



POLICY TITLE: Access and Amend – Receiving and Responding to an Individuals Request to Amend Protected Health Information

Responsible Department: Corporate Privacy Office

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SUMMARY & PURPOSE:

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule provides Federal privacy protections for individually identifiable health information, called protected health information or PHI, held by most health care providers and health plans and their business associates. The HIPAA Privacy Rule protects all "*individually identifiable health information*" held or transmitted by a Baptist Health or its business associate, in any form or media, whether electronic, paper, or oral. The Privacy Rule sets out how and with whom PHI may be shared.

The HIPAA Privacy Rule grants patients important rights with respect to health information obtained and maintained by Baptist Health. The Baptist Health Privacy Office is responsible for ensuring the confidentiality of Baptist Health patient medical information and responding to such requests. An individual has a right to request for an amendment of incorrect or incomplete health information in a designated record set or correct errors in medical and billing records.

POLICY:

It is the policy of Baptist Health South Florida, Inc. ("BHSF" or "Baptist Health") to comply with applicable state and federal laws, including those protecting the confidentiality of patient health information and establishing certain individual privacy rights. It is our policy to implement these laws in a way that supports our primary mission to the community regarding the delivery of quality health care in an efficient manner.

An individual has a right to request that Baptist Health amend certain protected health information about the individual in a designated record set, for as long as the protected health information is maintained by Baptist Health. This policy formalizes the process of receiving and responding to an individuals request for an amendment of protected health information in a designated record set.

SCOPE/APPLICABILITY:

This policy applies to the Corporate Privacy Office, who is responsible to review and respond to an individual's request for an amendment. To Baptist Health, its affiliates, all workforce members, and others as described below who are responsible for records that include patients' information, and are used to provide treatment, make health care decisions about a patient or for billing purposes.

- **Workforce members.** Workforce members means employees, volunteers, trainees, temporary staff, and contractors/consultants who are not independent contractors under *Human Resources Policy 1150 - Independent Contractors*.
- **Medical staff members.** Medical staff members are treated as members of an organized health care arrangement with Baptist Health South Florida and must comply with this policy as if they are workforce members pursuant to their applicable medical staff bylaws.
- **Students.** Employed students are treated as workforce members. Non-employed students (fellows, residents, students) must comply with this policy as if they are workforce members pursuant to the terms of their applicable academic agreements.
- **Independent Contractors and Others.** Independent Contractors and others who have agreed to comply with Baptist Health's policies and procedures as a condition of receiving access to Protected Health Information (PHI) must comply with this policy as if they are workforce members.

PROCEDURES TO ENSURE COMPLIANCE:

Any employee, volunteer, workforce member, licensed health care professional or medical staff member who receives a request from a patient to amend the patient's medical, billing or other information shall:

- Inform the patient that such requests must be made to the Privacy Office, Patient Experience or Health Information department; and
- Direct the patient to the Privacy Office, Patient Experience or Health Information departments of any BHSF facility so that they are provided assistance to request an amendment to their health information.

1. Standard: Right to amend

- a. Right to amend: If an individual feels that the health information maintained by Baptist Health is incorrect or incomplete, they may ask us to amend the information for as long as the protected health information is maintained by or on behalf of Baptist Health.
- b. Denial of amendment: Baptist Health may deny an individual's request for amendment, if we determine that the protected health information or record that is the subject of the request:
 - i. Was not created by the Baptist Health, unless the individual provides a reasonable basis to believe that the originator of protected health information is no longer available to act on the requested amendment;
 - ii. Is not part of the designated record set;
 - iii. Would not be available for inspection; or
 - iv. Is accurate and complete.

2. Implementation specifications: requests for amendment and timely action

- a. Individual's request for amendment: Baptist Health must permit an individual to request that we amend the protected health information maintained in the designated record set. Baptist Health may require individuals to make requests for an amendment in writing and to provide a reason to support a requested amendment, provided that individuals are informed in advance of such requirements.
- b. Timely action by the Baptist Health:
 - i. Baptist Health must act on the individual's request for an amendment no later than 60 days after receipt of such a request, as follows:
 - 1) Notify the patient of the granting of the amendment, in whole or in part, and amend the affected information; or

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- 2) Notify the patient of the denial of the requested amendment, in whole or in part in accordance with section 4.a. of this policy.
 - ii. If Baptist Health is unable to respond to the patient's request within 60 days, Baptist Health may extend the time for action by no more than 30 days, provided that:
 - 1) The individual is provided with a written statement of the reasons for the delay and the date by which Baptist Health will complete its action on the request; and
 - 2) Only one such extension of time is requested for action on a request for an amendment.
3. Implementation Specifications – Accepting the Amendment¹

If the Privacy Office, in consultation with the care providers or records custodian accepts the requested amendment, in whole or in part, we must comply with the following requirements:

