

HARBOR-UCLA MEDICAL CENTER

SUBJECT: ACCESS OF INDIVIDUALS TO PROTECTED HEALTH INFORMATION (PHI) DESIGNATED RECORD SET POLICY NO. 712

PURPOSE:

To establish uniform policies and procedures for responding to an individual's right to access Protected Health Information contained within their health record/Designated Record Set.

POLICY:

Harbor-UCLA Medical Center grants individuals the right to access, inspect, and obtain copies of their Protected Health Information (PHI) that is contained in a Designated Record Set. PHI that has been compiled for use in a civil, criminal, or administrative proceeding or disclosure is prohibited by the Clinical Laboratory Improvement Amendments of 1988 (CLIA).

A Minor is legally authorized by law to consent to treatment and an individual's Personal Representative have the right to request access to their PHI.

DEFINITIONS:

Access means to inspect or copy or arrange for copying Protected Health Information maintained by Harbor-UCLA Medical Center or Harbor-UCLA Medical Center's business associates in a Designated Record Set.

Designated Record Set means a group of records maintained by or for Harbor-UCLA Medical Center that includes medical, billing enrollment, payment, claims adjudication, and other records used to make decisions about an individual.

Emancipated Minor means, under California law, an adult for the purpose of consenting to medical care and meets any of the criteria of the following categories: 1) Emancipated by court order, 2) Minors on active duty with U.S. Armed Forces regardless of age, 3) Married or formerly married.

Minor, under California law, means a person under the age of 18.

Protected Health Information (PHI) means individually identifiable information relating to past, present or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present, or future payment for health care provided to an individual.

EFFECTIVE DATE: 04/14/03

SUPERSEDES:

REVISED:

REVIEWED: 12/08, 05/14, 07/17

REVIEWED COMMITTEE: N/A

APPROVED BY:

Kim McKenzie, RN, MSN, CPHQ
Chief Executive Officer

Anish Mahajan, MD
Chief Medical Officer

Patricia Soltero Sanchez, RN, BSN, MAOM
Chief Nursing Officer

Signature(s) on File.

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Self-sufficient Minor means, under California law, a minor 15 years of age or older who is living separately and apart from their parents or legal guardian; and manages their own financial affairs, regardless of the source of income.

Personal Representative means (1) the guardian or conservator of an adult; (2) a parent or guardian of a Minor, or (3) the executor or administrator of the estate of a deceased individual. Refer to DHS Policy No. 361.17, "Use and Disclosure of Protected Health Information (PHI) of Deceased Individuals, and Minor and Making Disclosures to Personal Representatives".

PROCEDURE:**I. Processing a Request for Access to Protected Health Information**

- A. Access for inspection or copying of information requires a written request from the individual using the *Request for Access to Health Information* form (Attachment A). If the individual requests to access, inspect, and/or to obtain copies of their PHI that is contained within the Designated Record Set held at another DHS facility, Harbor/Medical Records Information will process the request by forwarding to the designated facility.
 1. Provide the individual with the *Request for Access to Health Information* form if requested, and give the necessary instructions on how to complete the form.
 2. Upon receipt of the request for access, H-UCLA/Medical Records Information (MRI) staff shall review the request to assure proper completion, and signature obtained.
 - a. Establish the identity and the authority of the individual making the request in accordance with the policy and procedures outlined in DHS Policy No.361.16, "*Verification of Identity and Authority of Individuals Requesting Protected Health Information*".
 3. If the request is for another county facility, check in the HIS to identify the patient's MRUN, and enter the request in the MRC/Correspondence Log.
 4. If the request is for Harbor-UCLA Medical Center, the MRI staff will process according to procedure.
- B. If the request for access is granted, in whole or in part, the Medical Records Information (MRI) staff will inform the individual of the acceptance of the request, and provide the requested PHI using the *Letter Responding to Request for Access to Protected Health Information* (Attachment B).
- C. The MRI staff shall arrange with the individual a convenient time and place to inspect and/or obtain a copy of the individual's PHI. The inspection must take place during business hours, Monday through Friday, 8:00 a.m. to 4:30 p.m. If requested, a copy of PHI may alternatively be provided by mail.

