

**SECTION: HIPAA**

**AREA: HIPAA PRIVACY/SECURITY POLICIES**

**SUBJECT: REQUEST FOR AMENDMENT OF HEALTH INFORMATION**

**PURPOSE**

To inform the UAMS Workforce about the requirements for a patient's request to amend medical records or Protected Health Information ("PHI") at the University of Arkansas for Medical Sciences ("UAMS").

**SCOPE**

The UAMS Workforce.

**DEFINITIONS**

**Designated Record Set** means a group of records maintained by or for UAMS in which the records are either:

- the medical and billing records about patients maintained by or for UAMS; or
- records used, in whole or in part, by or for UAMS to make decisions about patients.

For purposes of the term "record" in the definition of Designated Record Set, this includes any item, collection or grouping of information that includes Protected Health Information and is maintained, collected, used or disseminated by or for UAMS.

**Protected Health Information** means information that is part of an individual's health information that identifies the individual or there is a reasonable basis to believe the information could be used to identify the individual, including demographic information, and that (i) relates to the past, present or future physical or mental health or condition of the individual; (ii) relates to the provision of health care services to the individual; or (iii) relates to the past, present, or future payment for the provision of health care services to an individual. This includes PHI which is recorded or transmitted in any form or medium (verbally, or in writing, or electronically). PHI excludes health information maintained in educational records covered by the federal Family Educational Rights Privacy Act, health information about UAMS employees maintained by UAMS in its role as an employer and health information regarding a person who has been deceased for more than 50 years.

**UAMS Workforce** means, for purposes of this Policy, physicians, employees, volunteers, trainees, and other persons whose conduct, in the performance of work for UAMS, is under the direct control of UAMS, whether or not they are paid by UAMS.

Go to the UAMS HIPAA Office website at [hipaa.uams.edu](http://hipaa.uams.edu) to access any other terms or definitions referenced in this policy.

## **POLICY**

UAMS patients have the right to request that UAMS amend their Protected Health Information or other records about the patient maintained in a Designated Record Set for as long as the PHI is maintained in a Designated Record Set.

## **PROCEDURE**

1. **Amendment Requests:** Requests by the patient to amend or correct information maintained in the patient's medical record or other records maintained in the UAMS Designated Record Set must be made in writing, must be made by the patient or patient's legal representative and include a reason to support such a request. Routine requests for amendments or corrections to the patient's contact information or other non-medical information are not required to be in writing, and may be handled according to the appropriate department policy and procedure.
2. **Response Time:** UAMS must act on a patient's request for an amendment within sixty (60) days after receipt of the request in writing. If UAMS is unable to act on the request within the 60-day period, UAMS may have a one-time extension of not more than thirty (30) additional days, as long as UAMS has informed the individual in writing of the delay, the reasons for the delay, and a date that UAMS will provide a response.
3. **Basis for Denial of Request:** UAMS may deny the amendment request under any one of the following circumstances:
  - A. UAMS did not create the record. If UAMS determines that the patient has provided a reasonable basis to believe that the originator of the record is no longer available to act on the request, UAMS must consider the request, but the request may be denied for other reasons stated in this Policy.
  - B. The information that the patient requests to be amended is not part of a UAMS Designated Record Set.
  - C. The information that the patient requests to be amended is not otherwise available for inspection by the patient under the HIPAA regulations governing a patient's right to access their PHI, 45 C.F.R. § 164.524, such as psychotherapy notes, records that are prohibited by law from being released to the individual, and release of the information may endanger the safety of the individual or another person. See Administrative Guide Policy 2.1.13, *Use and Disclosure of PHI and Medical Records Policy* regarding when UAMS may deny a patient or a patient's legal representative access to the patient information.
  - D. UAMS determines that the information is accurate and complete.
4. **Denial Must Be In Writing:** If a request to amend is denied, in whole or in part, UAMS must provide the patient with a written denial within the time allowed, using plain language, and must include the following information:
  - A. the basis for the denial; and
  - B. the patient's right to submit a written statement disagreeing with the denial and how to file such a statement; and

- C. a statement that, if the patient does not submit a statement of disagreement, they may request that UAMS provide their request for amendment and the denial with any future disclosure of the PHI that is the subject of the amendment; and
- D. a description of how the patient may complain to UAMS pursuant to the UAMS complaint procedures by contacting the UAMS HIPAA Office or by submitting a complaint to the Secretary of the United States Department of Health and Human Services.

