

**THE TEXAS A&M UNIVERSITY SYSTEM
HEALTH SCIENCE CENTER INTERNAL POLICIES**

**16.99.99.Z0.19 Patient Access to Protected Health Information
Internal Policy**

Approved January 26, 2011

1. GENERAL/OVERVIEW

This policy applies to TAMHSC health care providers, its participating physicians and clinicians, employees and business units who provide management, administrative, financial, legal, and operational support to or on behalf of the health care provider and has been designated as a member of the TAMHSC Health Care Component. This policy pertains to protected health information covered by the TAMHSC Health Care Component's Notice of Privacy Practices.

2. INTERNAL POLICY/RESPONSIBILITIES

Patients and their legal representatives generally have a right to access¹ their own health information contained in records that may be used to make decisions about them. It is the TAMHSC Health Care Component's policy to treat all patient requests to access such information in a respectful manner. The TAMHSC Health Care Component has strict policies and procedures about how and when patients and their legal representatives may access records. Therefore, patients and their legal representatives should be directed to submit any requests for access to medical records, billing records, or any other records (whether or not they contain patient health information) to the TAMHSC Health Care Component Clinic Privacy Official or TAMHSC Privacy Officer.

2.1 Right to Access Records.

- 2.1.1 TAMHSC Health Care Component patients and their personal and legal representatives (referred to collectively throughout this policy as patients/representatives) have the right to inspect and obtain a copy of the protected health information that the TAMHSC Health Care Component, or one of its business associates, maintains in "designated record sets."
- 2.1.2 Designated record sets are sets of records that may be used to make decisions about the patients or their treatments.
- 2.1.3 The designated record set for each patient generally includes the patient's medical records and billing records.
- 2.1.4 The specific records included in a designated record set are discussed in the Preparation and Maintenance of Designated Record Sets Policy on

preparing and maintaining designated record sets, which specifies what categories and types of records are part of the designated record set.

- 2.1.5 Patients/representatives also have the right to access protected health information covered by a Joint Notice that is maintained by the TAMHSC Health Care Component with a hospital that is part of an organized healthcare arrangement with the TAMHSC Health Care Component.
 - 2.1.6 Requests for medical records maintained by a hospital should be referred to the applicable hospital. Under Texas law, defense counsel and defense insurance companies have certain rights to access patient information once a lawsuit is initiated.
 - 2.1.7 All such requests must be forwarded to the Privacy Officer or TAMHSC Health Care Component Privacy Official.
 - 2.1.8 Patients/representatives have the right to access their protected health information for as long as the information is contained in their designated record sets.
- 2.2 Exceptions.
- 2.2.1 In some circumstances, we may/must deny a patient/representative the right to access protected health information in a designated record set.
- 2.3 In Writing.
- 2.3.1 Requests for access must be made in writing.
 - 2.3.2 The TAMHSC Health Care Component Clinic's designee should encourage the patient/representative to complete the request form provided in **Appendix A** of this policy or to write a letter that covers the same information requested on that form.
- 2.4 Follow Up Questions.
- 2.4.1 The TAMHSC Health Care Component Clinic designee should follow up on a patient's request if necessary to clarify what information the person is seeking to access.
 - 2.4.2 The Clinic designee of TAMHSC Health Care Component should record on the request form the results of that discussion and initial or sign his or her notes.
- 2.5 Response Time.
- 2.5.1 Responses to requests for access to protected health information under this policy (by either granting or denying the request) must occur within fifteen (15) days after the request is received.

- 2.5.2 To ensure that this deadline is met, the TAMHSC Health Care Component Clinic designee should complete the information at the bottom of the request form provided in **Appendix A**.
- 2.5.3 If the patient's/representative's written request is made on a letter or other document instead of the form provided in **Appendix A**, the TAMHSC Health Care Component Clinic designee should write in the equivalent information on the letter or other document.
- 2.6 Granting Patient Requests For Access.
- 2.6.1 A patient's/representative's request for access to the patient's protected health information may only be granted according to the following procedure.
- 2.6.2 The TAMHSC Health Care Component Clinic designee must complete these procedures within the time provided in Section 2.5 of this policy, unless the patient/representative chooses to delay access until a later time for his or her own convenience.

