

## Policy and Procedure

**Subject:** A Patient's Right to Access Protected Health Information

<b>Issued By:</b>	<b>HCHN Management</b>	<b>Policy #:</b>
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<b>Approved By:</b>	<b>HCHN Board of Directors</b>	<b>Effective Date:</b>

### **Policy:**

Hamilton Community Health Network will provide its patients the right of access to inspect and obtain a copy of the health information that HCHN maintains about them in designated record sets for as long HCHN maintains the information in the record sets, unless an exception as described in this policy and procedure applies. [§ 164.524(a)(1)]

### **Responsibility:**

Medical Records

### **Procedure:**

**1. Right of Access.** A patient's right of access applies to the patient's protected health information maintained by HCHN in a designated record set, for as long as HCHN maintains the record set. A "designated record set" is the patient's medical record, billing record or any other group of records about the patient that HCHN maintains and uses to make decisions about the patient. [§§ 164.501; 164.524 (a)(1)]

**2. Written Requests.** A patient may request access to his or her protected health information by submitting valid authorization in accordance with HCHN's authorization policy. [§ 164.524(b)(1)]

**3. Granted Requests.** If HCHN grants a patient's request, in whole or in part, it will inform the patient of HCHN's acceptance of the request and provide the access requested within the time frame specified in this procedure. [§ 164.524(b)(2)(A)]

**4. 30 Days to Respond.** All requests for release of information to a patient, unless denied for grounds specified in this procedure, must be fulfilled within 30 days of HCHN's receipt of request or, if the records are not maintained on-site, within 60 days thereof. If HCHN is unable to fulfill the request within the applicable time period, we will, within the applicable 30 or 60 day time period, provide the patient with a written statement of the reasons for the delay and the date by which HCHN will complete the request. This date must not exceed an additional 30 days. Only one extension is permitted. [§ 164.524(b)(2)]

**5. Verification.** HCHN will obtain the patient's medical record and verify the patient's demographic information and signature on the authorization with information and signature in the patient's medical record. If the authenticity of the patient cannot be verified, HCHN will request that the patient provide a notarized authorization.

**6. Fees.** HCHN will not charge a fee for processing requests for releases to other health care providers, for continuing care, for school purposes, for insurance or for Workers' Compensation. For all other requests, HCHN will charge a reasonable fee of \$ \_\_\_\_\_ **[fee can be a "per page" fee for copying requests, "per hour" fee for inspection requests, or other reasonable fee as determined by the Health Center]** to cover its costs in complying with the request, including costs associated with copying, postage and preparing a summary or explanation. HCHN may waive this fee for patients who demonstrate financial need. [**§ 164.524(c)(4)**]

**7. Grounds for Denial.** HCHN will review the records requested to determine if access is appropriate. Grounds for denial are limited to the specific situations described below. If the grounds for denial specify a determination based on the exercise of professional judgment, the records review will be conducted by one of HCHN's licensed health care professionals designated to perform the review. Depending on the grounds that form the basis for the denial, HCHN's decision may or may not be subject to review. In certain cases, the patient may request a review of HCHN's decision to deny access. In others, the decision to deny is unreviewable. Whenever a request is denied, HCHN will follow the procedure set forth in Section 10 of this procedure.

HCHN may deny access on any of the following grounds:

- a. in the exercise of professional judgment, HCHN determines that the requested access is reasonably likely to endanger the life or physical safety of the patient or other person
- b. the information references another person and HCHN, in the exercise of professional judgment, determines that the requested access is reasonably likely to cause substantial harm to the other person
- c. the request is made by the patient's personal representative and HCHN determines, in the exercise of professional judgment, that the requested access is reasonably likely to cause substantial harm to the patient or another person

Denials on these grounds are reviewable pursuant to the procedures described in Sections 12 and 13 of this procedure. [**§ 164.524(a)(2)**]

HCHN may deny access on any of the following additional grounds:

- a. the information was compiled in reasonable anticipation of, or for use in, a civil, criminal or administrative action or proceeding

- b. the request is for psychotherapy notes
- c. the information is subject to the Clinical Laboratory Improvements Amendments of 1988 (“CLIA”), 42 U.S.C. § 263a, to the extent that access would be prohibited by law or the information is CLIA exempt pursuant to 42 C.F.R. § 493.3(a)(2)
- d. the request is from an inmate of a correctional institution and HCHN believes that providing a copy of the information would jeopardize the health, safety, security, custody or rehabilitation of the inmate or of other inmates, or the safety of any officer, employee or other person at the correctional institution or the safety of any person responsible for transporting the inmate
- e. the patient has agreed to the denial of access when consenting to participate in a research study that HCHN is conducting that includes treatment, for the duration of the research study
- f. the information is subject to the federal Privacy Act, 5 U.S.C. § 552a, and denial meets the requirements of that law
- g. if the protected health information was obtained from someone other than a health care provider under a promise of confidentiality and likely to reveal the source of the information

Denials on these grounds are not reviewable. [§ 164.524(a)(2)]

**8. Completeness of Requested Records.** HCHN will review the requested records to determine if they are complete. If the information is not complete, HCHN will inform the physician responsible for the records’ completion that a request for access has been made by the patient and the record will need to be completed within 30 days in order to comply with the patient’s request. If the record is not completed within 30 days, HCHN will send a copy of the authorization to the patient indicating that an extension will be required because the record is in the process of being completed and indicating the date on which access will be granted.

