

Great Rivers Behavioral Health Administrative Services Organization

Policy Title:	Individual's Right to Amendment of Protected Health Information	Policy No. 5011.00
Category:	Privacy & Security	Date Adopted: 01/10/2020 Date Revised: Date Reviewed:
Reference:	Washington Department of Social and Health Services Contract with Great Rivers Behavioral Health Administrative Services Organization 45 CFR Section 164.526	

Policy:

- 1.1. Great Rivers Behavioral Health (Great Rivers) will consider and appropriately respond to an individual's timely request to amend protected health information maintained in a designated record set consistent with 45 CFR Section 164.526 unless a basis for denial exists.

Procedure:

- 2.1. Individual's Right to Amendment of Protected Health Information
 - 2.1.1. Individual in services who wish to amend any of the PHI held by the organization should be directed to make the request in writing preferably using the Request for Amendment form attached to this procedure.
 - 2.1.1.1. If necessary, the individual in services should be assisted by provider staff in completing the form.
 - 2.1.1.2. Individual in Services should be directed to send all completed forms via the United States Post Office, other private mail delivery system, or hand delivery to the address of the provider Privacy Officer.
 - 2.1.1.2.1. Under no circumstances should staff offer to use the internal mail system to deliver these completed forms.
 - 2.1.1.2.2. If a staff person receives a completed form in error, he/she should reseal the form and place it in internal mail to be delivered to the Privacy Officer or should place the form in a new envelope and mail it directly to the correct address.
 - 2.1.2. The provider Privacy Officer or designee should log all Requests for Amendment forms into a database that includes the date of the request, the date received, name of Individual in Service, and Primary Care Provider.
 - 2.1.3. The Privacy Officer or a designee should then contact the current Primary Care Provider and notify him/her of the request and the content of the request.
 - 2.1.3.1. The Privacy Officer or designee should, in discussion with the Primary Care Provider determine:
 - 2.1.3.1.1. Who should be involved in the decision about the amendment, e.g. other team members, the Clinical Manager, Clinical Director, agency counsel, etc.

- 2.1.3.1.2. A reasonable time frame (within 5 working days of receipt of the Request for Amendment) for the above individuals to give input as to whether or not the amendment should be approved or denied. Individual in Service must receive our response to the request within 10 working days of receipt of the request, but in any event, no later than 21 working days from the date of request.
- 2.1.3.1.3. The above decisions should be based on the significance of the amendment being requested, the use of the PHI both internally and externally, and the impact of the amendment on the Individual in Service. For example, a simple change in a relatively insignificant date may be able to be approved easily with very little input from others besides the Primary Care Provider and the Privacy Officer. A change in a diagnosis, however, may require the input of all internal providers, certain business associates and others who have relied on or have used the information to guide their care of the Individual in Service.
- 2.1.4. In all cases, the preliminary input should be received no later than 5 working days from the date of the request, if possible, to allow for additional discussion and input where there is disagreement.
 - 2.1.4.1. The Privacy Officer or designee should inform those participating in the amendment decision of the request, its contents and the date for returning preliminary input to the Privacy Officer (within 5 working days).
 - 2.1.4.2. The Privacy Officer or designee should, with the Primary Care Provider, review the responses to determine if there is a consensus on whether or not to approve the amendment.
 - 2.1.4.2.1. The amendment can be denied for the following reasons:
 - 2.1.4.2.1.1. The record is already accurate and complete;
 - 2.1.4.2.1.2. The information was not created by the provider and the original source is not available to make the correction;
 - 2.1.4.2.1.3. The information is not a part of the designated record set; and
 - 2.1.4.2.1.4. The PHI that is the subject of the proposed amendment is not available to the individual because access is not permitted or has been denied under § 164.524 of the HIPAA privacy regulations. See Policy 5007, Individual's Right to Access.
 - 2.1.4.2.2. If there is disagreement among those asked to provide input, the Privacy Officer or designee should set up a meeting or conference call to try to reach consensus. The provider's Compliance Officer should attend this meeting.

