



Issuing Department: Internal Audit, Compliance, and
Enterprise Risk Management

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Right to Inspect and Obtain PHI

Policy

Patients have the right to access or inspect their Protected Health Information (“PHI”) contained in the Designated Record Set. Patients also have the right to obtain copies (including electronic) of their PHI contained in the Designated Record Set.

The Medical Center, in limited circumstances, may deny this right. Patients may also have the right to an internal and/or the New York State Medical Access Review Board review of a denial.

All patient requests to inspect and/or obtain a copy of PHI must be submitted in writing in accordance with Medical Center procedures. The Medical Center will respond to all requests to inspect within ten (10) days of receipt of the request and within three (3) days if the request is for an electronic copy of PHI maintained in the Medical Center’s electronic health record.

A reasonable, cost-based fee may be imposed for accommodating the patient’s request to inspect or obtain a copy of their PHI. The Medical Center may not deny a patient’s request for copies of medical records solely because of the patient’s inability to pay for the requested copy or any outstanding medical treatment bills.

Patients may inspect their PHI once every calendar quarter; however patients are always permitted to request copies of their PHI. The Medical Center may not deny a patient’s request to inspect solely because of the patient’s inability to pay for the fee or any outstanding medical bills.

Workforce Members should be aware that special privacy protections apply to Confidential HIV-Related Information, alcohol and substance abuse information, mental health information, and genetic information.

Procedure

1. All requests to inspect PHI must be made in writing, using the “Patient Request to Inspect PHI” Form (“Request Form”).
 - Where available, Medical Center staff should encourage the patient to access their medical information online via the Medical Center’s NYULangoneHealth application available at:
<https://www.nyulangonehealth.com/mychart/>.

2. All requests to obtain copies of PHI must be made in writing, using the appropriate request form.
 - To request copies of Tisch Hospital records, Hospital for Joint Diseases records, Cancer Center records, all other Hospital Center site records, and School of Medicine Faculty Group Practice records, the patient must complete the “NYU Langone Medical Center Authorization for Release of Protected Health Information” Form.
 - To request copies of radiology films or reports the patient must complete the “Department of Radiology Authorization for Release of Protected Health Information” Form.
 - To request copies of mammograms the patient must complete the “NYU Hospitals Center Breast Imaging Center Authorization for Release of Protected Health Information” Form.

3. A patient’s Personal Representative may request access to inspect the patient’s PHI. The Medical Center should generally grant or deny access in accordance with the procedures set forth in this Policy as though the Personal Representative were the patient, unless one of the following exceptions apply:
 - If a physician has certified that the patient lacks the capacity to make health care decisions and a Personal Representative is designated, the Medical Center must grant the Personal Representative full access to the patient’s PHI, *even if the patient would otherwise be denied access under this policy*. Full access is required under New York State law to allow the personal representative to make informed decisions regarding the patient’s health care.
 - If a personal representative requests access to the PHI of a patient over the age of twelve (12) years, the Medical Center may notify the patient and permit the patient the opportunity to object to such access by the Personal Representative. If the patient objects, the Medical Center may deny the Personal Representative’s request for access. Consultation with the treating practitioner is required before rendering a decision. The Medical Center must provide written notice of the decision to the Personal Representative in accordance with the procedures set forth in this policy.
 - A parent or guardian is not entitled to inspect or obtain copies of any patient information concerning the care or treatment of a patient under the age of eighteen (18) (a “minor”) if the treating physician certifies that such access would have a detrimental effect on:
 - the physician’s professional relationship with the minor,
 - the care or treatment of the minor, or
 - the minor’s relationship with his or her parents or guardian.

*The Medical Center must provide written notification of such a decision.
 - A parent or guardian is not entitled to inspect or obtain copies of any patient information concerning the treatment of a minor patient for a venereal disease or the performance of an abortion operation.