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- D. The individual is allowed to have one other individual accompany him or her during the inspection of the PHI.
 - E. If the PHI is maintained at more than one location, only produce the PHI once in response to a request for access.
 - F. The MRI staff shall respond to written requests for inspection within five (5) working days after receipt of the request. Requested copies shall be provided at time of inspection or mailed within 15 days after receipt of the request. Within these designated time periods, the facility will either make the information available, inform the individual that the information does not exist, or deny the request in whole or in part.
 - G. Copies of individual's PHI will be provided at a cost of \$.25 a page.
 - 1. Once the medical record is received and the total number of pages is established, the MRI staff will complete the *Letter Responding to Request for Access to Health Information* indicating the total cost of the PHI. The patient will be contacted by telephone to inform them of fee. The completed form will be attached to the copies of PHI for patient to pick-up.
 - 2. The cost of retrieval or handling of PHI cannot be a part of the fee charged.
 - 3. If a person needs copies for an appeal regarding eligibility for public benefits, fees shall be waived pending the outcome of the hearing. If the individual's appeal is successful, Harbor-UCLA Medical Center may bill the patient. **Do not waive** the fees if the patient is represented by an attorney.

II. Unreviewable Grounds for Denial

MRI staff will refer requests to the Assistant Medical Records Director in charge of MRI.

- A. An individual may be denied access without opportunity for review in the following circumstances:
 - 1. PHI compiled for use in a civil criminal, or administrative proceeding,
 - 2. PHI maintained by Harbor-UCLA Medical Center clinical laboratories which are subject to the Clinical Laboratory Improvement Amendments of 1988 (CLIA) to the extent that the provision of access directly to the patient is prohibited by law, and
 - 3. PHI maintained by Harbor-UCLA Medical Center clinical laboratories which are exempt from CLIA;
- B. When acting under the direction of a correctional institution, Harbor-UCLA Medical Center may deny an inmate's request to obtain a copy of PHI without providing an opportunity for review when the individual or other inmates, the safety of any officer, employee or person at the correctional institution, or the safety of a person responsible for transporting the inmate.

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- C. When an active research project includes treatment, Harbor-UCLA Medical Center may temporarily deny access to PHI without providing an opportunity for review provided that:
 - 1. The individual agreed to the denial when the individual agreed to participate in the research,
 - 2. The health care provider has informed the individual that access to the information would be available at the completion of the research;
- D. Harbor-UCLA Medical Center may deny an individual access to requested PHI without providing an opportunity for review if that PHI was provided by someone other than the health care provider under a promise of confidentiality, the confidentiality is reasonable, and the access would likely reveal the source of the information.
- E. Access to the PHI is otherwise prohibited by law.

III. Reviewable Grounds for Denial

- A. Individuals must be provided an opportunity for review of a determination to deny access if an individual's access is denied for any of the following reasons:
 - 1. When a licensed health care professional, exercising professional judgment determines that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person;
 - 2. The PHI makes reference to another person (not including the health care provider) and a licensed health care professional, exercising professional judgment, determines that the access requested is reasonably likely to cause substantial harm to the person referenced;
 - 3. The request for access is made by the individual's Personal Representative and a licensed health care provider, exercising professional judgment, determines that providing access to the personal representative is reasonably likely to cause substantial harm to the individual or another person.

IV. Denial of Access

If access is denied in whole or in part, Harbor-UCLA Medical Center must:

- A. To the extent possible, provide the individual access to any other PHI request in the Designated Record Set after excluding PHI as to which Harbor-UCLA Medical Center has grounds to deny access.
- B. Provide a written denial to the individual using the Letter Responding to Request for Access to Health Information within fifteen (15) working days of determination that includes the following information:

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1. The basis for the denial,
 2. A statement of the individual's review rights including a description of how the individual may exercise such rights,
 3. A description of how the individual may file a complaint with DHS or with the U.S. Secretary of Health and Human Services.
 4. The telephone number of the contact person/office;
- C. If Harbor-UCLA Medical Center does not maintain the requested PHI but knows where the requested PHI is maintained, then Harbor will inform the individual where to direct the request for access.

