

## ORGANIZATION POLICY

POLICY TITLE: ONSLOW MEMORIAL HOSPITAL PATIENT ACCESS TO THEIR OWN PROTECTED HEALTH INFORMATION

POLICY NUMBER: 1305

PURPOSE AND APPLICABLE LAW: The purpose of this Policy is to establish the Hospital's policy and procedures regarding a patient's right to access their own protected health information.

PROCEDURE: OMH policy, state and federal law, require that patients be permitted access to inspect and/or obtain a copy of their protected health information contained in their designated record set. (For more information on the designated record set, refer to Information Management Policy: Designated Record Set).

This important practice must be followed to enable patients to exercise their rights of access granted as part of OMH's Notice of Privacy Practices and the HIPAA Privacy Rule. It is unlawful to coerce an individual to waive rights to inspect, copy, or amend patient information. To facilitate patients' right of access, OMH and its business associates must:

- Permit individuals or their authorized personal representatives access to inspect or to obtain a copy of the individuals' protected health information.
- Respond to patients' requests for access in a timely manner.
- Communicate the status of patients' requests for access in writing and in a timely manner.
- Provide access in the form requested by patients, provided the request is reasonable.
- Provide access in the manner requested (inspection, copies, or both).
- Inform patients of fees associated with their request.
- Waive associated fees when patients indicate inability to pay.

### Role of Health Information Management (HIM) Department in Handling Patient's Requests for Access

OMH has determined that all patient requests to access to medical records, billing records, or any other records, whether or not they contain patient health information, must be forwarded via fax or interoffice mail to OMH's HIM Department within 24 hours of receipt. HIM will be responsible for coordinating all requests for access from patients at all of OMH's departments and clinics. Even in circumstances where the record is maintained in a different department, HIM must approve all patient requests to view or receive copies of their record.

HIM staff shall respond to such patient requests in a timely and respectful manner and in accordance with the procedures contained in this and other applicable policies and procedures.

## Requests for Access

**In Writing.** It is preferred that all requests for access must be made in writing. OMH staff should encourage the patient or the patient's personal representative to complete the *Access and Accounting Request* form.

If a patient's request for information requires clarification, please contact the patient in the manner indicated on the form. HIM should note and initial the results of the clarification on the patient's *Access and Accounting Request* form or letter used to initiate the request.

**Response Time.** OMH shall respond to patient requests for access to their protected health information within 30 days. If production of the information requested requires additional time for good cause, OMH may extend the response time by an additional 30 days. However, the patient must be notified of this extension within the first 30 days from the request. The notification must be in writing and must be sent to the patient's last known address found in the patient's medical record. The notice must contain the reason for the delay and must contain the estimated expected date on which OMH will complete the request.

**Inform Patients of Fees.** If the patient or patient's personal representative is requesting copies of information for which there is a fee, HIM should make every effort, at time of intake, to inform the patient of the fee.

**Coordinate Review with Responsible Health Care Provider.** When necessary, HIM will forward each Access and Accounting Request to the responsible health care provider to approve or deny the request. Along with the request, HIM will provide the responsible health care provider with a description of the components of the designated record set requested by the patient to use in the evaluation.

When screening the components of the designated record set, the responsible health care provider should consider whether the information would be harmful to the patient or others; violate confidences given by family, friends, or others; cause substantial harm to patient or others; have a detrimental effect on the care or treatment of a minor, or on the patient's relationship with the provider, or the minor's relationship with parent(s) or guardians.

**Notify the Patient.** HIM must notify the patient that his or her Access and Accounting Request is being granted or denied. If the patient requested a copy of his or her records and has paid the processing fee in advance, HIM should provide a copy to the patient. If the patient requested an opportunity to inspect his or her records, HIM must explain how the patient may arrange an appointment to visit OMH and review the information.

**Requests for Inspection of Records.** If patient's request to inspect his/her designated record set is granted, HIM must arrange an appointment with the individual to review the components of the designated record set requested. Copies cannot be provided in lieu of inspection unless:

- a) The patient agrees, or
- b) Grounds for denial justify providing copies instead of an opportunity for inspection.

