

ORGANIZATION POLICY

POLICY TITLE: ONSLOW MEMORIAL HOSPITAL PATIENT RIGHT TO AMEND
 THEIR PROTECTED HEALTH INFORMATION

POLICY NUMBER: 1312

PURPOSE AND APPLICABLE LAW: The purpose of this Policy is to establish OMH's patient right to amend their protected health information.

PROCEDURE:

OMH and federal law mandate that patients have the right to ask OMH and its business associates to amend their protected health information or records contained in their designated record set for as long as the protected health information is maintained in the designated record set. Business Associates are defined as individuals or organizations that perform activities or services on behalf of OMH involving the sharing of protected health information.

This important practice must be followed to enable patients to exercise their rights of amendment 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 of amendment. To facilitate patients' right of amendment, OMH and its business associates must:

- Permit individuals or their authorized personal representatives to request amendment to the individuals' protected health information.
- Act on and respond to patients' requests for amendment within the timeframes allowed by law.
- Take initial action no later than 60 days from date of request, by indicating if amendment is granted or denied, in whole or in part.
- This time period for action may be extended once, for 30 days, provided that the patient is informed of the time extension in writing.
- Communicate status of patients' requests for amendment in writing and in a timely manner.
- Make accepted amendments to patients' designated record sets.
- Inform the patient when amendment is accepted.
- Identify, with the help of the patient, the parties to whom the amendment must be disclosed.
- Obtain patient's agreement to disclose amendment to identified parties.

- When reasonable, inform and provide the amendment to persons identified by the patient that have received the patient's protected health information and need the amendment.
- Inform and provide the amendment to all parties, including business associates, having protected health information that should be amended. This practice must be followed when the protected health information may be relied on, or could foreseeably be relied on to the detriment of the patient. OMH and its business associates are only required to follow this rule when they know protected health information exists in third party records (i.e. information released to individuals primarily involved in treatment or payment, such as insurance companies other treating physicians). Staff should also notify all individuals listed in the patient's accounting of disclosures, where relevant. Please see OMH Organization Policy No. 1313 *Accounting of Disclosure of Protected Health Information* for further guidance.
- When OMH maintains records from another provider in the patient's medical record, OMH will amend the patient's records as requested by the originator.

Role of Health Information Management in Handling Patient's Requests for Amendment

OMH has determined that all patient requests for amendment to medical records, billing records, or any other records, whether or not they contain protected health information, must be forwarded to Onslow Memorial Hospital's Health Information Management Department ("HIM") within 24 hours of receipt. Staff members in HIM 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.

Processing a Patient Request for Amendment

In Writing

OMH HIM staff should encourage the patient or the patient's personal representative to complete the *Request for Amendment* form, or write a letter that covers the same information requested on that form. In those circumstances where the individual submits a request for amendment via mail, the letter must supply the same information requested on the form.

Follow Up Questions

If a patient's request for amendment requires clarification, please contact the patient in the manner indicated on the form. The HIM staff member should note on the patient's *Request for Amendment* form the results of that discussion and print his or her initials next to the notes.

Response Time

HIM staff members are expected to respond to patient requests for amendment of his/her protected health information—by either granting or denying the request—as soon as possible after the request is received. Hospital staff must act on the request (by either ensuring that the designated record set is amended or by notifying the patient of denial) within **60** days from the date the OMH received the request.

Review of Information

HIM staff shall determine whether the information that the patient would like to amend was created by OMH. In collaborating with the originating department, the HIM staff member should also determine whether the patient would be prohibited from inspecting his or her own information under the OMH Organization Policy No. 1305: *Patient Access to their Own Protected Health Information*. OMH may deny a patient's request to amend if designated HIM staff determines:

- The protected health information or record requested was not created by OMH or its business associates.
- The person or organization that created the information is no longer available to respond to a request for amendment.
- The protected health information or record requested is not part of the patient's designated record set.
- OMH or its business associate has denied the patient the right to inspect the component of the designated record set requested for amendment, as per OMH Organization Policy No. 1305: *Patient Access to their Own Protected Health Information*. If the right to inspect has been denied, the patient does not have the right to amend the components subject to denial of inspection. However, amendment may not be denied on the basis that *copying* of that part of the designated record set would be denied.
- The requested amendment is inaccurate or incomplete.