5. **Patient's Disagreement With Denial of Request:**

- A. **Statement of Disagreement:** If UAMS denies all or part of the amendment request, the patient may submit a written statement of disagreement and the basis for such a disagreement. UAMS may reasonably limit the length of a statement of disagreement.
- B. **Rebuttal Statement:** UAMS may prepare a written rebuttal to the patient's statement of disagreement. When a rebuttal is prepared, UAMS must provide a copy to the patient who submitted the statement of disagreement.
- C. **Record Keeping:** UAMS will identify the record or PHI in the Designated Record Set that is the subject of the disputed amendment and append or otherwise link the patient's request for an amendment, UAMS' denial of the request, the patient's statement of disagreement, if any, and UAMS' rebuttal, if any, to the Designated Record Set.
- D. **Future Disclosures:**
  - a. If a statement of disagreement has been submitted, UAMS will include the material appended in accordance with the record keeping section above, or an accurate summary, with any subsequent disclosure of the PHI that the disagreement relates to.
  - b. If a written statement of disagreement has not been submitted, UAMS must include the patient's request for amendment and its denial, or an accurate summary of such information, with any subsequent disclosure of the PHI only if the individual has requested such action.
  - c. When a subsequent disclosure described above is made using a standard transaction that does not permit the additional material to be included with the disclosure, UAMS may separately transmit the material required by this section to the recipient of the standard transaction.

6. **Recordkeeping of Amendment Requests/Denials:** Except for routine requests to amend demographic and contact information concerning the patient, all patient amendment requests should be submitted to the HIM/Medical Records Department using the UAMS *Request for Amendment of Health Information* form. If the patient communicates with the provider directly about an amendment request, the provider may elect to respond verbally to the request at that time; however, if the provider elects to respond to the patient's request at that time, and the request is not a routine request to amend demographic and contact information concerning the patient, the UAMS *Request for Amendment of Health Information* form must be filled out during the patient's visit, and the form must include the provider's response, and the completed form must be forwarded to the HIM/Medical Records department. Form MR2347, UAMS *Request for Amendment of Health Information*, may be located on UAMS Forms OnDemand or the UAMS HIPAA Office website at [hipaa.uams.edu](http://hipaa.uams.edu).

All documentation regarding requests to amend, and documentation regarding UAMS' response to the request, must be submitted to the HIM/Medical Records Department to retain for a period of at least six (6) years from the date of the documentation.

7. **Agreeing to Amendment Request:** If UAMS agrees, in whole or in part, to the patient's requested amendment, UAMS will:
  - A. Make the appropriate amendment to the information that is the subject of the request by 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. Amendments must be made in the form of an addition to the record and as required by Arkansas Law.
  - B. Inform the individual that the amendment is accepted. The acceptance of the amendment is not required to be in writing. If the patient identifies persons with which the amendment needs to be shared, obtain the names and contact information and the patient's agreement to have UAMS notify those persons of the amendment.
  - C. Make reasonable efforts to inform and provide the amendment within a reasonable time to:
    - a. persons identified by the patient as having received PHI about them and needing the amendment; and
    - b. persons, including business associates of UAMS, that UAMS knows to have the PHI that is the subject of the amendment and who may have relied or could foreseeably rely upon such information to the detriment of the individual.
8. **Corrections, Changes and Revisions:** Error corrections, changes, and revisions must comply with Medical Center Policy ML.2.12, *Electronic Medical Record Corrections*. Demographics and medical information should only be deleted in compliance with applicable UAMS policies and procedures. Demographic changes may be made without having to maintain a historical file of the change.
9. **Amendments Made by Another Covered Entity:** If UAMS is informed by another covered entity of its amendment to a patient's PHI maintained by the covered entity, and UAMS has PHI or other records in its Designated Record Set affected by such amendment, UAMS will amend the PHI in its Designated Record Set accordingly.

## **SANCTIONS**

Violation of this Policy will result in disciplinary action, in accordance with Administrative Guide Policy 4.4.02, *Employee Discipline* and Administrative Guide Policy 2.1.42, *HIPAA Sanctions Policy*.

Signature: \_\_\_\_\_



Date: **March 8, 2022**