**Proper Identification.** The patient must present proper identification before being permitted to access. If the person requesting access claims to be a personal representative of the patient, proof of the person's relationship to the patient and authority to access records as a personal representative must be presented.

**Supervising Patient's Independent Review.** A HIM staff member must be present in the room to ensure that the integrity of the records is maintained. The HIM staff member will not answer any questions regarding the content of the designated record set; in the event that a patient has a question regarding the content of the designated record set, the HIM staff member will refer the patient to appropriate personnel. If the patient wishes to be completely alone, he or she must request copies of the records.

A patient's review of his or her information should take place in a location where he or she will not be able to view information or records concerning other patients. A patient may be accompanied by a family member or other individual and may view their records with that companion.

**Requests for Copies.** Whenever possible, copies of records should be provided in the form or format requested by the patient.

- If the information cannot be easily produced in the format requested by the patient, HIM may either provide the patient with a hardcopy of the information or may attempt to work out an alternative format that is acceptable to the patient.
- An original mammogram should be provided whenever requested by the patient.
- Storage devices (flash drive, writeable CDs or DVDs, memory cards, etc.) for electronic copies of the records will be provided by OMH or its designee where appropriate, but the patient will not be charged for the storage device. At no time should a storage device presented by a patient or other third party be used to store the electronic copies of the health information.

Copies should be delivered to the patient in the method specified on the patient's request form or letter. The patient may visit OMH to pick up the copies or request that the copies be delivered by mail or given to the individual in person.

**Providing an Abstract.** If the patient's request to access his or her information is granted, HIM may also provide the patient (in lieu of access to the protected health information) with a summary of the protected health information or an explanation of the protected health information contained in the requested records. This explanation would be delivered to the

patient when he or she inspects the records, or would accompany the copies of records that are provided to the patient.

**Collection of Fees.** OMH may charge the patient a reasonable fee costs incurred in searching, handling, copying and mailing components of the designated record set to the patient or the patient's personal representative. Procedures for the collection of fees vary depending on the items or services provided.

*Copies.* Except for copies of records related to Workers' Compensation cases, HIM may only charge up to 75¢ per page for the first 25 pages, 50¢ per page for pages 26 –100 and 25¢ for each page in excess of 100 pages.

*Copies for Workers' Compensation Cases.* If copies of the medical records or information being requested are related to a Workers' Compensation claim, there will be no charge imposed to the first requesting party if that party is any of the following: employers, carriers, third party adjustment agencies, and rehabilitation nurses. All subsequent requestors may be charged the greater of (1) \$10.00 per request or (2) up to 50¢ per page for the first 40 pages and 20¢ for each page in excess of 40 pages. The *Access and Accounting Request* form will have a separate indication on the form to allow the requestor to designate when a request is made related to a Workers' Compensation case.

*Mailing.* OMH will also recover the cost of any postage paid when mailing materials to the patient or electronic diskettes used to fulfill the patient's request.

The *Access and Accounting Request* form is used to notify the patient (or patient's personal representative) requesting information that the patient will be liable for these costs. These fees are collected at the time the copies are provided.

**Record Access.** If access is granted, HIM should complete the portion of the *Access and Accounting Request* form indicating that the request was granted. Please add the completed form to the patient's records.

#### Requests for Access by a Patient's Personal Representative

If a patient's personal representative requests access to the patient's records, HIM shall grant or deny access according to the procedures in this policy as though the personal representative were the patient, unless one of the following exceptions applies:

**Harm to Patient.** A personal representative may be denied access to a patient's information if the patient's attending physician has determined that granting such access is reasonably likely to cause substantial harm to the patient or a third party. The personal representative should be notified in writing of the reason for this denial, and given the opportunity to seek review of the decision.

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**Detrimental Effect from Access by Parent or Guardian.** A parent or guardian of a minor may be denied access to the minor's protected health information if a treating physician certifies that such access by the parent or guardian would have a detrimental effect on:

- a. The physician's or OMH's professional relationship with the minor;

- b. The care or treatment of the minor; or
- c. The minor's relationship with his or her parents or guardian.