3. PROCESS

- 3.1 Notify the Patient/Representative.
- 3.1.1 The Clinic designee of the TAMHSC Health Care Component must notify the patient/representative that his or her request for access is being granted.
- 3.1.2 The patient/representative may be notified in person, by phone, or in writing.
- 3.1.3 If the patient/representative requested a copy of the records, every effort should be made to provide a copy to the patient/representative when providing the notice informing the patient/representative that the request has been granted or promptly thereafter.
- 3.1.4 If the patient/representative requested an opportunity to inspect the patient's records, the Clinic designee of the TAMHSC Health Care Component must explain how the patient/representative may arrange an appointment to visit the site and review the information.
- 3.2 Requests for Inspection of Records.
- 3.2.1 If permission is granted for a request to inspect protected health information, the TAMHSC Health Care Component Clinic designee must arrange an appropriate time for the individual to review the records.
- 3.2.2 Copies cannot be provided in lieu of inspection unless:
- the patient/representative agrees, or

- grounds for denial in Sections 3.12 through 3.16 of this policy justifies providing copies instead of inspection.

3.3 Proper Identification.

- 3.3.1 The individual must present proper identification before being permitted to inspect the information.
- 3.3.2 If the person requesting to inspect the information claims to be a personal or legal representative of the patient, proof of the person's relationship to the patient and authority to access records as a personal or legal representative must be presented.
- 3.3.3 The Clinic designee must be familiar with the policy that explains who may serve as a personal representative of a patient.

3.4 Supervising Inspection of Records.

- 3.4.1 The Clinic designee of the TAMHSC Health Care Component should be present in the room at all times to ensure that the integrity of the records is maintained.
- 3.4.2 The designee should remain in view of the patient/representative to prevent inappropriate tampering, but far enough so that the patient/representative is afforded appropriate privacy when reviewing the content of the records.
- 3.4.3 The employee should not answer any questions regarding the content of the medical record.
- 3.4.4 If the patient/representative wishes to be completely alone, he or she must request copies of the records.

3.5 Special Issues.

- 3.5.1 A patient's/representative's review of information should take place only where the patient/representative will not be able to view information or records concerning other patients.
- 3.5.2 A patient may be accompanied by a family member or other individual and may view their records with that companion.
- 3.5.3 Special issues may arise where an inmate requests access to his or her own records.

3.6 Requests for Copies.

3.6.1 Copies of records will be provided in hard copy. Copies should be delivered to the patient/representative in the method specified on the patient's/representative's request form or letter.

3.6.2 The patient/representative may visit the TAMHSC Health Care Component Clinic to pick up the copies or request that the copies be delivered by mail to an address provided on the form or letter.

3.7 Providing Summaries or Explanations.

3.7.1 If the patient's/representative's request to access information is granted, the TAMHSC Health Care Component may also provide additional items.

3.7.2 The following items should be provided if the patient/representative requests the items or agrees to our request to provide the items:

- A summary of the requested information instead of, or in addition to, providing access to inspect or copy the information.
- An explanation of the protected health information contained in the requested records. This explanation would be delivered to the patient/representative when he or she inspects the records, or would accompany the copies of records that are provided to the patient/representative.

3.8 Duplicate Information.

3.8.1 If the same protected health information is maintained in more than one designated record set, the TAMHSC Health Care Component need only produce the protected health information once.

3.8.2 If a second record provides additional information in any form, that record must be provided.

- **EXAMPLE:** If a patient's physician makes notations on a laboratory report containing the patient's test results, the resulting record will not be considered a duplicate of the original and must also be produced.

3.9 Collection of Fees.

3.9.1 The TAMHSC Health Care Component charges for copies and preparation of summaries and explanations. Procedures for the collection of fees vary depending on the items or services provided.

4.9.2 The specific clinic charges the following for each page photocopied: The access request form provided in **Appendix A** notifies the patient /representative requesting information that the fees will be charged.

