

<b>DEPARTMENT:</b> Information Protection	<b>POLICY DESCRIPTION:</b> Patients' Right to Access
<b>PAGE:</b> 1 of 5	<b>REPLACES POLICY DATED:</b> 8/1/02, 4/1/03, 3/1/08, 11/1/11, 9/23/13, 10/6/14, 8/1/15
<b>EFFECTIVE DATE:</b> April 1, 2021	<b>REFERENCE NUMBER:</b> IP.PRI.004 (formerly HIM.PRI.004)
<b>APPROVED BY:</b> Ethics and Compliance Policy Committee	

<p><b>SCOPE:</b> All Company-affiliated facilities including, but not limited to, hospitals, ambulatory surgery centers, imaging and oncology centers, physician practices, laboratories subject to CLIA, and shared services centers.</p>
<p><b>PURPOSE:</b> To ensure patients the right to inspect and/or obtain a copy of their protected health information (PHI) as required by the Health Insurance Portability and Accountability Act, Standards for Privacy of Individually Identifiable Health Information, 45 CFR Parts 160 and 164, the Health Information Technology for Economic and Clinical Health Act (HITECH) component of the American Recovery and Reinvestment Act of 2009 (ARRA), the Information Blocking restrictions set forth at 45 CFR Part 171 and issued pursuant to the 21<sup>st</sup> Century Cures Act, and any and all other Federal regulations and interpretive guidelines promulgated thereunder.</p>
<p><b>POLICY:</b> Patients will be provided the right to inspect and/or obtain a copy of their protected health information that is contained within the designated record set. Exceptions include psychotherapy notes, information compiled for use in civil, and criminal or administrative actions. The facility may deny a request under certain circumstances outlined in the procedure.</p> <p>A patient's right to access their records and a brief description of how the patient may exercise this right must be outlined in the Notice of Privacy Practices.</p> <p>Some states have separate patient privacy laws that may apply additional legal requirements. Consult your Operations Counsel to identify and comply with any such additional legal mandates.</p>
<p><b>PROCEDURE</b></p> <p><u>Requests for Access and Timely Action</u></p> <ol style="list-style-type: none"> <li>1. A patient may request access to or request a copy of the patient's PHI as contained in the designated record set. Requests for access to information contained in the "medical records" portion of the designated record set should be presented in writing. Requests for access to information contained in the "billing records" portion of the designated record set may be presented verbally <u>or</u> in writing. <ul style="list-style-type: none"> <li>All verbal requests will be documented using on-line notations or a paper log to include date of request, what was requested, who took the request and name of requestor.</li> </ul> </li> <li>2. Except as outlined below, for valid requests, unless State laws are more stringent, the facility must act on a HIPAA compliant request for access no later than 30 days after receipt of the request. Facilities should work with their HIM Department and/or HIM Service Center (HSC) or their PSG Practice Manager relative to requests.</li> </ol>

<b>DEPARTMENT:</b> Information Protection	<b>POLICY DESCRIPTION:</b> Patients' Right to Access
<b>PAGE:</b> 2 of 5	<b>REPLACES POLICY DATED:</b> 8/1/02, 4/1/03, 3/1/08, 11/1/11, 9/23/13, 10/6/14, 8/1/15
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Requests for EHI must be evaluated promptly. For example, to exercise the Infeasibility Exception under the Information Blocking restrictions, a written response including an explanation of the reason(s) why the request is infeasible must be provided to the requestor within ten (10) business days of receipt of the request.

3. Extenuating Circumstances:

- a. If the facility is not able to take action on the request within 30 days, the time may be extended by no more than 30 days, provided that:
  - i) The Facility Privacy Official (FPO) or designee must provide the patient with a written statement outlining the reasons for the delay and the date by which the facility will complete its action on the request, and;
  - ii) There must only be one such extension of time for action on a request for access.
- b. If it is foreseeable that the request cannot be met within 60 days, the facility Ethics and Compliance Officer (ECO) and Risk Manager must be informed by the FPO of the delay no later than five (5) business days prior to the deadline and must act to remediate the situation.
- c. If records have been destroyed in accordance with the Company Records Management Policy, EC.014, the FPO or his or her designee must provide the patient with a written statement advising that the request cannot be fulfilled.