**Minors Ability to Consent.** In North Carolina, a minor may obtain health care services for the following without the consent of a parent/guardian:

- a. Treatment for venereal disease and other reportable communicable diseases or conditions (including HIV)
- b. Pregnancy
- c. Abuse of drugs or alcohol
- d. Emotional disturbance.

Under these special circumstances, the minor's parent/guardian is not the minor's personal representative. As such, the parent/guardian must be denied access to the records pertaining to that treatment only. OMH must still provide the parent/guardian with all other requested records. If the parent/guardian contacts the minor's physician, the physician *may* release information pertaining to the treatment in question.

The personal representative should be notified in writing of the reason for this denial and given the opportunity to seek review of the decision.

#### Denying Right of Access

Under North Carolina state law, patient access may only be denied for a "sound medical reason," as determined by the attending physician and noted in the patient's medical record. This may include circumstances in which the attending physician has determined that the access requested is reasonably likely to endanger the life or physical safety of the patient or another person. If access to the patient's designated record set is denied for a sound medical reason under any circumstance, the denial is subject to a patient's right to review.

**Partial Denial.** If there are grounds to deny the patient's access to only part of the protected health information requested, HIM shall provide the patient with access to the rest of the information after excluding the parts that the patient cannot access. The excluded parts may be summarized for the patient.

**Notice of Denial.** If the patient's request is being denied, HIM must notify the patient using the *Denial of Request to Release Health Information* letter. When completing these notices, follow these procedures:

- When preparing the denial notice, HIM shall indicate the grounds for denying the patient's access by checking off the appropriate box or boxes.
- If the request is denied because OMH does not maintain the information in a Designated Record Set, HIM must state in the denial notice any credible information that HIM may have about where the patient may obtain access to the requested records.

- If the patient's request is only partially denied, HIM must explain in the denial notice what information the patient will be permitted to access and what information the patient will not be permitted to access.
- If the patient has requested an opportunity to inspect records, the notice should include instructions about how the patient may schedule an appointment to examine the records to which access is granted.
- Indicate how the patient may complain to the covered entity regarding the denial (i.e., how to contact OMH's Privacy Officer).
- If the patient has requested copies of the records, the HIM staff should include, along with the partial denial notice, copies of those records to which access is granted (after removing the information that the patient is not permitted to access).

**Review Process.** Under certain circumstances, the patient is entitled to challenge or appeal the decision to deny access by seeking review according to the following procedures.

If the grounds for denial are based upon the decision of a licensed health care profession, the patient has a right to an independent review by a licensed health care professional who was not directly involved in the initial decision to deny the patient's request.

- If a patient requests this review, HIM must transfer the information in dispute to the OMH Privacy Officer. The information in dispute should be accompanied by the denial notice sent to the patient and (if appropriate) any further explanation for the reason for denial.
- The OMH Privacy Officer will designate a reviewer who will determine, within a reasonable period of time, whether access was properly denied and indicate the results to HIM.
- HIM staff must notify the patient of the results of the review using the *Denial of Request to Release Health Information – Results of Review* letter.

If access is permitted after the review process is completed, HIM must grant access as per the policy and procedures discussed herein.

### Third Party Requests for Access

In some circumstances, OMH receives requests from the patient to send protected information to third parties or receives these requests directly from third parties, including attorneys and

insurance companies, for access on behalf of the patient for purpose other than treatment, payment or healthcare operations. These requests can only be granted when a valid *Authorization for Release of Health Information* from the patient or a patient's designated personal representative is received unless such request is made to disclose a patient's immunization records to a school and the state in which the school is located requires such immunization records by law. An agreement to disclose immunization records to a school that requires such records by law may be oral or in writing, but need not be signed. Disclosure may be made of the immunization records only.

Required Documentation

Federal law requires OMH and its business associates to document and retain the following:

- The designated record set that is subject to access by individuals; and
- The titles of the persons or offices responsible for receiving and processing requests for access by individuals;
- Access and Accounting Request form; and
- Documentation of the agreement, whether the agreement is oral or written, to send a patient's immunization records to a school.

