



## North Dakota Department of Health HIPAA Policy

<b>Policy Title:</b>	<b>Amendment of Protected Health Information</b>	
<b>Policy Number:</b>	P-003	<b>Version:</b> 1.2 Updated September 3, 2003
<b>Reference:</b>	45 CFR 164.526	
<b>Applicability:</b>	Department of Health	
<b>Approved By:</b>	Dr. Terry Dwelle, State Health Officer Arvy Smith, Deputy State Health Officer Darleen Bartz, HIPAA Coordinator, Privacy Officer	
<b>Effective Date:</b>	April 14, 2003	

### **Policy:**

An individual, upon written request, has the right to request the NDDoH amend protected health information (PHI) about the individual in a designated record set.

### **Exceptions:**

The NDDoH will not accept requests for amendments of:

- Psychotherapy notes
- Information compiled for use in a civil, criminal or administrative action or proceeding
- PHI requested by inmates of correctional facilities
- PHI created or obtained during the duration of the research project
- PHI when consistent with applicable state and federal laws
- PHI obtained from someone other than a health care provider under a promise of confidentiality where the access requested would be reasonably likely to reveal the source of information
- PHI when access to requested PHI by the individual or personal representative is likely to endanger the life or physical safety of the individual or another person, or makes reference to another person that is reasonably likely to cause substantial harm to that person

### **Procedure:**

- When the NDDoH receives a request for amendment of PHI, the Privacy Officer will verify the identity of the individual as outlined in the Verification of Identity policy (P-025).
- The request for amendment of PHI will be approved or denied by the Privacy Officer within sixty (60) days. If necessary, this time frame may be extended one time for no more than thirty (30) days. The individual requesting the amendment will be informed in writing of the reason(s) for the delay and the date by which action will be taken on the request. The extension notice will be provided within sixty (60) days of receipt of the original request.
- The NDDoH will deny an individual's request for amendment if:
  - The request for amendment is not received in writing
  - The written request does not include a factual basis to support the request

- It is determined that the PHI or record was not created by the NDDoH unless the individual provides a reasonable basis to believe that the originator is no longer available to act on the requested amendment
- The PHI is not part of the designated record set
- The request falls under the exceptions listed above
- The PHI is accurate and complete
- If a request for amendment is denied, the Privacy Official will provide a timely, written denial, in plain language, to the individual that includes:
  - the basis for denial;
  - information regarding the individual's right to submit a written statement of disagreement, and how to file the statement;
  - a statement that if the individual does not file a statement of disagreement, the individual may request that NDDoH provide the request for amendment and the denial in any future release of the disputed PHI;
  - a description of the procedure to file a complaint with NDDoH and the Secretary of the Department of Health and Human Services (DHHS), including the name and telephone number of the NDDoH Privacy Officer.
- If the individual chooses to write a statement disagreeing with the denial and basis of a requested amendment;
  - NDDoH may write a rebuttal statement and will provide a copy to the individual;
  - NDDoH will include the request for amendment, the denial letter, the individual's statement of disagreement and the NDDoH rebuttal (if any), with any future disclosures of the disputed PHI.
- If the individual does not submit a written statement of disagreement in response to the denial decision, NDDoH is not required to include the request for amendment and denial decision letter with future disclosures of the disputed PHI, unless requested by the individual.
- If the request for amendment is accepted:
  - the NDDoH will identify the records in the designated record set that are affected by the amendment and make the appropriate amendment to the PHI.
  - the NDDoH will inform, in a timely manner, the individual that the amendment has been accepted and will obtain the individual's identification of and agreement to notify other relevant persons with which the amendment needs to be shared.
- NDDoH will make reasonable efforts to inform and to provide the amendment within a reasonable time to the persons identified by the individual as having received PHI about the individual and needing the amendment and to persons and Business Associates who NDDoH knows have the disputed PHI and may rely on it to the individual's detriment.
- If NDDoH receives notification from another Covered Entity that an individual's PHI has been amended, NDDoH will ensure that the amendment is appended to the designated record set of the individual, and will make reasonable efforts to inform its Business Associates that may use or rely on the individual's PHI of the amendment.

- NDDoH will document the name of the employee and the divisions responsible for receiving and processing requests for amendment and retains such documentation for a period of six (6) years.
- NDDoH will require and inform individuals that requests for amendment of their PHI must be made in writing to the Privacy Officer, NDDoH, 600 East Boulevard Avenue, Bismarck, ND 58505 and must include a reason to support acceptance of the amendment.

**Related Forms:**

Request to Amend Records

**Definitions:**

*NDDoH* – North Dakota Department of Health

*Protected Health Information* – Individually identifiable health information that is transmitted or maintained by electronic media or transmitted or maintained in any other form or medium

*Individually Identifiable Health Information* – Health information which includes demographic information that relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual and that identifies the individual or there is a reasonable basis to believe the information can be used to identify the individual

*Electronic Media* – Electronic storage media including memory devices in computers and any removable/transportable digital memory medium such as magnetic tape or skid, optical disk or digital memory card; or transmission media used to exchange information already in electronic storage media. Transmission media include, the internet, extranet, leased lines, dial-up lines, private networks and the physical movement of removable/transportable electronic storage media

*Covered Entity* – A health plan, health care clearinghouse or health care provider that transmits any health information in electronic form relating to any covered transaction

*Business Associate* – A person or organization who performs a function or activity on behalf of the department, or provides certain legal, financial or management services and the activities involve the use or disclosure of protected health information

*Designated Record Set* – Group of records maintained by or for the NDDoH that includes medical and billing records used to make decisions about individuals