



## Department of Health, Housing & Human Services (H3S)

<b>POLICY TITLE:</b>	Individuals Right to Request an Amendment of Protected Health Information Held in Designated Record Set		
<b>POLICY ID:</b>	HP-06	<b>EFFECTIVE DATE:</b>	
<b>SECTION:</b>	H3S Directors Office	<b>REVISION DATES:</b>	
<b>CHAPTER:</b>	Privacy HIPAA	<b>NEXT REVIEW:</b>	
<b>CONTACT:</b>	H3S Privacy Coordinator	<b>Reviewed BY:</b>	County Counsel
<b>APPLIES TO:</b>	All H3S workforce members within the hybrid covered component	<b>REPLACES:</b>	None
<b>APPROVED BY:</b>	Rich Swift	<b>DATE APPROVED:</b>	4/9/18

**I. PURPOSE:** The purpose of this procedure is to outline steps of each Division as part of the covered entity to ensure that a client’s request for amendment of his or her protected health information (PHI) held in a Designated Record Set (DRS) is processed efficiently and correctly according to requirements outlined in HIPAA.

**II. POLICY:** Clackamas County recognizes the right of an individual to request that Clackamas County amend protected health information about an individual maintained in its Designated Record Set for as long as the protected health information is maintained. Any client receiving services through Clackamas County has the right to request amendment to his or her information held in any Division’s Designated Record Set. The Division Privacy Manager shall be notified and consulted when there is a request for Amendment of PHI held within the Designated Record Set.

**III. DEFINITIONS:** See Clackamas County HIPAA Privacy Policy

### IV. PROCEDURE:

A. Request for Amendment: All requests must be submitted in writing. A Request for Amendment form is available. Written requests must provide a reason to support the requested amendment. All requests shall be directed to the Division Privacy Manager. H3S Divisions may refuse an oral request, if after being offered assistance with completing the form, the client refuses to submit a written request.

B. Action on a Request to Amend:

1. Timing of Response: A Division receiving a request shall act on the request no later than sixty (60) calendar days after receipt of the request.

2. Extension of Time Frame: The Division may extend the time for action by no more than thirty (30) calendar days provided that it provides the client with a



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written statement of the reasons for the delay and the date by which the Division will complete its action on the request. Only one extension can be put in place.

3. Determination Procedure: Determinations of whether to accept or deny the request for an amendment will be made by the Division Privacy Manager or designee following a review of the relevant record and Designated Record Set, consultation with the treating physician, evaluation of the client's request, and to the extent appropriate, other health professionals familiar with the client's course of treatment.
4. Accepted Amendment: The Division shall make the appropriate amendment to the PHI or record that is the subject of the request for amendment by either 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.

The Division will complete an Accepting Amendment form including providing information on what records the amendment affects and send to client. The Division Privacy Manager must review the accepted amendment before a response is provided to the client.

The Division shall make reasonable efforts to inform and provide the amendment within a reasonable time to:

- a. Persons identified by the client as having received PHI about the client and who require the amendment information
  - b. Persons, including any Business Associates of the Division who have information that may need to be amended as part of this process.
5. Denied Amendment: If the Division denies the amendment in whole or in part, the Division shall:
    - a. Provide the client with a Denial of Amendment form within sixty (60) calendar days after receipt of the request for amendment.
    - b. The denial shall use plain language that is accurate, complete, and contain the following:
      - i. the basis for the denial, i.e. the PHI or record was not created by the Division;
      - ii. a statement that the denial not part of the Designated Record Set;
      - iii. a statement that the denial is not available for inspection under Policy #H08-05, Individual's Right to Access;



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- iv. a statement of the client's right to submit a written appeal (see below) disagreeing with the denial and how the client may file such an appeal;
  - v. a statement that, if the client does not submit an appeal, the client may request that the Division provide the client's request for amendment and the denial with any future disclosures of the PHI that may be the subject of such disclosure;
  - vi. a description of how the client may complain to the Division pursuant to the Division's Complaint Procedures, or to the Office for Civil Rights.
6. The Division will permit the client to submit a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such disagreement. The Division may reasonably limit the length of a statement of disagreement. The Division may choose to prepare a written rebuttal to the client's statement of disagreement. Whenever such a rebuttal is prepared, the Division shall provide a copy to the client within 30 calendar days of receiving statement of disagreement. The Division Privacy Manager must review the denied amendment before a response is provided to the client.
7. Identification of Disputed Record or Information: The Division shall, as appropriate, identify the PHI or other record and append or otherwise link the client's request for amendment, the Division's denial, the client's statement of disagreement, if any, and the Division's rebuttal, if any, to the Designated Record Set.
8. Future Disclosures: The Division will include in subsequent disclosures of affected PHI or other record any applicable statements of disagreement provided by the client. The Division is required to include a client's request for amendment and the Division's denial in subsequent disclosures, only if the client has requested such action.

*NOTE: If the subsequent disclosure of PHI or other record is through a standard electronic data interchange, then the amendment can be provided separately.*

C. Notice from Another Covered Entity: If H3S or one of its Divisions is informed by another Covered Entity of an amendment to a client's PHI or record, the Designated Record Set for the client shall be amended as appropriate. The Division Privacy Manager shall assist in assuring the amendment occurs.



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D. Documentation: The Division shall retain all documentation in the client record associated with requests for amendments (and all associated determinations) for the longer of: ten (10) years from the date of the last service in the medical record, termination of litigation or an audit involving the medical record. The Division must also document (and retain for ten years) the title of the persons or offices for the Division responsible for receiving and processing requests for amendment. All such documentation shall be available to the Division Privacy Manager in the client's record.

### **V. REGULATIONS:**

45 CFR 164.526

### **VI. REFERENCES:**

HP-18 Designated Record Set  
Clackamas County HIPAA Privacy Policy

### **VII. LINKS (TITLE & URL):**

### **VIII. ATTACHMENTS:**

Request to Amend Protected Health Information