 - ▶ was not created by the practice (unless patient provides a reasonable basis to believe that the originator is no longer available to act on the requested amendment) or
 - ▶ is not available for inspection according to [45 CFR 164.524](#) because it is contained in psychotherapy notes or is part of information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding.
2. When [name of practice] denies a request entirely or partially, it will notify the patient in writing within 60 days of receipt of the request (unless patient has been notified in writing of delay and provided with a completion date that is within 90 days of receipt of the request). The denial letter will be written in plain language and:
 - ▶ State the basis for denial
 - ▶ Inform patients of their option to submit a written statement (practice can limit length) explaining why they disagree with the denial

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- ▶ Inform patients how to submit this written statement of disagreement
 - ▶ Explain that, instead of submitting a written disagreement, patients can instruct practice to file amendment request and denial in medical record (to be included with future disclosures of medical record)
 - ▶ Describe how to file a complaint with the practice about privacy policies or non-compliance
 - ▶ Provide the phone number and name or title of designated practice staff member who receives HIPAA privacy practices complaints
 - ▶ Explain how to file a HIPAA complaint with U.S. Health & Human Services
3. If the patient submits a written statement disagreeing with denial, [designated staff member title] will:
 - ▶ Scan into medical record
 - ▶ Provide copy to clinician
 - ▶ Collaborate with clinician to prepare written rebuttal statement
 - ▶ Provide rebuttal to patient and include copy in medical record.
 4. If patient submitted written instructions to include amendment request and denial with future disclosures, [designated staff member title] will scan a copy of these instructions into the record. If patient instructed practice (orally) to do this, [designated staff member title] will document this communication in the medical record.
 5. All of the following **MUST** be appended or linked to the disputed portion(s) of the medical record:
 - ▶ amendment request
 - ▶ denial
 - ▶ statement of disagreement and rebuttal (if any)
 6. For future disclosures of PHI:
 - ▶ **If patient submitted written disagreement**, [designated staff member title] will send amendment request, denial, statement of disagreement, and rebuttal with the disclosure of PHI.
 - ▶ **If patient did not submit written disagreement**, [designated staff member title] will send amendment request and denial with future disclosures of PHI **ONLY IF** patient requested in response to denial letter
 - ▶ When a future disclosure of PHI is made and attachment of additional documents is not feasible, the practice will send any additional material required to be included with future disclosures separately.

E. Procedure for Granting Requests

1. When [name of practice] grants part of the request or the entire request, **within 60 days of receipt of the request** it will inform the patient and
 - ▶ Amend all affected medical records using an addendum or link to an attachment and
 - ▶ Ask the patient to identify people/entities that need to receive the amendment

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2. [Designated staff member title] will make reasonable efforts to provide the amendment within a reasonable time to:
 - ▶ People/entities specified by the patient and
 - ▶ Any others (including business associates) that the practice knows have the patient's records and "may" or "could" rely on the unamended information to the patient's detriment
 3. When providing amendments to the people/entities set forth above, [designated staff member title] will adhere to the following process to document that the release of information occurred:

[Practice can insert the specifics of its process (example: note date information released and who released to on original copy of amendment before placing in patient's record)]
 4. During the amendment process, do not remove, destroy, or delete original PHI.

MICA Sample Denial Letter Template for Patient Requests to Amend the Medical Record

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[Date]

[Patient name and address]

Re: Your Request for Amendment of Medical Record

Dear [Patient name]:

On [insert date you received patient’s request], we received your [indicate whether written or oral] request to change information in your medical record.

We have reviewed the information you have requested to be changed. We are denying the request because we determined that:

[choose one:

- ▶ The information is accurate and complete
- ▶ The information is not part of the “designated record set” as defined under HIPAA
- ▶ The medical record entry was not created by anyone in this practice.
- ▶ HIPAA does not permit you to review this information because it is part of psychotherapy notes.
- ▶ HIPAA does not permit you to review this information because it was compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding which HIPAA does not permit you to review.]

HIPAA gives you the right to submit a written statement explaining why you disagree with our denial. If you wish to do this, please fax, email, mail, or hand deliver your statement to [insert name and contact information for practice staff member designated to receive written statements of disagreement]. Please limit your statement to one (1) page. We reserve the right to prepare a statement responding to your letter of disagreement. We will provide you with a copy. We will also file your request, our denial, your statement of disagreement, and our response in your medical record. In the future, whenever we disclose copies of your records to you or third parties, we will include each of these documents.

You do not have to submit a written statement disagreeing with our decision. If you prefer, you can simply instruct us (orally or in writing) to include your amendment request and this denial letter with any future disclosures of your medical records.

If you believe we have not followed our health information privacy policies as required by HIPAA, you may submit a written complaint to [insert name and/or title and phone number of practice staff member responsible for receiving complaints]. You may also file a complaint with the U.S. Department of Health and Human Services Office for Civil Rights at 1-800-368-1019 or <https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf>

Sincerely,

[Insert name of practice representative]

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