Providing Access

The following steps should be followed when providing patients access to their records:

1. The facility must produce PHI from the designated record set.
2. Patients and/or their personal representatives may access and export (including a CCD) much of their health information, including the USCDI data elements, electronically via patient portals made available by the Company (However, any patient requests not sent via portals are to be handled consistent with this policy).
3. The facility will provide the individual with access to the PHI in the designated record set in the form and format requested by the individual, if it is readily producible in such form and format; or, if not, in a readable hard copy form or such other form and format as agreed to by the covered entity and the individual. If the PHI that is the subject of a request for access is maintained in one or more designated record sets electronically and if the individual requests an electronic copy of such information, the facility must provide the individual with access to the PHI in the electronic form and format requested by the individual, if it is readily producible in such form and format; or, if not, in a readable electronic form and format as agreed to by the facility and the individual. If an individual's request for access directs the facility to transmit the copy of PHI directly to another person designated by the individual, the facility must provide the copy to the person designated by the individual. The individual's request must be in writing,

<b>DEPARTMENT:</b> Information Protection	<b>POLICY DESCRIPTION:</b> Patients' Right to Access
<b>PAGE:</b> 3 of 5	<b>REPLACES POLICY DATED:</b> 8/1/02, 4/1/03, 3/1/08, 11/1/11, 9/23/13, 10/6/14, 8/1/15
<b>EFFECTIVE DATE:</b> April 1, 2021	<b>REFERENCE NUMBER:</b> IP.PRI.004 (formerly HIM.PRI.004)
<b>APPROVED BY:</b> Ethics and Compliance Policy Committee	

signed by the individual, and clearly identify the designated person and where to send the copy of PHI.

4. Individuals, except medical staff physicians, with access to electronic records systems may not access their own record in any system. Such individuals must request access through the procedures outlined in this policy.
5. A summary format may be provided if the patient agrees to the format and the associated fees.
6. The facility must offer the patient a convenient time and place to inspect or obtain a copy of the record or make arrangements to mail or electronically send the copy.
7. Reasonable, cost-based fees may be imposed only for the actual copying (whether on paper or to electronic media), postage, preparing a summary or explanation as allowable and in accordance with state law, and the cost of supplies for creating the paper copy or electronic media (i.e., physical media such as a compact disc (CD) or universal serial bus (USB) flash drive), if the individual requests that the electronic copy be provided on portable media. Retrieval fees may never be imposed.
8. Patient Directed Request – a HIPAA compliant authorization is not required when a patient or the patient's personal representative request copies of the patient's own medical records or directs the entity to send the patient's medical records directly to another individual or entity ("a Patient Directed Request"). Patient Directed Requests must be in writing, signed by the individual, identify the designated person and where to send the medical records. For Patient Directed Requests, the patient directed request form below or an authorization form (see IP.PRI.010) may be utilized (but other forms and methods of submitting a request may be used if compliant with this policy, such as a letter from the patient setting forth the request and specifying the recipient and where to send the records).

#### Denial of Access

1. The facility may deny access in the following circumstances. These are unreviewable grounds for denial.
  - a. If the facility is acting under the direction of a correctional institution and the information could jeopardize the health, safety, security, custody or rehabilitation of the individual, any officer, employee, or other inmates.
  - b. In the course of research that includes treatment, provided the patient has agreed to the denial of access when consenting to participate. The right of access will be reinstated upon completion of the research.
  - c. If the information that is contained in the records is subject to the Privacy Act, 5 U.S.C. Section 522a, and the denial meets the requirements of that law.

<b>DEPARTMENT:</b> Information Protection	<b>POLICY DESCRIPTION:</b> Patients' Right to Access
<b>PAGE:</b> 4 of 5	<b>REPLACES POLICY DATED:</b> 8/1/02, 4/1/03, 3/1/08, 11/1/11, 9/23/13, 10/6/14, 8/1/15
<b>EFFECTIVE DATE:</b> April 1, 2021	<b>REFERENCE NUMBER:</b> IP.PRI.004 (formerly HIM.PRI.004)
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- d. The facility does not maintain the information; however, if the facility knows where the information is maintained, the facility should inform the individual where to direct his or her request, if known.
- e. The PHI is exempted as outlined in the policy statement above.

If electronic health information (EHI) is within the scope of the request, refer to the Information Blocking Rule Compliance Policy, IP.GEN.006 for information blocking exceptions that involve not fulfilling requests and procedures for fulfilling requests to access, exchange, or use EHI.

2. A facility may deny an individual access, provided that the individual is given a right to have such denials reviewed as described below, in the following circumstances:
  - a. A licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person;
  - b. The PHI makes reference to another person (unless such other person is a health care provider) and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person; or
  - c. The request for access is made by the individual's personal representative, and a licensed health care professional has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the individual or another person.