- 4.9.3 Fees are collected at the time the copies are provided, except when the copies are to be used for Disability Determination; an invoice for payment will accompany these copies.
 - 4.9.4 If the patient requesting copies of the record is unable to pay because the cost would constitute a financial hardship, the TAMHSC Health Care Component Financial Hardship form must be completed, and becomes a part of the patient record.
- 3.10 Summaries and Explanations.
- 3.10.1 Before preparing or providing summaries or explanations, the manager of the specific site should prepare an estimate of the costs of preparing such items.
 - 3.10.2 The patient/representative must be notified of the estimated costs of preparing the explanation or summary and given an opportunity to decide whether to continue with the request, modify the request to reduce the costs or withdraw the request.
 - 3.10.3 Ordinarily, the patient/representative must agree to reimburse any estimated costs before any preparation of the requested materials. The standard notice of estimated costs is included in **Appendix B** of this policy.
- 3.11 Recording the Access Provided.
- 3.11.1 If access is granted, the TAMHSC Health Care Component should complete the form provided in **Appendix C** of this policy. Completed forms should be added to the patient's records.
- 3.12 Denying Access Without Opportunity for Review.
- In certain circumstances, a patient's/representative's request to access health information should be denied, and the patient/representative will not have any right to challenge or appeal the denial. Those circumstances include the following.
- 3.12.1 The request is not in writing.
 - 3.12.2 The information requested is not contained in a designated record set maintained by the TAMHSC Health Care Component or any of its business associates.
 - 3.12.3 Partial Denial. If there are grounds to deny the request as to only part of the protected health information requested, the manager of the specific site is expected to do their best to provide the patient/representative with

access to the rest of the information after excluding the parts that cannot be inspected or copied.

3.13 Notice of Denial.

3.13.1 If the request is being denied without an opportunity for review, the Clinic designee of the TAMHSC Health Care Component must notify the patient/representative, within the time frame applicable in Section 2 of this policy, using the denial notice provided in **Appendix D** of this policy.

3.13.2 When preparing the denial notice, the TAMHSC Health Care Component should indicate the grounds for denying the request by checking off the appropriate box or boxes.

3.13.3 If the request is denied because the TAMHSC Health Care Component does not maintain the information in a designated record set, the TAMHSC Health Care Component must state in the denial notice any credible information that the manager may have about where the patient/representative may obtain access to the requested records (e.g. inform the patient/representative to submit a request to the hospital where the TAMHSC Health Care Component physician or clinician services were provided.)

3.13.4 If the request is only partially denied, the TAMHSC Health Care Component must explain in the denial notice what information the patient/representative will not be permitted to access and what information the patient will be permitted to access.

- If the patient/representative has requested an opportunity to inspect records, the notice should include instructions about how the person may arrange to examine the records to which access is granted.
- If the patient/representative has requested copies of the records, the TAMHSC Health Care Component should include, along with the partial denial notice, copies of those records to which access is granted (after removing the information which the patient/representative is not permitted to access).

3.14. Denying Access with Opportunity For Review.

3.14.1 A request to access health information may also be denied if a licensed health care professional (such as a physician, physician's assistant, or nurse) has made certain determinations based upon his or her professional judgment. In these circumstances, the patient/representative will have an opportunity to challenge or appeal the decision by requesting a review.

3.14.2 A licensed health care professional at the TAMHSC Health Care Component has determined that granting the patient's request is

reasonably likely to endanger the *life or physical safety* of the patient or another person.

3.14.3 The danger must be to life or physical safety. The request cannot be denied simply because the information is sensitive or has the potential to cause emotional or psychological harm to the patient or another person.

3.14.4 The information requested refers to another person, and a licensed health care professional at the TAMHSC Health Care Component has determined that granting the patient access to this information is reasonably likely to endanger the life or safety of that other person.

3.15 Partial Denial.

3.15.1 If there are grounds to deny the request as to only part of the protected health information requested, the manager of the specific site is expected to do their best to provide the patient/representative with access to the rest of the information after excluding the parts that cannot be inspected or copied.

3.16 Notice of Denial.

3.16.1 If the request is being denied with an opportunity for review, the manager of the specific site must notify the patient/representative, within the time frame applicable in Section 2 of this policy, using the denial notice provided in **Appendix E** of this policy.