4. Workforce Members should forward the completed Request Form to the appropriate unit as follows:
- requests to inspect or obtain copies of Tisch Hospital and other NYU Hospitals Center site records shall go to: Health Information Management (“HIM”), NYU Hospitals Center.
 - requests to inspect or obtain copies of Hospital for Joint Diseases records shall go to: HIM, Hospital for Joint Diseases.
 - requests to inspect or obtain copies of Cancer Center records shall go to: HIM, NYU Clinical Cancer Center.
 - requests to inspect or obtain copies of Faculty Group Practice records shall go directly to the individual physician’s office.
 - requests to inspect or obtain copies of patient billing records shall go to: Customer Service, Revenue Cycle Operations for NYU Hospitals Center billing records and Central Billing Office for Faculty Group Practice billing records.
5. Determine, after consultation with the Attending Physician or similar, whether the request to inspect or obtain copies should be granted or denied, in whole or in part. Refer to the chart below for further explanation.

Basis for Denial	Right to Internal Review of Denial?	Right to Review of Denial by the NYS Medical Access Review Board?
<u>Incomplete Request Form</u>	No	No
The information requested is <u>not contained in a Designated Record Set</u> Maintained by the Medical Center or its Business Associate(s), for example the information was obtained from another provider	No	No
The information was <u>obtained or created in the course of research</u> and the research is still in progress (provided the patient agreed to this denial of access when consenting to the research study)	No	No
The information requested are the <u>personal notes or observations</u> of the clinician	No	Yes
A licensed health care professional has determined, in the exercise of professional judgment, that granting access is <u>reasonably likely to endanger the life or safety of the patient or another person</u>	Yes	Yes; judicial review also available
The information <u>makes reference to another person</u> and a licensed health care professional has determined, in the exercise of professional judgment, that granting access is <u>reasonably likely to cause substantial harm to the referenced person</u>	Yes	Yes; judicial review also available
The information was <u>requested by the patient’s Personal Representative</u> and a licensed health care professional has determined, in the exercise of professional	Yes	Yes; judicial review also available

judgment, that <u>granting access is reasonably likely to cause substantial harm to the patient or another person</u>		
The information was compiled in <u>reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding</u>	No	No
The information was obtained from someone other than a health care provider under an <u>agreement of confidentiality</u> and access to the information would reveal the identity of the person	No	No
Provision of the information to the requesting <u>inmate</u> would jeopardize the health, safety, security, custody, or rehabilitation of the requesting inmate, other inmates, officers or employees at the correctional institution, or other persons responsible for transporting the inmate	No	No
The information is a lab result that must be obtained directly from the ordering clinician; the clinician's authorization is required before release.	No	No

6. Respond to all requests, in the manner described in 8 below, to inspect or obtain copies of PHI within ten (10) days from receipt of the Request Form.
 - Requests for electronic copies of PHI, maintained in the Medical Center's electronic health record, must be responded to within three (3) days from receipt of the Request Form.
 - If the requested records are located offsite, respond within **sixty (60) days** from receipt of the Request Form.
 - If a request cannot be fulfilled within the timeframe, notify the requestor in writing of the reasons for the delay and the date by which the patient can expect a response.

7. Inform the patient where to direct their request to inspect or obtain copies of PHI, if the Medical Center does not maintain the record that is the subject of the patient's request and the Workforce Member knows where the requested information is maintained.

8. Inform the requestor of the decision.
 - Request Granted:
 - to inspect: inform in writing using the "Request to Inspect Protected Health Information- Granted" template
 - to obtain copies: no written response required, provide copies in the format requested once the proper Request Form is obtained
 - Request Denied:
 - to inspect: inform in writing using the "Patient Request to Inspect Protected Health Information-Denied" template
 - to obtain copies: inform in writing using the "Patient Request to Obtain a Copy of Protected Health Information- Denied" template
 - include: the reason(s) for the denial, their right (if any) to seek further review, and a description of how the patient may complain to the Medical Center, the U.S. Department of Health and Human Services,

and New York State Department of Health, by including a “New York State Department of Health Denial of Access to Patient Information and Appeal Form”, available at: <http://www.health.ny.gov/forms/doh-1989.pdf>.