If EHI is within the scope of the request, refer to the Information Blocking Rule Compliance Policy, IP.GEN.006 for information blocking exceptions that involve not fulfilling requests and procedures for fulfilling requests to access, exchange, or use EHI (especially in the case of Items 2.b. and 2.c.).

3. The facility must, to the extent possible, provide any other PHI after excluding the information to which the facility has a ground to deny access. If EHI is within the scope of the request, refer to the Information Blocking Rule Compliance Policy, IP.GEN.006 for information blocking exceptions that involve not fulfilling requests and procedures for fulfilling requests to access, exchange, or use EHI (including the infeasibility exception).
4. A timely, written denial to the patient must be provided from the FPO or designee using the applicable Denial Letter (reviewable or unreviewable).
5. The patient may request a review of a denied request for access only under circumstances outlined in 2.a. – 2.c. The facility must promptly refer the request for review to a licensed health care professional who is designated by the facility to act as a reviewing official and who did not participate in the original decision to deny access. The reviewing official must determine, in a

<b>DEPARTMENT:</b> Information Protection	<b>POLICY DESCRIPTION:</b> Patients' Right to Access
<b>PAGE:</b> 5 of 5	<b>REPLACES POLICY DATED:</b> 8/1/02, 4/1/03, 3/1/08, 11/1/11, 9/23/13, 10/6/14, 8/1/15
<b>EFFECTIVE DATE:</b> April 1, 2021	<b>REFERENCE NUMBER:</b> IP.PRI.004 (formerly HIM.PRI.004)
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reasonable period of time, whether or not to deny the access requested. A written notice must be promptly provided to the individual outlining the outcome of the review.

Required Documentation

1. A facility must document the following and retain documentation:
  - a. The designated record sets that are subject to access by individuals.
  - b. The titles of the persons or offices responsible for receiving and processing requests for access by individuals.
2. All correspondence and associated documentation related to patient access, including requests and denials, must be maintained/retained per the Records Management Policy, EC.014, or for six (6) years, whichever is longer.

**REFERENCES:**

1. Patient Privacy Program Requirements Policy, [IP.PRI.001](#)
2. Privacy Official Policy, [IP.PRI.002](#)
3. Notice of Privacy Practices Policy, [IP.PRI.007](#)
4. Records Management Policy, [EC.014](#)
5. [Information Protection Policies](#), IP.SEC.001 – IP.SEC.021
6. Information Protection Program Requirements Policy, [IP.SEC.001](#)
7. Information Confidentiality & Security Agreement Policy, [IP.SEC.005](#)
8. CPCS Appropriate Access Guidelines, Section 5
9. Health Insurance Portability and Accountability Act (HIPAA), Standards for Privacy of Individually Identifiable Health Information (45 CFR Parts 160 and 164)
10. American Recovery and Reinvestment Act of 2009, Title XIII, Subtitles A& D
11. Information Blocking Rule Compliance Policy, [IP.GEN.006](#)
12. [Patient Directed Request Form](#)

# SAMPLE

## Reviewable Denial of Access to Requested Patient Information

Patient Name:  
Date of Birth:  
Patient Medical Record Number:

Dear (patient):

At (facility) each patient is provided the right to request to inspect and/or obtain a copy of his or her protected health information. Each request is reviewed subject to the limitations outlined in HIPAA Federal Standards for Privacy of Individually Identifiable Health Information (45 CFR Parts 160 and 164).

The Privacy Standard outlines the following circumstances in which the facility may deny access. Your request has been denied (either in full or in part) due to the following (circle one):

- a. A licensed health care professional has determined, in the exercise of professional judgment, that the requested access is reasonably likely to endanger the life or physical safety of the individual or another person;
- b. The protected health information makes reference to another person (unless such other person is a health care provider) and a licensed health care professional has determined, in the exercise of professional judgment, that the requested access is reasonably likely to cause substantial harm to such other person; or
- c. The request for access is made by the individual's personal representative, and a licensed health care professional has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the individual or another person.

You may request a review of this denial by contacting the Facility Privacy Official. The request must be made in writing.

Please contact me with any questions or concerns you might have.

<Signature of Privacy Official>

Privacy Official  
Phone: (xxx)  
Address: <insert address here>

cc: (Attending physician)

\*HIMCOS\*  
\*HIMCOS\*

## Unreviewable Denial of Access to Requested Patient Information

Patient Name:  
Date of Birth:  
Patient Medical Record Number:

Dear (patient):

At (facility) each patient is provided the right to request to inspect and/or obtain a paper copy of his or her protected health information. Each request is reviewed and is subject to the limitations outlined in HIPAA Standards for Privacy of Individually Identifiable Health Information (45 CFR Parts 160 and 164).

