

PATIENT AMENDMENT OF RECORDS

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PURPOSE:

This office recognizes that our patients have the right to amend their medical records. It is our commitment to honor this right while preserving our desire to run an efficient, effective office focused on delivering quality patient care.

POLICY:

Notice of patients' rights to amend their medical records is included in the *Notice of Privacy Practices* posted in our office and provided to all of our patients.

The Privacy Officer will maintain records regarding all requests to amend records, the response that was given, and any documents pertaining to any dispute. This office will maintain records indicating the titles of the person[s] responsible for receiving and processing requests for amendments by individuals and maintain those records with the Privacy Officer's records.

REQUESTS FOR AMENDMENTS

- Medical record amendment requests must be in writing. If we have informed the patient in advance, we require that the patient provide us with a reason for the request.
- Patients will be informed in writing if their amendment request is accepted no later than 60 days after receipt of the request. We may, however, request a one-time, 30-day extension by notifying the patient in writing and including the reason(s) for the delay and the date by when the request will be acted on.

DOCUMENTATION AND DISTRIBUTION OF THE AMENDMENT

- Amendments will be added to the medical record; they will not replace information already contained within the record. At the beginning of the amendment entry, we must be sure to enter the date and identify the specific portions of the record that are affected by the amendment along with a link to the location of the amendment.
- This office will make a reasonable effort to distribute the amendment in a timely manner to persons or entities that the patient identifies as needing the information. In addition, we will provide the amendment to other persons or entities who possess medical records that are the subject of the amendment.
- If this office receives an amendment to a patient's records from another entity, we will amend our records appropriately.

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DENIAL OF AMENDMENT REQUESTS

Amendment requests may be denied under the following circumstances:

- The medical record is no longer in the possession of this office.
- This office did not create the medical record. The only exception to this policy is if the patient provides reasonable evidence that the originator of the medical record is not available to act on the requested amendment.
- The amendment pertains to information that is not part of our medical records.
- The patient is not entitled to review and access of the record because:
 - Psychotherapy notes contained in our records may not be reviewed or copied.
 - Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding is not available.
 - Portions of the record are denied access under other federal or state law.
 - The records involve medical research.
 - The records were obtained from someone other than a health care provider under a promise of confidentiality, and access would likely reveal the source of the information.
- A request for an amendment may also be denied because the records are accurate and complete.

PATIENT NOTIFICATION OF AMENDMENT DENIAL

If an amendment request is denied, the patient will be provided with a timely, clearly written notice. This notice will include:

- The basis for the denial.
- An explanation of the patient's right to file a statement of disagreement. This written statement may disagree with the denial of a requested amendment and the basis of such disagreement. This office may reasonably limit the length of a statement of disagreement. Note that if the patient does not wish to submit a statement of disagreement, he or she may request that this office include the original request for amendment and our denial as part of any future medical record releases pertaining to the subject of the amendment.
- A description of how the patient may file a complaint with this office. This includes contact information for our privacy officer as well as how to file a complaint with government authorities, as explained in our *Notice of Privacy Practices*. See *Notice of Privacy Practices* policy & procedure.

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DISPUTES REGARDING AMENDMENT DENIALS

- In response to a patient's statement of disagreement, this office may file a written rebuttal. Whenever such a rebuttal is prepared, this office must provide a copy to the individual who submitted the statement of disagreement.
- When an amendment is in dispute, this office will, as appropriate, identify the information that is the subject of the disputed amendment and link it to: 1) the patient's original request for an amendment; 2) this office's denial of the request; 3) the patient's statement of disagreement, if any; and 4) this office's rebuttal.
- If the patient submits a statement of disagreement, this office will include the material appended or an accurate summary of any such information, with any subsequent release of medical records to which the disagreement relates. If the patient has not submitted a written statement of disagreement, this office 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.
- When a subsequent disclosure will not allow additional material to be included because a standard transaction is utilized, this office may separately transmit the amendment to the recipient of the standard transaction.

NOTICE: The Office of the General Counsel of the Texas Medical Association provides this information with the express understanding that 1) no attorney-client relationship exists, 2) neither TMA nor its attorneys are engaged in providing legal advice and 3) that the information is of a general character. You should not rely on this information when dealing with personal legal matters; rather legal advice from retained legal counsel should be sought.