EFFECTIVE DATE: June 2005

REVISION DATE: January 12, 2009, January 2015

REVIEW DATE: December 2011, January 2018

APPROVED BY: \_\_\_\_\_  
Penney Burlingame Deal, DHA, RN, FACHE  
President and Chief Executive Officer

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Senior Vice President, Chief Nursing Officer

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Scott Johnston, M.D.  
Chief of Staff

**Fee Assessment Letter**

[Today's Date]

Patient Name  
[Street Address 1]  
[Street Address 2]  
[City, State Zip Code]

Re: Request for access to health information

Dear [Patient's Name],

This letter responds to your request, dated \_\_\_\_\_, for a copy of your health information.

We have determined that a fee of \$ \_\_\_\_\_ will apply to prepare the copies that your requested.

We want you to know that you have the following options:

- You may ask us to proceed with your request and pay the fee described in this letter.
- You may modify your request and reduce the applicable fee.
- You may withdraw your request and pay no fee.

Please contact [insert name, address and telephone number of responsible person] to discuss your preferences and arrange for payment of any applicable fees. If we do not hear from you within 10 days, we will assume that you have decided to withdraw your request.

Sincerely,

Onslow Memorial Hospital  
Director of Health Information Management

Signed Original in Executive Office

## Denial of Request to Access Health Information Letter

[Today's Date]

[Patient's Name]  
[Street Address 1]  
[Street Address 2]  
[City, State Zip Code]

Re: Denial of request to access health information

Dear [Patient's Name],

This letter responds to your request, dated \_\_\_\_\_, to access your health information. For the reasons stated below, we are denying your *Access and Accounting Request* to all or part of this information.

The information requested is not available in our records.

[Although the information you've requested is not available in our records, it may be available in records maintained by: \_\_\_\_\_.]

The attending physician has determined that granting your request would not be appropriate under the circumstances.

[You have the right to have this decision reviewed by a licensed health care professional who has not been directly involved in the initial decision to deny your request. If you want to exercise this right, please contact the Hospital's Privacy Officer at (910) 577-2852.]

Other: \_\_\_\_\_.

This denial applies to  **All** or  **Part** of the information you requested. If we are denying only part of your request, you will be given access to the remaining information. If you have requested copies, the fee associated with the part of the information available to you is \$\_\_\_\_\_.

If you believe that your privacy rights have been violated, you may complain to: (i) the Hospital's Privacy Officer; or (ii) the Secretary of the United States Department of Health and Human Services. There will be no retaliation against you for filing a complaint. The complaint should be filed in writing. A complaint to the Secretary must be filed within 180 days of when the act or omission occurred. For further information regarding filing a complaint, contact:

Onslow Memorial Hospital Privacy Officer Phone: (910) 577-2852 PO Box 1358, Jacksonville, NC 28541

Sincerely,

Onslow Memorial Hospital  
Director of Health Information Management

## Denial of Request to Access Health Information – Results of Review Letter

[Today's Date]

[Patient's Name]  
[Street Address 1]  
[Street Address 2]  
[City, State Zip Code]

Re: Denial of request to access health information—Results of Review

Dear [Patient's Name]:

This letter notifies you of the results of the review performed by a licensed health care professional who was not directly involved in the initial decision to deny your request to access your protected health information. The name of the health care professional who reviewed your request is [Name of Reviewer]. [Name of Reviewer] has reached the following conclusion.

- Your request was properly denied for the reason provided in our initial notice.
- Your request was properly denied with respect to part of the information. The request was not properly denied for another part of the information. Please contact the OMH's Health Information Management Department to set up an appointment to inspect the information that you are entitled to access. If you have requested copies, we will provide them in the manner requested on your *Access and Accounting Request* form after we have removed the information that we cannot permit you to access.
- Your request was improperly denied. Please contact the OMH's Health Information Management Department to set up an appointment to access the information. If you have requested copies, we will provide them in the manner requested on your *Access and Accounting Request* form.

Sincerely,

Onslow Memorial Hospital  
Director of Health Information Management