

<b>IPOLICIES AND PROCEDURES</b>
<b>TOPIC:</b> Patient Amendment of Protected Health Information
<b>DOCUMENT NUMBER:</b> 800
<b>EFFECTIVE DATE:</b> January 30, 2014



**I. BACKGROUND AND PURPOSE**

The purpose of this policy is to describe the role of the WVHIN in ensuring that Patients may seek to amend their own Protected Health Information.

**II. POLICY**

The HIPAA Privacy Standards establish a process by which Patients may seek to amend their own Protected Health Information. This right of amendment applies to any Designated Record Set maintained by a Covered Entity, including a Health Care Provider, Health Plan, or Health Care Clearinghouse. A Designated Record Set simply means any grouping of medical or billing records used to make Treatment or Payment decisions about a Patient. The requested amendment may either be accepted or denied by the Covered Entity whose records are subject to the Patient’s requested amendment.

The WVHIN is neither a Covered Entity nor a licensed, certified, or registered Health Care Provider. Moreover, it is not contemplated that the WVHIN will act as a depository of a Designated Record Set containing Protected Health Information for or on behalf of any of its Participating Organizations, but will instead facilitate the exchange of Protected Health Information between Participating Organizations for one or more Permissible Purposes. Participating Organizations are the originators of the Protected Health Information, and maintain the Designated Record Sets in which this information resides. As such, the Participating Organization whose Designated Record Set is subject to the Patient’s requested amendment is the only organization that can logically evaluate the request.

Under the HIPAA Privacy Standards, the Participating Organization may accept the amendment, or may deny the amendment if it believes that the Designated Record Set is, among other reasons, accurate and complete. In the latter instance, the Participating Organization must permit the Patient to file a written statement of disagreement, after which the Participating Organization may also file a written rebuttal statement. Only the Participating Organization can make these determinations.

Accordingly, if a Patient makes a request to the WVHIN to amend his or her Protected Health Information, the WVHIN will respond in writing to the Patient within 10 business days and inform him or her that requests must be directed in writing to the applicable Participating

Organization(s). The Participating Organization(s) will be solely responsible for making all determinations regarding the grant or denial of the requested amendment, and for ultimately providing for the amendment within its own Designated Record Set.

Should the WVHIN ever maintain a Designated Record Set containing Protected Health Information for or on behalf of a Participating Organization, the WVHIN will include any amendment agreed to by the Participating Organization in that Designated Record set, as well as any statement of disagreement and any rebuttal statement. Again, it will ultimately be the responsibility of the Participating Organization to process and decide upon the requested amendment.

Any Patient must address all requests for amendment to the applicable Participating Organization(s). As an Authorized User, the Patient will not be able to directly amend his or her own Protected Health Information, other than the Patient's e-mail address, through access to the the WVHIN's Patient Portal.

### **III. PROCEDURES**

#### **A. Patient Responsibilities.**

1. A Patient must direct all requests for amendment of his or her own Protected Health Information to the applicable Participating Organization(s).

2. Patients may not directly amend Protected Health Information through the WVHIN's Patient Portal.

#### **B. Participating Organization Responsibilities.**

1. All requests for amendment of Protected Health Information made by or on behalf of a Patient will be directed in writing to the applicable Participating Organization(s) by the Patient.

2. The applicable Participating Organization(s) will be solely responsible for determining whether to grant or deny a Patient's request to amend his or her Protected Health Information in compliance with all federal legal requirements.

3. If a Patient is determined by the applicable Participating Organization(s) to be entitled to amend some or all of his or her Protected Health Information, then the applicable Participating Organization(s) will be solely responsible for timely including the amendment in its Designated Record Set.

4. The process used to evaluate a requested amendment by the Participating Organization(s) must be accomplished in compliance with all federal legal requirements, including but not limited to, the following requirements of the HIPAA Privacy Standards:

(i) if the requested amendment is denied, then the Participating Organization must inform the Patient of this decision in a writing which explains the basis for the denial, and must advise the Patient that he or she has a right to submit a statement of disagreement in the Designated Record Set; and

(ii) if the Patient submits a statement of disagreement, then the Participating Organization must include that statement in any subsequent disclosure of Protected Health Information, through the WVHIN or otherwise, to which the disagreement relates.

C. WVHIN Responsibilities.

1. The WVHIN will not directly process or approve any Patient's request for amendment of his or her Protected Health Information.

2. Any Patient's request for amendment of his or her Protected Health Information made to the WVHIN will be returned to the Patient within 10 business days with a written response informing the Patient that he or she must address request for amendment in writing directly to the applicable Participating Organization(s). The WVHIN will notify the Patient with the following message: "Your request to amend your own medical records must be sent directly to your Health Care Provider/Plan. Your Health Care Provider/Plan will process this request, not the WVHIN, and any questions that you may have should be addressed to that Provider/Plan."

3. Should the WVHIN ever maintain a Designated Record Set containing Protected Health Information for or on behalf of a Participating Organization, the WVHIN will include any amendments agreed to by the Participating Organization in that Designated Record Set, as well as any statement of disagreement and any rebuttal statement. It is ultimately the responsibility of the Participating Organization to process and decide upon the requested amendment.

4. The WVHIN will not allow a Patient to directly amend Protected Health Information through the WVHIN's Patient Portal, except that the Patient may update or change his or her e-mail address.