V. Denial of Access – Individual's Right to Request Review of Denial

- A. When an individual is denied access, Harbor-UCLA Medical Center is required to give the individual the right to have the denial reviewed where the grounds for denial are subject to review.
1. If the individual requests a review of the denial, the Medical Records Information staff will provide the *Request of Denial of Access to Protected Health Information* form (Attachment C).
 2. If the form is completed and left in the MRI office, it will be forwarded to the appropriate location. If the form is not left in the MRI office, mailing instructions will be provided.
- B. The denial will be reviewed by a licensed health care provider designated by the Patient Advocate to act as a reviewing official. The reviewing official must not have participated in the earlier decision to deny access.
- C. The reviewing official will act on the request for review within ten (10) working days and decide whether or not to deny access to the records requested based on the standards set forth in this Policy. The reviewing official's decision will be presented to the individual in writing within fifteen (15) working days using the *Final Letter of Response to Request for Review of Denial of Access to Protected Health Information* form. The Harbor-UCLA Medical Center will abide by the final determination made by the reviewing official.

VI. Documentation Requirements for Access of Information

All documents required to be created or completed under this Policy shall be retained for a period of at least 6 years from the date its creation or the date when it was last in effect, whichever is later.

Harbor-UCLA Medical Center shall document and retain the following documentation in electronic or written format in accordance with the facility's record retention policies and procedures (which meet or exceed the HIPAA record retention requirements):

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- A. The Designated Record Sets that are subject to access by individuals, and
 - B. The titles of the persons or offices responsible for receiving and processing requests for access by individuals.

REFERENCES:

45 Code of Federal Regulations: Parts 160 and 164; Section 164.524.

Cal. Health & Safety Code §§ 123100 *et seq.*

California Family Code § 6500, 6922, 7002 (a)(b)(c), 7120.

DHS Policy No. 361.16, "Verification of Identity and Authority of Individuals Requesting Protected Health Information"

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DEPARTMENT OF HEALTH SERVICES
COUNTY OF LOS ANGELES



REQUEST FOR ACCESS TO PROTECTED HEALTH INFORMATION

Please type or print the patient's information:

Last Name First MI Date of Birth Medical Record Number

Street Address City State Zip Code

- REQUEST TO ACCESS AND INSPECT MY PROTECTED HEALTH INFORMATION ONSITE
- REQUEST DHS SEND A COPY OF MY REQUESTED PROTECTED HEALTH INFORMATION TO:

Name Phone Number (include area code)

Street Address City State Zip Code

INFORMATION TO BE ACCESSED, COPIED OR INSPECTED:

INSPECTION PERIOD: I request information during the following time period:

FROM ____ / ____ / ____ TO ____ / ____ / ____
 Month Day Year Month Day Year

- REQUEST SUMMARY OF REQUESTED PROTECTED HEALTH INFORMATION (if available)

Copy fees: DHS may charge you a reasonable fee for making copies of your protected health information at a charge of 25 cents per page for paper or fax copies; 50 cents per page for copies from microfilm.

YOUR RIGHTS REGARDING THIS REQUEST TO ACCESS:

Right to Receive a Copy of This Request - I understand that I am entitled to a signed copy of the form if I submit this form in person.

Right to Request Review of Denial of Access- I understand that DHS may deny my request to access my protected health information, in whole or in part. If I am denied access, I may request a review of their decision by submitting a *Request for Review of Denial of Access to Protected health information*. In most circumstances, DHS will then designate another health care

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professional, who was not directly involved in the decision to deny access, to conduct a second review of your request.

SIGNATURE OF PATIENT: _____

OR

SIGNATURE OF PERSONAL REPRESENTATIVE: _____

If signed by other than patient, state relationship and authority to do so:

DATE: ____/____/____
Month Day Year

FOR OFFICE USE ONLY

Form(s) Of Identification Provided:

_____ State Driver's License _____	_____ State Identification Card _____
_____ Birth Certificate _____	_____ Military ID _____
_____ Other (Provide Details) _____	

FACILITY: _____

For more information about your health privacy rights, ask a facility staff member for a copy of our *Notice of Privacy Practices*. You may also obtain a copy by visiting our website at <http://www.dhs.co.la.ca.us/>.