3.16.2 When preparing the denial notice, the TAMHSC Health Care Component should indicate the grounds for denying the request by checking off the appropriate box or boxes.

3.16.3 If the request is only partially denied, the TAMHSC Health Care Component must modify the denial notice to explain what information the patient/representative will not be permitted to access and what information the patient/representative will be permitted to access.

3.16.4 If the patient/representative has requested an opportunity to inspect records, the notice should include instructions about how the person may schedule an appointment to examine the records to which access is granted.

3.16.5 If the patient/representative has requested copies of the records, the TAMHSC Health Care Component should include, along with the partial denial notice, copies of those records to which access is granted (after removing the information which the patient/representative is not permitted to access).

3.17 Review Process.

- 3.17.1 If access is denied for any of the reasons provided in Section 5 of this policy, the patient/representative has a right to have the decision reviewed by a licensed health care professional who was not directly involved in the initial decision to deny the request.
- 3.17.2 If a patient/representative requests this review, the TAMHSC Health Care Component must refer the request to the Privacy Officer who in turn will refer this on to the Medical Director/designee of the TAMHSC Health Care Component.
- 3.17.3 The Medical Director/designee of the TAMHSC Health Care Component must determine, within a reasonable period of time, whether access was properly denied under any of the grounds provided in Section 5 of this policy, and report his/her results to the Privacy Officer who in turn will notify the TAMHSC Health Care Component responsible for handling the request. In most cases, we would expect a response should be provided within ten (10) days.
- 3.17.4 The TAMHSC Health Care Component must then notify the patient/representative of the results of the review using the letter provided in **Appendix F**.
 - Check off the appropriate box indicating the results of the review process.
 - The letter must explain how the patient may file a complaint with TAMHSC Health Care Component or the Department of Health and Human Services. This form cannot be removed from the letter provided in **Appendix F**.
 - If access is required after the review process is completed, the manager of the specific site must follow the procedures in Section 3 of this policy.

3.18 Documentation.

- 3.18.1 The TAMHSC Health Care Component must keep the following documentation in connection with any request by a patient/representative to access protected health information. These documents must be maintained by the TAMHSC Health Care Component for six (6) years from the date of their creation.
- 3.18.2 The request for access, which should be in writing and preferably on the form provided in **Appendix A**;

- 3.18.3 Copies of any notices advising that a fee may be charged to recover the costs of providing copies, summaries, or explanations of the information requested on the form provided in **Appendix B**.
- 3.18.4 Information about any access provided to the patient/representative, which should be recorded on the form provided in **Appendix C**.
- 3.18.5 A copy of any notice of denial sent to the patient/representative using a modified version of the letter provided in **Appendix D** or **Appendix E** (as applicable).
- 3.18.6 A copy of any notice of review results sent to the patient/representative using a modified version of the letter provided in **Appendix F**.

4. VIOLATIONS

The Privacy Officer has general responsibility for implementation of this policy. Employees who violate this policy will be subject to disciplinary action up to and including termination of employment. Anyone who knows or has reason to believe that another person has violated this policy should report the matter promptly to his or her supervisor or the Privacy Officer. All reported matters will be investigated, and, where appropriate, steps will be taken to remedy the situation. Where possible, every effort will be made to handle the reported matter confidentially. Any attempt to retaliate against a person for reporting a violation of this policy will itself be considered a violation of this policy that may result in disciplinary action up to and including termination of employment.

OFFICE OF RESPONSIBILITY

Vice President of Finance and Administration

HIPAA Code: §164.524

Appendix A

PATIENT REQUEST FOR ACCESS TO MEDICAL RECORDS

Our patients and their personal or legal representatives have the right to inspect and obtain a copy of most information in our records that may be used to make decisions about the patients or their treatment for as long as we maintain the information in our records. Patients and their personal or legal representatives may also request that we provide a summary of the information (instead of copies) or an explanation of complicated information. Please see our Notice of Privacy Practices for a more detailed description of these rights and the process we follow once we have received a request. To request access to records, please complete and return the following request form.