- 2.1.4.2.3. If at the meeting consensus cannot be reached, the Privacy Officer, or other applicable clinical staff, will make the final decision using all available information.
- 2.1.4.2.4. If it appears that the decision cannot be made within the 10-working day period required, the Privacy Officer will inform the Individual in Service of the need for a one-time 10-working day extension. This notification will be made in writing; will be written in plain language, will explain why the decision will be delayed, and will give the Individual in Service the date he/she can expect a decision.
- 2.1.4.3. The Privacy Officer or designee will inform the Individual in Service of the decision.
 - 2.1.4.3.1. This reply will be written in plain language.
 - 2.1.4.3.2. If the amendment is approved, the Privacy Officer, or designee, will:
 - 2.1.4.3.2.1. Determine with the persons involved in the decision, how and what records are affected by the amendment and should be corrected. This includes the records of any business associates who have and/or use the amended PHI.
 - 2.1.4.3.2.2. Direct the Primary Care Provider to make the corrections to paper records by either attaching the amended information directly to the PHI being amended, or if amending electronically, by creating a link from the original information to the amended information. In all cases both the original and amended information will be sent together for any future disclosures of this PHI either internally or externally.
 - 2.1.4.3.2.3. Direct the Primary Care Provider to prepare with the Individual in Service a list of individuals or entities who should be informed of the amendment.
 - 2.1.4.3.2.4. Both the Individual in Service and the Primary Care Provider should sign the bottom of the list as an indication that the Individual in Service has agreed with the list.
 - 2.1.4.3.2.5. Direct appropriate staff to make reasonable efforts to locate and inform those on the list of the amendment. The staff should make sure that written confirmation, including a copy of the amendment, is sent to all persons on the list who could be located. If staff is not able to locate a person on the list, he/she should make a notation on the

list. Reasonable efforts include the following steps:

- 2.1.4.3.2.5.1. Request that the individual in Service provide you with confirm of the contact information via telephone;
- 2.1.4.3.2.5.2. Mail a written copy of the amendment to the confirmed addresses Amendment information cannot be delivered orally nor should it be mailed to non-confirmed addresses;
- 2.1.4.3.2.5.3. If the address cannot be confirmed, notify the Individual in Service and do not send the amendment;
- 2.1.4.3.2.5.4. Document next to the name of the individual or entity on the list "Individual in Service notified that address could not be confirmed," date and initial the note; and
- 2.1.4.3.2.5.5. Inform the Individual in Service in writing of all actions taken.

2.1.4.4. If the amendment is not approved the Privacy Officer will include in the notice of denial the following information:

- 2.1.4.4.1. The basis for the denial;
- 2.1.4.4.2. The Individual in Service's right to file a written statement disagreeing with the denial. The Individual in Service should be directed to send the statement to the Privacy Officer at the address included in the notice of denial;
 - 2.1.4.4.2.1. The process for the Individual in Service to use to file a grievance about the denial, including the name, title, and telephone number of the person or office responsible for grievances, or designee; and
 - 2.1.4.4.2.2. The process for filing a grievance/ compliant with the Secretary of United States Department of Health and Human Services (HHS).

2.1.5. If the Individual in Service files a written statement of disagreement with the denial of his/her amendment request, the Privacy Officer will consult with both the Individual in Service's Primary Care Provider and the Chief Clinical Officer to determine if the agency wishes to create a rebuttal statement to the written statement of disagreement.

- 2.1.5.1. If the agency decides not to file a rebuttal statement, copies of the request, denial and statement of disagreement should be attached to the PHI the Individual in Service asked to be amended, and included in any future disclosures of this PHI.
- 2.1.5.2. If the agency decides that it will file a rebuttal statement, copies of this statement the request, denial and statement of disagreement will be included together in any future disclosures of this PHI and a copy of the rebuttal statement will also be mailed to the Individual in Service.
- 2.1.6. The Privacy Officer will be responsible for setting up a meeting with the Individual in Service and Chief Clinical Officer to discuss his/her disagreement with the denial.
 - 2.1.6.1. The Privacy Officer will then meet separately with those providing initial input to discuss his/her reasons for denying the amendment.
 - 2.1.6.2. The Privacy Officer will then send a written notice to the Individual in Service and to those providing initial input, of his/her final decision.
 - 2.1.6.3. The notice to the Individual in Service will include information on the process for filing a grievance with Great Rivers, the provider, or with the Secretary of HHS, if the decision to deny the amendment is upheld. See Great Rivers Grievance Policy.
- 2.2. **PROCEDURE FOR AMENDING PHI HELD IN THE DESIGNATED RECORD SET BUT CREATED BY ANOTHER COVERED ENTITY, HEALTH CARE PROVIDER OR OTHER THIRD PARTY**
 - 2.2.1. If any provider staff person receives a notice of amendment of PHI by another provider, he/she should send the notice directly to the Privacy Officer.
 - 2.2.2. The Privacy Officer in consultation with the Chief Clinical Officer will determine in which record sets the PHI is located. This includes a determination of whether or not the PHI that has been amended has been disclosed to any Business Associates.
 - 2.2.3. The Privacy Officer will designate the appropriate staff people to attach or link the notice of amendment and the amendment language to the original PHI.
- 2.3. All future disclosures of this PHI should include both the original and amended information.

POLICY SIGNATURE

Edna J. Fund, Chair
Great Rivers BH ASO Governing Board

Date