Granting a Request for Amendment

If the Amendment is Granted, Notify the Patient

HIM must notify the patient in writing that his or her requested amendment is being granted.

Make the Amendment

Make the appropriate amendment everywhere that the patient's amended protected health information appears in the designated record set maintained by OMH or its business associates. OMH should follow its procedures for amending information contained in records.

- To amend, the originating department should make a notation on the original document directing the reader to the amendment page or pages. The amendment page or pages should be physically attached to the original document.

- If the information that needs to be amended is contained in an electronic format, the originating department shall make a notation that amends the information without deleting the original entry, or create a link to a location where the amended information can be found.

Notify Others

All reasonable efforts will be made to forward the amendment to individuals or organizations that the patient states should be notified. If the patient agrees, HIM will notify any person or organization that may have relied, or may rely in the future, on the original information in a way that may negatively impact the patient. The patient's authorization is not necessary to notify the OMH's business associates.

Future Disclosures

Any future disclosures of the protected health information that needed to be amended must include the amended information or a link to the amended information.

Denying Right of Amendment

Notice of Denial

If the patient's request for an amendment is denied, HIM shall notify the patient using the *Amendment Denial Notice* form.

- When preparing the *Amendment Request Denial Notice*, a HIM shall indicate the grounds for denying the patient's amendment by checking off the appropriate box or boxes.
- If the ground for denying the amendment is that the patient would not be permitted to inspect the information, the denial notice must explain the reason that inspection is not permitted under the OMH Organization Policy titled *Patient Access to their Own Protected Health Information*.
- If the amendment is only partially denied, the denial notice must explain what portion of the amendment will be granted and what portion will be denied. The notice must also explain how the patient may contact OMH if he or she wishes OMH to make the partial amendment.
- The partial amendment may not be made without the patient's written permission. If the patient grants permission, HIM staff must make the partial amendment as per the procedure discussed in this policy.
- The OMH *Amendment Request Denial Notice* includes a statement that informs the patient of their right to request the inclusion of the *Request for Amendment* in future disclosures of the disputed information.

Statement of Disagreement (“Rebuttal”)

After receiving the OMH's denial notice, the patient may submit a statement explaining his or her disagreement with the decision. In the event that the patient submits a statement of disagreement, the responsible healthcare provider may prepare a rebuttal statement, if necessary, to clarify the OMH's position about why the amendment should be denied, or to respond to issues raised in the patient's statement of disagreement. The responsible healthcare provider and

the OMH Privacy Officer should collaborate on rebuttal statements. A copy of this rebuttal statement must be provided to the patient.

Record Keeping

HIM must physically attach, or electronically link, the following documents to the protected health information that was the subject of the disputed amendment:

- The patient's written amendment request
- OMH's notice denying that amendment request
- The patient's statement of disagreement (if any)
- OMH's rebuttal statement (if any)

Future Disclosures

The following documents must be included in any future disclosures of the patient's information. If the patient's protected health information needs to be disclosed through a standard transaction that does not permit inclusion of the materials required below, HIM may transmit these materials separately.

Statement of Disagreement. If the patient has submitted a statement of disagreement, HIM must include the following documents in any future disclosure of the protected health information that is the subject of the dispute:

- The patient's written amendment request
- OMH's notice denying that amendment request
- The patient's statement of disagreement
- OMH's rebuttal statement (if any)

An accurate summary of the denial notice, the patient's statement of disagreement, and OMH's rebuttal statement may be included in lieu of the original documents. **The patient's amendment request must always be included in its entirety.**

No Statement of Disagreement. If the patient does not submit a statement of disagreement, the patient's amendment request, and OMH's denial notice should be included in any future disclosures of the protected health information that is the subject of the amendment request.