PATIENT INFORMATION

Patient Name:

Last	First	Middle
------	-------	--------

Address:

Telephone:

_____ (daytime)
_____ (evening)
Email Address (optional):

ACCESS REQUESTED

Please answer the following questions. You may attach a separate page if more space is needed.

What information would you like to access? Please provide the dates that tests were performed or treatment was provided.

What type of access are you requesting? Check all that apply:

INSPECT _____ COPY _____ SUMMARY _____ EXPLANATION _____

If you are requesting a copy, summary, or explanation of the information, how would you like these materials delivered to you? You may pick up these materials at our facility or request that we send them to you by regular mail.

Check one: PICK UP _____ BY MAIL _____

If your request is being made because of an emergency, please describe the nature of the emergency and the date you need the information. We cannot guarantee that we will meet your deadline, but we will do our very best to accommodate reasonable requests.

FEES

Copying and Distribution Costs. We will charge you a reasonable fee to recover the costs of copying. Our standard fee for copying is \$.25 per page or \$5.00 for items we can't reproduce with a photocopier (e.g., x-rays, mammograms). We will not contact you before this information is prepared.

Summary or Explanation. We will also charge a fee to recover the costs of providing any summary or explanations you have requested.

UNDERSTANDING AND SIGNATURE

By signing below, I am requesting that the TAMHSC Health Care Component provide me with access to health information in the manner described above. I understand that I will be expected to pay the fees for a summary or explanation for fulfilling this request.

Signature of Patient or Personal Representative

Print Name of Patient or Personal Representative

Date

Description of Personal Representative's Authority

For Internal Use Only:

Date Received: (MO/DY/YR) ____/____/____

Disposition of Request: ____ GRANTED ____ DENIED ____ PARTIALLY DENIED

Patient Notified In Writing Of Response To Request On This Date: (MO/DY/YR)

____/____/____

Fee Charged For Fulfilling This Request (if applicable): \$ _____

Name or Initials of the manager of the specific site who is processing this request:

Appendix B

[Date]
[Jane Doe]
[Street Address 1]
[Street Address 2]
[City, State Zip Code]

Re: Request for Access to Health Information

Dear Ms. Doe:

This letter responds to your request for access to your health information, which we received from you on _____. We have determined that the following fees will apply if we process your request:

- A fee of \$25.00 will be charged to prepare a summary of the information for you.
- A fee of \$25.00 will be charged to prepare an explanation of the information for you.

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

- You may ask us to proceed with your request and pay the fee provided 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 60 days, we will assume that you have decided to withdraw your request.

[TAMHSC Health Care Component]

[Privacy Official or Designee]
[Street Address]
[City, State, Zip Code]
[Phone Number]

Regards,

[TAMHSC Health Care
Component Privacy Official
or Designee]

Appendix C

ACCESS PROVIDED TO PATIENT OR PATIENT'S PERSONAL REPRESENTATIVE

Patient Name: _____ **ID Number:** _____

This form must be completed by the manager of the specific site or the TAMHSC Health Care Component when a patient is granted access to his or her health information, or the patient's personal or legal representative is granted access to the patient's information. The manager completing this form should remember to print his or her name where provided and sign and date the form.

RECIPIENT OF ACCESS

Check the appropriate box:

Who received access to the information?

- Patient Patient's Personal or Legal Representative

INSPECTION

Complete this section if the patient or personal representative was permitted to inspect information:

What information was the person permitted to inspect?

When did the person inspect this information?

(MO/DY/YR) ___/___/___

COPIES

Complete this section if the patient or representative was provided with copies of information.

What information was the patient representative permitted to copy?

How were these copies provided?

Check one: PICK UP _____ BY MAIL _____

Mailing Address:

When were these copies provided? (MO/DY/YR) ___/___/___

What fee was charged to the patient or representative for providing these copies?

\$ _____

SUMMARY OR EXPLANATION OF INFORMATION

Complete this section if the patient or representative was provided with a summary or explanation of the requested information.

What is the title of that summary or explanation?

Has a copy of the summary or explanation been added to the patient's medical record?

Yes _____ Date _____

Who prepared the summary or explanation? _____

What fee was charged to the patient for providing this summary or explanation?