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ATTACHMENT B

USE OFFICIAL COUNTY/FACILITY LETTERHEAD FOR OUTSIDE CORRESPONDENCE

LETTER RESPONDING TO REQUEST FOR ACCESS TO PROTECTED HEALTH INFORMATION

{Date}

{Patient's name}

{Address}

Medical Record #: _____

Dear {Mr./Ms.}

Thank you for submitting your *Request for Access to Protected Health Information*. Your request was forwarded to the responsible health care provider for review.

We received your written request, on _____, to access your protected health information. We have determined that:

Your request has been granted, and the information is included with this letter. The cost for this service is \$_____, based on a charge established by the California Health & Safety Code 123110(b).

Your request has been granted, and the following appointment time has been scheduled to for your record review:

Date: _____

Time: _____

Location: _____

If you have any questions or need to reschedule, please contact us at (PHONE NUMBER).

We will grant your request to access, but only in part (see below regarding the reason for partial denial). We will provide access to the following health information:

REASON FOR DENIAL (if applicable). Your request to access your protected health information is denied because:

You are not legally authorized access to the health information.

We are not permitted to release health information regarding information compiled in anticipation of or use in a civil, criminal, or administrative action or proceeding. This denial is not subject to the right to review.

You did not provide all the information we need to complete your request. Please provide the items listed and return to us.

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- You were unable to provide satisfactory personal identification to access your own information.
- You were unable to provide satisfactory personal identification as proof of status as a patient's representative (parent, guardian or conservator).
- Other:

REQUEST FOR REVIEW OF DENIAL OF ACCESS (if applicable): If we denied your request to access your protected health information, in whole or in part, you may submit a *Request for Review of Denial of Access of Health Information*, included with this letter. After completing the form, return it to the DHS facility.

For more information about your health privacy rights, ask a staff member for a copy of our *Notice of Privacy Practices*. You may also obtain a copy by visiting our website at <http://www.dhs.co.la.ca.us/>.

If you believe your privacy rights have been violated, you may file a complaint with us, Los Angeles County or the Federal Government. You will not be penalized or retaliated against for filing a complaint. To file a complaint with us, or if you have comments or questions regarding our privacy practices, contact facility administration or any of the following offices:

Los Angeles County Department of Health Services
Privacy Officer
 313 N. Figueroa Street, Room 708
 Los Angeles, CA 90012
 800-711-5366

Los Angeles County Chief Information Office
Chief Information Privacy Officer
 500 West Temple Street, Suite 493
 Los Angeles, CA 90012
 (213) 974-2164
 Email: CIPO@cio.co.la.ca.us

Thank you for providing us with this opportunity to assist you and we look forward to continuing to serve your healthcare needs.

Sincerely,

{Facility Representative}
 Program / Unit Manager
 Facility Address

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DEPARTMENT OF HEALTH SERVICES
COUNTY OF LOS ANGELES



REQUEST FOR REVIEW OF DENIAL OF ACCESS TO PROTECTED HEALTH INFORMATION

Please type or print the patient's information:

Last Name	First	MI	Date of Birth	Medical Record Number
Street Address			City	State Zip Code

I am requesting a review of denial of access to my protected health information.
I may either: (Please check one box)

Allow DHS to designate a licensed health care provider, who was not involved in the decision to deny access, to review the determination.

OR

Select my own licensed health care provider to review the denial of access.
Please provide the contact information of the health care provider below.
(NOTE: The health care provider must be authorized by State law to practice the same type of health care services that are the subject of the records.)

Name of Health Care Provider	Phone Number (include area code)
Street Address	City State Zip Code

We will notify you in writing of the determination of the reviewing health care provider. DHS will abide by the final determination made by the reviewing health care provider.

SIGNATURE OF PATIENT: _____

OR

SIGNATURE OF PERSONAL REPRESENTATIVE: _____

If signed by other than patient, state relationship and authority to do so:

DATE: ____/____/____
Month Day Year