9. Verify the requestor’s identity prior to providing access or copies.
10. Remove any PHI to which the requestor is not permitted access **prior** to providing an opportunity to inspect or **prior** to providing copies of the requested records.
11. During inspecting:
 - A Workforce Member will remain in the room to ensure that there is no tampering with any information, but remain at a reasonable distance to afford privacy.
 - Do not attempt to explain any information contained in the record, unless the Workforce Members is a licensed health care professional associated with the inspected record.
 - If the requestor asks to obtain copies, he/she must complete and submit the “Authorization for Release of Protected Health Information” Form.
12. Workforce Members need only produce the requested PHI once (for inspection and/or obtaining copies), even if it is maintained in more than one Designated Record Set, or at more than one location.
13. If the patient agrees in advance, the Medical Center may provide the patient with a written summary or explanation of the PHI that is the subject of the request to inspect or obtain in lieu of providing an opportunity to inspect or actual copies, even if the request would be denied under this policy. The Medical Center may charge the patient for the costs associated with preparing the summary or explanation, so long as the patient agrees in advance to such costs.
14. The Medical Center may charge fees as follows:
 - The first hour of inspection is provided free of charge. Subsequent hours of inspection will be subject to a reasonable, cost-based fee of fifty (\$50) dollars per hour, with a maximum inspection time of three (3) hours.
 - The Medical Center may charge a fee, not to exceed seventy-five cents (0.75¢) per page plus postage for the reproduction and delivery of patient records.
 - Copies of radiology films are provided on a password protected CD for twenty-five dollars (\$25) per CD.
 - Radiology reports will be provided at no cost.
 - Patients will not be charged for the costs of producing an original mammogram (i.e., original as opposed to a copy of the mammogram), but may charge patients for the cost of delivering the original mammogram.
15. If the patient requests an internal review of a denial:

- Workforce Members must promptly refer the request for review to the Director of HIM who will refer the matter as follows:
 - The Chief Medical Officer will review the denial of a request to inspect Hospital records.
 - The Chief Clinical Officer will review the denial of a request to inspect School of Medicine or Faculty Group Practice records.
- The Reviewing Official must:
 - determine, within fifteen (15) days from receipt of the request whether or not to deny the patient’s request to inspect based on the permitted grounds for denial.
 - promptly notify the referring department of his or her decision.
 - The referring department must provide written notice of the decision to the patient within fifteen (15) days of receipt of the reviewing official’s decision using the “Denial of Request to Inspect – Results of Review” or the “Denial of Request to Obtain – Results of Review” Form.
 - If the Reviewing Official determines that access should be granted, the Medical Center must provide access as set forth in this Policy.

16. If the patient requests review of the denial by the appropriate New York State Medical Access Review Committee (“Committee”), the Medical Center must transmit the information, including personal notes and observations, within ten (10) days of the receipt of such request to the chairman of the appropriate Committee with a statement setting forth the basis of the denial. In the event that the Committee determines that the request for access shall be granted, in whole or in part, the Medical Center shall grant access pursuant to the Committee’s determination and/or with the procedures set forth in this Policy.

17. If the patient seeks judicial review of the denial, Workforce Members will forward all such requests or subpoenas to the Privacy Manager or the Office of Legal Counsel.

18. Maintain all documentation required by this Policy in the patient’s medical record for a period of at least six (6) years.

Related Documents

Department of Radiology Authorization for Release of Protected Health Information

Designated Record Set

NYU Hospitals Center Breast Imaging Center Authorization for Release of Protected Health Information

NYU Langone Medical Center Authorization for Release of Protected Health Information Form

Patient Request to Inspect Protected Health Information- Denied template

Patient Request to Inspect Protected Health Information Form

Patient Request to Inspect Protected Health Information- Granted template

Patient Request to Obtain a Copy of Protected Health Information- Denied template

Verification of Identity and Authority Prior to Disclosure of PHI

Legal Reference

45 C.F.R. §164.524

This version supersedes all previous Hospitals Center, School of Medicine, and/or Medical Center policies.