\$ _____

Signature of the manager of the specific site

Print name of the manager of the specific site

Date

REMINDER:

ADD THIS FORM TO THE PATIENT'S MEDICAL RECORD (OR BILLING RECORD FOR TAMHSC HEALTH CARE COMPONENT CLAIMS) ALONG WITH COPIES OF ANY SUMMARIES OR EXPLANATIONS PROVIDED TO THE PATIENT

Appendix D

[Date]
[Jane Doe]
[Street Address 1]
[Street Address 2]
[City, State Zip Code]

Re: Denial of Request To Access Health Information

Dear Ms. Doe:

This letter responds to your request to access your health information, which we received from you on _____. For the reasons stated below, we are denying your request for access to all or part of this information.

- The request was not in writing.
- The information requested is not available in records we use to make decisions about your treatment or benefits.

However, this information may be available in records maintained by_____.

This denial applies to ALL or PART of the information you requested. If we are denying your access to only part of the information, you will be given access to the following information after we have removed the parts which we cannot permit you to access:

If you believe that we have improperly handled your request to access your protected health information, you may file a complaint with us or with the Secretary of the United States Department of Health and Human Services;

<http://www.hhs.gov/ocr/privacy/hipaa/complaints/index.html>.

To file a complaint with us, please contact [insert the name, title, address, and telephone number of the responsible person or department]. *No one will retaliate or take action against you for filing a complaint.*

[TAMHSC Health Care Component]

[Privacy Official or Designee]
[Street Address]
[City, State, Zip Code]
[Phone Number]

Regards,

[TAMHSC Health Care Component
Privacy Official or Designee]

Appendix E

[Date]
[Jane Doe]
[Street Address 1]
[Street Address 2]
[City, State Zip Code]

Re: Denial of Request To Access Health Information

Dear Ms. Doe:

This letter responds to your request to access your health information, which we received from you on _____. We are denying your request for access to all or part of this information because we believe that granting your request is reasonably likely to endanger your or someone else's life or physical safety.

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 complete access to the remaining information after we have excluded the parts which we cannot permit you to access. You have the right to have this decision reviewed by a licensed health care professional who was not directly involved in our initial decision to deny your request. If you want to exercise this right, please contact the manager of the specific site who in turn will contact the Privacy Officer. We will comply with the health care professional's decision.

If you believe that we have improperly handled your request to access your protected health information, you may file a complaint with us or with the Secretary of the United States Department of Health and Human Services

<http://www.hhs.gov/ocr/privacy/hipaa/complaints/index.html> .

To file a complaint with us, please contact [insert the name, title, address, and telephone number of the responsible person or department]. *No one will retaliate or take action against you for filing a complaint.*

[TAMHSC Health Care Component]

[Privacy Official or Designee]
[Street Address]
[City, State, Zip Code]
[Phone Number]

Regards,

[TAMHSC Health Care Component
Privacy Official or Designee]

Appendix F

[Date]
[Jane Doe]
[Street Address 1]
[Street Address 2]
[City, State Zip Code]

Re: Denial of Request To Access Health Information—Results of Review

Dear Ms. Doe:

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

- Your request was properly denied for the reason provided in our initial notice.
- Your request was improperly denied for the reason provided in our initial notice, but is properly denied for another reason, which is _____.
- 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 [insert name and contact information of responsible person or department] to arrange to inspect the information which you are entitled to access.

If you have requested copies, we will provide them in the manner requested on your initial request form after we have removed the information that we cannot permit you to access. Please contact [insert name and contact information of responsible person or department] to arrange to inspect the information. If you have requested copies, we will provide them in the manner requested on your initial request form.

If you believe that we have improperly handled your request to access your protected health information, you may file a complaint with us or with the Secretary of the United States Department of Health and Human Services
<http://www.hhs.gov/ocr/privacy/hipaa/complaints/index.html>.

To file a complaint with us, please contact [insert the name, title, address, and telephone number of the responsible person or department]. *No one will retaliate or take action against you for filing a complaint.*

[TAMHSC Health Care Component]

[Privacy Official or Designee]
[Street Address]
[City, State, Zip Code]
[Phone Number]

Regards,
[TAMHSC Health Care Component
Privacy Official or Designee]