Third Party Requests for Amendment

OMH may receive requests from third parties, including attorneys and insurance companies, requesting amendment on behalf of the patient. However, only patients or patients' personal representatives are authorized to request amendments.

Health Care Provider Amendments

This policy does not address the requirements health care providers and other members of the OMH workforce must adhere to when amending a patient's designated record set.

Requests for Amendment by a Patient’s Personal Representative

If a patient’s personal representative requests amendment of the patient’s records, HIM shall grant or deny amendment according to the procedures in this policy as though the personal representative were the patient.

OMH Procedures for Complying with Amendments Reported from Other Organizations

If another organization informs OMH that it has granted a patient’s request to amend the patient’s protected health information (and how that information has been amended) HIM must amend that patient’s protected health information everywhere it appears in a designated record set maintained by OMH, as per the procedures discussed in this policy.

Required Documentation

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

- The designated record set that is subject to amendment by individuals; and
- The titles of the persons or offices responsible for receiving and processing requests for amendment by individuals.

OMH will comply with these federal requirements. In addition, OMH must also keep the following documentation in connection with any request by a patient or a patient’s personal representative to amend protected health information.

- Request for Amendment form
- Response to Patient Request letter
- Amendment Notification Form
- Amendment Request Denial Notice
- Patient Statements of Disagreement with Denial
- OMH Rebuttal Statements to Patient’s Statement of Disagreement

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

Regina Lanier, MSN, MAEd, RN
Senior VP Chief Nursing Officer

Scott Johnston, M.D.
Chief of Staff

Signed Original in Executive Office

Amendment Request Approval Letter

[Today's Date]

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

Re: Request to amend information

Dear [Patient Name],

This letter responds to your request, dated _____, that we amend your health information. We agree to make the amendment that you requested. Your records will be updated to reflect the amendment.

If you provided us with a list of persons or organizations to which notification of the amendment should be sent, we will do so on your behalf.

If you have any questions about this letter or the amendment process, please call us at 910-577-2509.

Sincerely yours,

Onslow Memorial Hospital
Director of Health Information Management

Signed Original in Executive Office

Amendment Request Denial Notice

[Today's Date]

[Patient Name]

[Street Address 1]

[Street Address 2]

[City, State Zip Code]

Re: Denial of request to amend information

Dear [Patient Name]:

This letter responds to your request, dated _____, that we amend your health information. For the reasons stated below, we are denying your request.

- Your request must be submitted using the *Request for Amendment* form.
- Your request did not explain why you believe we should make the amendment.
- The information you would like to have amended is not available in our records.
- The information you would like to have amended was not created by OMH. You may wish to ask the person or organization that created the information for an amendment.
- The information you requested cannot be amended, by law, because you are not entitled to inspect this information.
- Your request was deemed incomplete for the following reasons:
- We believe that the information is accurate and complete without the amendment you have requested.

You have the right to submit a statement explaining your disagreement with our decision to deny the amendment you requested. This statement must be in writing. We will include your statement, or an accurate summary of it, any time we disclose to others the protected health information that you think should have been amended. However, we reserve the right to prepare a response to your statement of disagreement (a "rebuttal statement"), which we will also include when we make future disclosures of the information that you think should have been amended. If you wish to submit a statement of disagreement, please send it to the OMH Health Information Management Department.

If you do not submit a statement of disagreement, we will include only your amendment request, and this denial notice, in any future disclosures of the information that you think should have been amended.

We hope that you understand why we've denied your request. However, if you believe that we have improperly handled your request, you may file a complaint with: (i) our Privacy Officer by calling our toll-free hotline at 1-800-624-3004; or (ii) the Secretary of the United States Department of Health and Human Services. A complaint to the Secretary must be in writing and filed within 180 days of when the act or omission occurred.

Sincerely yours,

Onslow Memorial Hospital
Director of Health Information Management