 - a. Making the amendment. Baptist Health must make the appropriate amendment 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.
 - b. Informing the individual. In accordance with section 2. of this policy, Baptist Health entity must timely inform the individual that the amendment is accepted and obtain the individual's identification of and agreement to have us notify the relevant persons with which the amendment needs to be shared using the "Permission for Disclosure of Amendment" form in accordance with section 3.c. of this policy.
 - c. Informing others. Baptist Health must make reasonable efforts to inform and provide the amendment within a reasonable time to:
 - i. Persons identified by the individual as having received protected health information about the individual and needing the amendment; and
 - ii. Persons, including business associates, that Baptist Health knows have the protected health information that is the subject of the amendment and that may have relied, or could foreseeably rely, on such information to the detriment of the individual.
4. Implementation specifications: denying the amendment. If Baptist Health denies the requested amendment, in whole or in part, we must comply with the following requirements.
 - a. Denial. Baptist Health must provide the individual with a timely, written denial, in accordance with section 2.b. of this policy. The denial must use plain language and contain:
 - i. The basis for the denial, in accordance with paragraph 1.b. of this policy;
 - ii. The individual's right to submit a written statement disagreeing with the denial and how the individual may file such a statement;
 - iii. A statement that, if the individual does not submit a statement of disagreement, the individual may request that Baptist Health provide the individual's request for amendment and the denial with any future disclosures of the protected health information that is the subject of the amendment; and
 - iv. A description of how the individual may complain to the Baptist Health Privacy Office pursuant to the complaint procedures established *Privacy Policy 10000-74220-108.00 Patient Privacy Rights – Provision of Patient Privacy Complaints*. The description must include the name, or title, and telephone number of the contact person or office designated to receive such privacy complaints.
 - b. Statement of disagreement. Baptist Health must permit the individual to submit a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such disagreement. Baptist Health may reasonably limit the length of a statement of disagreement.
 - c. Rebuttal statement. Baptist Health may prepare a written rebuttal to the individual's statement of disagreement. Whenever such a rebuttal is prepared, Baptist Health must provide a copy to the individual who submitted the statement of disagreement.
 - d. Recordkeeping. Baptist Health must, as appropriate, identify the record or protected health information in the designated record set that is the subject of the disputed amendment and append or otherwise link the individual's request for an amendment, Baptist Health's denial of the request, the individual's statement of disagreement, if any, and Baptist Health's rebuttal, if any, to the designated record set

¹ Only the Privacy Office, or designated department may accept the requested amendment. No other person, including a staff member, contractor, physician, nurse, or clergy member is authorized to accept a request for amendment or respond to such a request.

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- e. Future disclosures
 - i. If a statement of disagreement has been submitted by the individual, Baptist Health must include the material appended in accordance with section 4.d. of this policy, or, at the election of Baptist Health, an accurate summary of any such information, with any subsequent disclosure of the protected health information to which the disagreement relates.
 - ii. If the individual has not submitted a written statement of disagreement, Baptist Health must include the individual's request for amendment and its denial, or an accurate summary of such information, with any subsequent disclosure of the protected health information only if the individual has requested such action in accordance with section 4.a.iii. of this policy.
 - iii. When a subsequent disclosure described in section 4.e.i. or 4.e.ii. is made using a standard transaction that does not permit the additional material to be included with the disclosure, the records custodian may separately transmit the material to the recipient of the standard transaction.
5. Implementation specification: actions on notices of amendment. When Baptist Health is informed by another covered entity of an amendment to an individual's protected health information, in accordance with paragraph 3.c. of this policy, we must amend the place the amended information in the BHSF medical record as provided in section 3.a. of this policy.
 - a. Anyone covered by this policy that receives a notice from another covered entity regarding an amendment of a patient's medical, billing or other information shall forward the notice to the records custodian for the designated record set(s).
 - b. The records custodian for the designated record set shall review the notice and shall add it to the designated record set.
6. Implementation specification: documentation. The Privacy Office must document the titles of the persons or offices responsible for receiving and processing requests for amendments by individuals and retain the documentation related to the patient's request for an amendment for six years from the date of its creation or the date when it last was in effect, whichever is later.
7. Personal Representatives. Baptist Health must treat an individual's personal representative as the individual for purposes of the Privacy Rule. That is, an individual's personal representative has the right to have a covered entity amend PHI or a record about the individual in a designated record set for as long as the PHI is maintained in the designated record set.
 - a. For adults or emancipated minors, a personal representative is a person who has the authority to make decisions related to health care for the adult or emancipated minor.
 - b. For unemancipated minors, a personal representative is a parent, guardian, or other person acting in loco parentis who has the authority to make decisions related to health care for the unemancipated minor.
 - c. For deceased individuals, a personal representative is an executor, administrator, or other person who has the authority to act on behalf of the deceased individual or the deceased individual's estate.

SUPPORTING/REFERENCE DOCUMENTATION:

- Health Insurance Portability and Accountability Act of 1996 as amended from time to time and including any regulations promulgated thereunder (collectively, "HIPAA")
- Applicable Florida State Laws

RELATED POLICIES, PROCEDURES AND ASSOCIATED FORMS:

- Corporate HIPAA Privacy Policies
- BHSF-74220-001.00 - Unified Corporate Privacy Policy HIPAA Compliance
- BHSF-74220-108.00 - Patient Privacy Rights – Provision of Patient Privacy Complaints
- BHSF Form 0027 and 0027s – Notice of Privacy Practices Brochure
- BHSF Form 6027 and 6027s – Request for an Amendment of Health Information

ENFORCEMENT & SANCTIONS:

All references to Policies must go to the BHSF Master Copy on the BHSF Intranet; do not rely on other versions / copies of the Policy.

1. Reference: Corporate HIPAA Privacy Policy 10000-74220-605.20 – Sanctions for Privacy Violations
2. Violations of this policy will be determined by the Chief Privacy Officer in consultation with the appropriate levels of department leadership and appropriate Human Resources management level. Reference: HR policies 5250 – Employee Conduct and 5300 – Corrective Action or appropriate entity HR policy.
3. Violations of this policy may lead to disciplinary action up to and including termination.
4. Enforcement of this policy will be performed by Baptist Health South Florida’s Privacy Office in conjunction with Human Resources, as circumstances may dictate.