



HIPAA DISCLOSURE - INDIVIDUAL RIGHTS AND ENTITY RESPONSIBILITIES

Notice, Authorization, and Revocation:

Covered entities must give individuals a notice of privacy practices, try in good faith to obtain a written acknowledgment of receipt of the notice, and obtain authorizations when applicable. Individuals have a right to revoke the authorization except to the extent an entity has relied on it. In the event an individual refuses to sign or revokes an authorization, the entity must have mechanisms to track those decisions and ensure they are followed.

Access:

Individuals generally have a right of access to their PHI. A covered entity may charge a reasonable fee for copying and postage.

Amendment:

Individuals have a right to amend their PHI. If the entity approves the request, it must inform the individual; persons or entities the individual identifies as needing the amendment; and others, including business associates, who may have relied or could rely on such information to the individual's detriment.

Accounting of Disclosures:

Individuals have a right to request a list of disclosures of their PHI. The list generally must indicate how, when, why, to whom, and to what extent their PHI has been disclosed outside the covered entity over the previous six years. This right does not include disclosures for treatment, payment, and health care operations, disclosures authorized by the individual, disclosures for certain law enforcement and other purposes, or disclosures occurring before the effective date of the rule.

Request for Restrictions:

Individuals may ask a covered entity to restrict its uses or disclosures of their PHI, but the entity need not agree to the restriction. In such a situation, if the individual does not accept the protections that can be provided, the individual can decide to obtain care elsewhere.

Confidential Communications:

Individuals may ask that a health care provider communicate with them by alternative means or at an alternative location (e.g., home vs. office, mail vs. email). A provider must reasonably accommodate the request and may not require an explanation.

Personal Representatives:

Although not described as an individual right, a covered entity must treat individuals' family and other "personal representatives" in the same way as the individuals, with certain exceptions. Personal representatives include not only family (including parents of minors), but also other relatives, close personal friends, or others who are authorized to act for an individual with respect to decisions concerning health care treatment or payment. An entity has discretion not to treat someone as a personal representative if it reasonably believes an abusive situation exists, the individual may be harmed, or it is otherwise not in the individual's best interest.

Deceased Individuals:

A covered entity must protect the privacy of a decedent's health information until the individual has been deceased for more than 50 years, at which point the information is no longer considered PHI under the regulations. This reflects a balance between the ongoing sensitivity of genetic and hereditary information and the importance of medical historical and archival research. Prior to the date 50 years after date of death, a personal representative (e.g., an executor) may access PHI, as may a provider for purposes of treating other family members. In addition, a decedent's PHI may be used for certain research purposes without an authorization if either a waiver of authorization is obtained or if specific assurances are provided by the researcher about the need and purpose for using the PHI.

Learn more about HIPAA for individuals at <https://www.hhs.gov/hipaa/for-individuals/index.html>.

Please contact Terri Wells with questions or complaints at (210) 614-8777.