

Amendment of Protected Health Information

October 2024

I. Supporting Policies for this Information Paper

- A. The Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule (45 CFR 164.526) establishes requirements regarding amending protected health information (PHI).
- B. The DoD Manual 6025.18 Implementation of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule in DoD Health Care Programs implements the above part of the HIPAA Privacy Rule within the Military Health System (MHS).

II. Definitions Associated with Amendment of Protected Health Information

- A. **Covered Entity:** A health plan or a healthcare provider within the Military Health System (MHS) that transmits any health information in electronic form to carry out financial or administrative activities related to healthcare.
- B. **Designated Record Set:** A group of records that includes:
 - 1. Medical and billing records maintained by or for a healthcare provider;
 - 2. The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
 - 3. Records used, in whole or in part, by or for the covered entity to make decisions about individuals.
- C. **Disclosure:** The release, transfer, provision of access to, or revealing in any other manner of PHI outside the entity holding the information of covered individual.
- D. **Military Health System (MHS):** All DoD health plans and all DoD healthcare providers that are, in the case of institutional providers, organized under the management authority of, or in the case of covered individual providers, assigned to or employed by DHA, the Coast Guard, the Army, the Navy, or the Air Force.
- E. **Protected Health Information:** Individually identifiable health information that is transmitted or maintained by electronic or any other form or medium. PHI excludes individually identifiable health information in employment records held by a DoD covered entity in its role as employer. Information which has been de-identified in accordance with 4.5(a) of DoDM 6025.18 is not PHI. PHI is a subset of PII.
- F. **Use:** With respect to individually identifiable health information, the sharing,

employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

III. Guidance Regarding Amendment of Protected Health Information

- A. **Right to Amend.** Under 5.4.a(1) of DoDM 6025.18, an individual has the right to request a covered entity amend their PHI for as long as it is maintained in a designated record set.
- B. **Right to Deny.** Under 5.4.a(2) of DoDM 6025.18, a DoD covered entity may deny an individual's request for amendment, if it determines that the subject PHI or record that is the subject of the request:
1. Was not created by the DoD covered entity, unless the individual provides a reasonable basis to believe that the originator of PHI is no longer available to act on the requested amendment;
 2. Is not part of the designated record set;
 3. Would not be available for inspection under 5.3; or
 4. Is accurate and complete.
- C. **Request for Amendment.** Under 5.4.b(1) of DoDM 6025.18, the DoD covered entity must permit an individual to request that the DoD covered entity amend the PHI maintained in the designated record set. The DoD covered entity may require individuals to make requests for amendment in writing and to provide a reason to support a requested amendment if it informs individuals in advance of such requirements.
1. The covered entity must act on the individual's request – grant or deny – no later than 60 days after receipt of the request.
 - a. If the covered entity denies any part of the requested amendment, it shall provide the individual with a written response.
 - b. If a delay occurs, the covered entity will have one opportunity to request an extension by no more than 30-days, and it must provide a written statement of the reason for the delay and the date the request will be completed.
- D. **Accepting the Amendment.** If the covered entity accepts the requested amendment in whole or in part:
1. The covered entity must make the appropriate amendment to the subject PHI and attach or provide the location of the amendment.
 2. Within a reasonable timeframe, the covered entity should make reasonable efforts to inform all persons, including business associates, who might possess

the amended PHI.

3. A covered entity that is informed by another covered entity of an amendment to an individual's PHI must amend the PHI in the designated record set.
- E. **Denying the Amendment.** If the covered entity denies the requested amendment in whole or in part, the covered entity must provide the individual with the following information, in plain language:
1. The reason for the denial;
 2. The individual's right to submit a written statement disagreeing with the denial and an explanation on how to do so;
 3. A statement that, if the individual does not submit a statement of disagreement, the individual may request that the covered entity provide the request and denial for the amendment with any future disclosures of the subject PHI; and
 4. A description of how the individual may complain to the covered entity or the Secretary of the Department of Health and Human Services and include the contact information for the person or office designated to deal with such complaints within the covered entity.
- F. **Statement of Disagreement.** An individual is permitted to submit a written statement to the covered entity disagreeing with all or any part of the denial and the basis of such disagreement. A covered entity may reasonably limit the length of the statement.
- G. **Rebuttal Statement.** A covered entity may prepare a written rebuttal to the individual's statement of disagreement. If such a rebuttal is prepared, a copy must be provided to the individual.
- H. **Recordkeeping.** The DoD covered entity must, as appropriate, identify the record or PHI 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, the DoD covered entity's denial of the request, the individual's statement of disagreement, if any, and the DoD covered entity's rebuttal, if any, to the designated record set.
- I. **Future Disclosures.** With any subsequent disclosure of the subject PHI:
1. If a statement of disagreement was submitted, the covered entity shall include the individual's amendment request, the covered entity's denial of the request, the individual's statement of disagreement, if any, and the covered entity's rebuttal, if any, or an accurate summary of such information.
 2. If a statement of disagreement was not submitted, the covered entity shall include the individual's request for amendment and its denial, or an accurate summary of such information if it is requested by the individual.
 3. When a subsequent disclosure is made using a standard transaction that does

not permit the additional material to be included with the disclosure, the covered entity may separately transmit the material to the recipient of the standard transaction.

- J. **Documentation.** A covered entity must document the titles of the persons or offices responsible for receiving and processing requests for amendments by individuals, and retain the documentation associated with such requests for 6 years.

If you have any questions about any of the information above, please contact the DHA PCLO at:
dha.ncr.pcl.mbx.hipaa-compliance-inquiries@health.mil