The Privacy Standard outlines the following circumstance in which the facility may deny access. Your request has been denied (either in full or in part) due to the following (circle one):

- a. You are involved in research that includes treatment. You agreed to the denial of access when you consented to participate. The right of access will be reinstated upon completion of the research.
- b. The records you requested include psychotherapy notes.
- c. The records you requested include information compiled for use in civil, criminal or administrative actions.
- d. The information that is contained in the records is subject to the Privacy Act, 5 U.S.C. Section 522a, and the denial meets the requirements of that law.
- e. The facility is acting under the direction of a correctional institution.
- f. The facility does not maintain the information. Please contact \_\_\_\_\_ facility to access this information.

Per Federal Law this denial is not subject to further review or appeal.

Please contact me with any questions or concerns you might have.

<Signature of Privacy Official>  
Privacy Official  
Phone: (xxx)  
cc: (Attending physician)

\*HIMCOS\*  
\*HIMCOS\*

SAMPLE

## Patient Directed Request Form

Section A: This section must be completed					
Patient Name:		Date of Birth:		Patient's Phone:	
Provider's Name:		Recipient's Name:			
Provider's Address:		Recipient Address 1:			
		Recipient Address 2:		Recipient's Phone:	
		City:		State:	Zip:
Request Delivery (If left blank, a paper copy will be provided): <input type="checkbox"/> Paper Copy <input type="checkbox"/> Electronic Media, if available (e.g., USB drive, CD/DVD, eDelivery) <input type="checkbox"/> Encrypted Email <input type="checkbox"/> Unencrypted Email <input type="checkbox"/> Web Link <input type="checkbox"/> Other _____					
NOTE: In the event the facility is unable to accommodate the requested delivery method, an alternative method(s) will be suggested. There is some level of risk that a third party could see your PHI without your consent when receiving unencrypted electronic media or email. We are not responsible for unauthorized access to the PHI contained in this format or any risks (e.g., virus) potentially introduced to your computer/device when receiving PHI in electronic format or email.					
Email Address (If email checked above. Please print legibly):					
Description of information to be disclosed to the recipient listed above					
Description:	Date(s):	Description:	Date(s):	Description:	Date(s):
<input type="checkbox"/> Admission form <input type="checkbox"/> Admission form <input type="checkbox"/> Dictation reports <input type="checkbox"/> Physician orders <input type="checkbox"/> Intake/outtake <input type="checkbox"/> Clinical test <input type="checkbox"/> Medication sheets <input type="checkbox"/> Operative information		<input type="checkbox"/> Cath lab Cath lab <input type="checkbox"/> Special test/therapy <input type="checkbox"/> Rhythm strips <input type="checkbox"/> Nursing information <input type="checkbox"/> Transfer forms <input type="checkbox"/> ER information <input type="checkbox"/> Labor/delivery summary		<input type="checkbox"/> OB nursing assess <input type="checkbox"/> OB nursing assess <input type="checkbox"/> Postpartum flow sheet <input type="checkbox"/> USCDI CCD – Y or N <input type="checkbox"/> Itemized bill: <input type="checkbox"/> UB-04: <input type="checkbox"/> Other: <input type="checkbox"/> Other:	
All types of information found in the records selected above will be provided (if applicable), including information that may be viewed as sensitive, such as alcohol, drug abuse, genetic information, psychiatric, HIV testing, HIV results or AIDS information. Specify any information you want to exclude: _____.					
I understand that:					
1. Use of this form is strictly voluntary. 2. My treatment, payment, enrollment or eligibility for benefits may not be conditioned on signing this form. 3. I may revoke this request at any time in writing, but if I do, it will not have any effect on any actions taken prior to receiving the revocation. Further details may be found in the Notice of Privacy Practices. 4. If the recipient listed above is not a health plan or health care provider, the released information may no longer be protected by federal privacy regulations and may be redisclosed. 5. I understand that I may see and obtain a copy the information described on this form, for a reasonable fee, if I ask for it. 6. I get a copy of this form after I sign it.					
Section C: Signatures					
I have read the above and permit the disclosure of the protected health information as stated to the listed recipient.					
Signature of Patient/Patient's Representative:				Date:	
Print Name of Patient's Representative:				Relationship to Patient:	



ROI