**9. Form and Format.** Unless denied, HCHN will provide access in the form or format requested and if not readily producible, in readable hard copy form or other agreed-upon form or format. In lieu of providing the requested access, HCHN may provide the patient with a summary of the requested health information or may provide an explanation of the information to which access has been provided if the patient agrees in advance to such a summary or explanation and any fees imposed for their preparation. [§ 164.524(c)(2)]

**10. Inspections.** If access to the requested records is granted and the patient requests to inspect the records, HCHN will schedule an appointment for the patient to visit the Health Center. If the request is only for a portion of a record, HCHN will remove that portion and place it in a separate folder for purposes of the inspection. HCHN’s privacy

contact person or medical records manager, or their designee, must be present while the patient is inspecting the record. During this time, the patient may not remove any documents from the record or write any information in the record. If the patient wishes to make an amendment to the record, HCHN will follow the procedure set forth in the Health Center's policy and procedure on amendment of protected health information. If the patient has any questions concerning the information in the record, HCHN will inform the patient that an appointment must be made with the physician to discuss the information. If the question concerns a billing matter, HCHN will refer the patient to the billing manager.

**11. Copies.** If access to the requested records is granted and the patient requests a copy of the records, HCHN will make the copies and send the information to the patient by U.S. mail. If the patient requests that this information be mailed to a different address or to a different person, or be picked up at the Health Center, this information must be stated in the authorization. HCHN will require photo identification before releasing the information to the patient or his/her designee, as specified in the authorization, and will ask him/her to sign and date the authorization to indicate receipt. The type of photo identification provided (*e.g.*, a drivers' license) will be recorded on the patient's signed authorization form.

**12. Denying a Request.** Denial of access, in whole or in part, is a serious matter under the law. Before informing a patient of HCHN's decision to deny a request, the Health Center will conduct an internal review of the denial. Any recommendation of denial should be given to the Director of Administration, who will authorize the denial. To the extent possible, HCHN will provide access to any other protected health information requested after excluding the information for which it has grounds to deny access. [§ 164.524 (d)(1)] HCHN may also agree to provide a summary of the record in an effort to comply with the patient's request.

HCHN will return a copy of the authorization to the patient, together with a written statement of denial that includes:

- a. an explanation of the basis for the denial and, if applicable, a statement that the Health Center is able to provide access to a portion of the record or a summary of the information if so requested
- b. if the denial is reviewable by the patient, a statement of these review rights and a description of how the patient may exercise these rights
- c. a description of how the patient may file a complaint with the Health Center or the Secretary of the Department of Health and Human Services, including in this description the name, or title, and telephone number of HCHN's privacy contact person [§ 164.524(d)(2)]

**13. Reviewing a Denial Pursuant to Patient Request.** If a request for review is received, promptly give a copy of the authorization, HCHN's statement of denial, the

medical, billing or other applicable record set to the Medical Director or designate, the licensed health care professional designated by the Health Center to conduct reviews of all denials. HCHN's final determination will be made within a reasonable period of time of receiving the request. If he/she was directly involved in the decision to deny access, the review will be conducted by another licensed health care professional who was not directly involved. Upon completing the review, HCHN will promptly provide written notice of the Health Center's final determination to the patient and, if applicable, take such action as is necessary to carry out the final determination. [§ 164.524(a)(4) & (d)(4)]

**14. If HCHN Does Not Have the Requested Records.** If a request to access protected health information is made and the person is or was not a patient of HCHN, return a copy of the authorization to the person, together with a statement that HCHN does not have any records for this patient. If HCHN knows where the requested information may be maintained (such as at a hospital or physician's office), HCHN will provide the name and address of the location where it is believed the records are maintained. [§ 164.524(d)(3)]

**15. Documentation.** HCHN will maintain a patient's authorization, together with any related correspondence, in the patient's medical record for at least six (6) years or such other period as may be required by HCHN's privacy documentation policy or the Privacy Rule.

**This policy and procedure shall be periodically reviewed and updated consistent with the requirements and standards established by the Board of Directors and by HCHN management, Federal and State law and regulations, and applicable accrediting and review organizations.**