

**TITLE**

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Access of an Individual to Protected Health Information

**PURPOSE**

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In accordance with 45 CFR § 164.524, this guidance provides guidance to The University of Arizona (UA) Health Care Components (HCCs) regarding proper procedures for providing an individual or his/her personal representative the opportunity to review and obtain a copy of the individual's PHI and denying an individual or his/her personal representative access to the individual's PHI.

**REVIEW/REVISIONS**

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- 06/ 2015

**REFERENCES AND RELATED FORMS**

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- Capitalized terms are defined in HIPAA Privacy Program Guidance (Definitions of Key Words) and 45 CFR Parts 160 and 164
  - HIPAA Privacy Program Form B (HIPAA Authorization)
  - HIPAA Privacy Program Form C (Denial of Access to PHI)

**STANDARDS**

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HCCs will establish standards for providing access to PHI, including copies of medical and billing records that comply with 45 CFR § 164.524, Arizona Revised Statutes, and relevant UA HIPAA Policies and Procedures. HCCs will document the release of medical records to the individual and may require the individual to make requests for access to PHI in writing, provided that it informs individuals of that requirement.

1. Right of Access: Individuals and their personal representatives have the right of access to inspect and obtain a copy of their PHI from HCCs (see 45 CFR § 164.524(a)(1) for exceptions).
  - a. HCCs must provide the individual or his/her personal representative with access to the PHI in the form or format requested if it is readily producible in such form or format.
  - b. This includes arranging with the requesting individual for a convenient time and place to inspect or obtain a copy of the PHI, mailing or e-mailing a copy of the PHI at the individual's request, etc.
  - c. If the individual requests electronic access to his/her PHI, HCCs should require that the individual sign an authorization which states that the transmission may not be secure. If the individual elects to have his/her PHI sent over email,

workforce members must encrypt the message, if possible, before sending. Alternatively, the HCCs may provide the individual with his/her PHI via storage media (DVD, CD, flashdrive, etc.).

- i. If the HCC is unable to encrypt the email message containing PHI and the individual requests that the PHI be sent via email, the HCC may obtain a valid Authorization from the patient. The Authorization must state that the transmission is not secure.
      - d. If the individual requests his/her PHI to be faxed, the employee must confirm the fax number before sending the PHI.
      - e. If the PHI is not readily producible in the form or format requested, HCCs must provide a readable, hard copy form or such other form or format as agreed to by HCCs and the individual or his/her personal representative.
2. Fees: HCCs may charge “reasonable fees” for copies of medical records. Fees may reflect the cost of labor, supplies and postage to make and mail copies of records, and in limited cases, the cost of preparing an explanation or summary of the PHI, if the HCC has agreed to prepare such an explanation or summary.
3. Limitations on Access: HCCs may implement procedures that limit access to PHI in certain circumstances, as set forth in 45 CFR § 164.524(a)(1).
4. Denial of Access: HCCs may deny access to PHI in certain circumstances, in writing, and as set forth in 45 CFR § 164.524(a).
  - a. Whenever a HCC identifies a situation in which it believes it must or may deny access to PHI, the HCC must contact the UA HIPAA Privacy Program immediately to review the request and make a determination regarding access to the PHI requested.
  - b. If it is determined that access to the PHI must or should be denied, the HIPAA Privacy Program will respond to the request in compliance with the applicable provisions of 45 CFR § 164.524.
5. Timing of Access: HCCs must act on a request for access no later than thirty days after receipt of the request.
6. Business Associates: Generally, Business Associates are required to inform the Covered Entity of any requests for access to PHI and should not provide the PHI directly to the individual unless the Business Associate Agreement states otherwise.