

HIPAA POLICY FOR OREGON PROVIDERS

Original Draft Date: April 2, 2003

Last Revision Date:

SUBJECT: Amendment of Protected Health Information

HIPAA CITES: 45 CFR §164.526

DEPARTMENT: Coos County Mental Health

POLICY NUMBER: 34

I. POLICY:

Coos County Mental Health Department recognizes the right of a client to request that the Department amend Protected Health Information or a record about a client maintained in its Designated Record Set for as long as the Protected Health Information is maintained in the Department's Designated Record Set.

II. PROCEDURES:

- A. Request for Amendment. A client must make a request for an amendment in writing. All requests must be submitted on Coos County Mental Health Department's Request for Amendment Form and provide a reason to support the requested amendment. All requests shall be directed to the Department's Medical Records Office?.

If a client makes an oral request for amendment, the Medical Records Office or Privacy Officer shall inform the client that such requests must be made in writing and shall make a reasonable effort to assist the client in submitting the request. The Department may refuse an oral request for amendment on the basis that such request is oral and not written.

The Department may accept a written request on a form other than the Department's Request for Amendment Form on a case by case basis if the request provides a reason to support the requested amendment and sufficient information to clearly and specifically identify the information to be amended.

- B. Action on the Request for Amendment.

1. Timing of Response. The Department shall act on a client's request no later than sixty (60) days after its receipt of the request.

2. Extension of Time Frame. The Department may extend the time for action by no more than thirty (30) days provided that it provides the client with a written statement (within the sixty (60) day period described above) of the reasons for the delay and the date by which the Department will complete its action on the request. The Department may have only one such thirty (30) day extension.
3. Determination Procedure. The Department may accept or deny the requested amendment. Determinations of whether to accept or deny the request for the amendment will be made by the Risk Management Committee following a review of the relevant record and Designated Record Set, consultation with the treating clinician, evaluation of the client's request, and to the extent appropriate, other health professionals familiar with the client's course of treatment.
4. Procedures if Amendment Accepted. If the Coos County Mental Health Department accepts the Amendment:
 - a. The Department will make the appropriate amendment to the Protected Health Information or record that is the subject of the request for amendment by, at a minimum, identifying the records in the Designated Record Set that are affected by the amendment and appending or otherwise providing a link to the location of the amendment.
 - b. The Department will timely inform the client in writing on the Acceptance of Request for Amendment Form that the amendment has been accepted and obtain the client's identification of and agreement to have the Department notify the relevant persons with which the amendment needs to be shared as provided by Section II.B.4.c below.
 - c. The Department will make reasonable efforts to inform and provide the amendment within a reasonable time to:
 - i. Persons identified by the client as having received Protected Health Information about the client and requiring the amendment; and
 - ii. Persons, including Business Associates, that the Department knows may have the Protected Health Information that is the subject of the amendment and that may have relied, or could foreseeably rely, on such information to the detriment of the client.
5. Procedures if Amendment Denied. If the Coos County Mental Health Department denies the amendment in whole or in part:

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- a. Notice of Denial. The Coos County Mental Health Department will provide the client who requested the amendment with a written denial within sixty (60) days after receipt of the request for amendment on the Department Denial of Request for Amendment Form. The denial will use plain language and contain:
 - i. The basis for the denial:
 - (a) the Protected Health Information or record that is the subject of the request was not created by the Department, unless the client provided a reasonable basis to believe that the originator of Protected Health Information is no longer available to act on the requested amendment;
 - (b) is not part of the Designated Record Set;
 - (c) would not be available for inspection under Policy # 30 relating to the client's right to access his/her Protected Health Information; or
 - (d) is accurate and complete.
 - ii. A statement of the client's right to submit a written statement disagreeing with the denial and how the client may file such a statement;
 - iii. A statement that, if the client does not submit a statement of disagreement, the client may request that the Coos County Mental Health Department provide the client's request for amendment and the denial with any future disclosures of the Protected Health Information that is the subject of the amendment; and
 - iv. A description of how the client may complain to the Department pursuant to the complaint procedures established in §164.530(d) of the Privacy Rule (See Policy # 40 concerning the same), or to the Director, Office for Civil Rights of the U.S. Department of Health and Human Services pursuant to the procedures established in §160.306 of the Privacy Rule. The description must include the name, or title, and telephone number of the Department Privacy Officer.

- b. Written Statement of Disagreement. The Department will permit the client to submit to the Department a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such disagreement. The Department may reasonably limit the length of a statement of disagreement.
- c. Written Rebuttal to Statement. The Department will prepare a written rebuttal to the client's statement of disagreement. Whenever such a rebuttal is prepared, the Department will provide a copy to the client who submitted the statement of disagreement.
- d. Identification of Disputed Record or Information. The Department will, as appropriate, identify the record or Protected Health Information in the Designated Record Set that is the subject of the disputed amendment and append or otherwise link the client's request for an amendment, the Department's denial of the request, the client's statement of disagreement, if any, and the Department's rebuttal, if any, to the Designated Record Set.
- e. Future disclosures.
 - i. If a statement of disagreement has been submitted by the client, the Department will include the material appended, or at the election of the Department, an accurate summary of any such information, with any subsequent disclosure of the Protected Health Information to which the disagreement relates.
 - ii. If the client has not submitted a written statement of disagreement, the Department must include the client's request for amendment and its denial, or an accurate summary of such information, with any subsequent disclosure of the Protected Health Information *only if* the client has requested such action in accordance with Section II.B.5.c.
 - iii. When a subsequent disclosure described in Section II.B.5.e.i is made as part of a HIPAA standard transaction under 45 C.F.R. Part 162 that does not permit the additional material to be included in the transaction, the Department may separately disclose (or transmit electronically) the material required by Section II.B.5.e.i or Section II.B.5.e.ii, as applicable, to the recipient of the standard transaction.

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6. Notice from Another Covered Entity. If the Coos County Mental Health Department is informed by another Covered Entity of an amendment to a client's Protected Health Information, the Department will amend the Protected Health Information in the Designated Record Sets as provided by Section II.B.4.
7. Documentation. The Coos County Mental Health Department will retain all documentation associated with requests for amendments (and the associated determinations) for no less than the longer of: six (6) years from the date of its creation, or the last effective date of the relevant documents. All such documentation shall be maintained in the client's medical record.