



P&P AOS #4	Revision Date: 12/26/2019	Prepared by: D. Hamilton, RHIA, CHPS
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4 PATIENT RIGHTS

Italicized policy statements are direct quotes from the Code of Federal Regulations.

4.1 Right to Request Access to Protected Health Information

4.1.1 Policy

Individuals have the right to request access to inspect or copy their protected health information that is maintained in a designated record set. **Alpine Orthopaedic and Spine (AOS)** will address an individual's request to inspect or copy his or her protected health information in a timely and professional manner. Individuals do not have the right to access certain types of information (set forth below), and in those situations, **AOS** may deny an individual's request to access. In certain circumstances, an individual may have the right to have a denial reviewed. **AOS** will adhere to the procedures set forth below when addressing, denying, or reviewing an individual's request to access.

4.1.2 Procedure

Requests for Access

1. covered component must designate the title of the person(s) or office responsible for receiving and processing requests for access by individuals.
2. Individuals must be instructed to direct their request for access to the designated person responsible for receiving such requests.
3. Individuals may be instructed to make their request for access in writing.
4. The person responsible for processing the request may discuss the scope, format, and other aspects of the request for access with the individual as necessary to facilitate a timely provision of access.
5. The parties can agree in advance that a summary of the requested protected health information will be provided in lieu of access to the information.
6. Upon receipt of a proper request, the covered component will act on the request by either: (1) informing the individual of acceptance and providing the access requested; or (2) providing the individual with a written denial in accordance with the procedure set forth.
7. If the covered component does not maintain the requested protected health information, but it knows where the requested information is maintained, the covered component will inform the individual where to direct the request for access.
8. An individual's request for access must be acted upon no later than 30 days after the request is made; or, if the request is for protected health information that is not maintained or accessible on-site, no later than 60 days after the request.



Providing Access

1. If a request for access is granted, the individual will be given access to the protected health information in a secure and confidential manner.
2. The covered component will provide the individual with access to the protected health information in the form or format requested by the individual, if it is readily producible in such form or format. If it is not readily producible in such format, the covered component will provide the access in such other form as agreed to by the individual.
3. In instances where the protected health information is in more than one record set, or at more than one location, the covered component will only produce the protected health information once in response to the request for access.

Denial of Access

1. A Sample Denial of Access Form is set forth on page 66 of this Manual.
2. A written denial of access may be issued in the following circumstances:
3. Psychotherapy Notes. An individual does not have the right to access psychotherapy notes relating to him or herself except (a) to the extent the patient's treating professional approves to such access in writing; or (b) the patient obtains a court order authorizing such access.
4. Legal Information. An individual does not have the right to access information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action
 - a. or proceeding.
5. Endangerment. An individual does not have the right to access information in the event that 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.
6. Obtained from Someone Else. An individual does not have the right to access information if the protected health information was obtained from someone other than a health care provider under a promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information.
7. Reference to Other People. An individual does not have the right to access information if the protected health information makes reference to another person and a licensed health care professional has determined, in the exercise of professional judgment, that access requested is reasonably likely to cause substantial harm to such other person.
8. Personal Representative. An individual does not have the right to access information if 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.
9. Research. **AOS** may temporarily suspend an individual's access to protected health information created or obtained in the course of research that includes treatment. The suspension may last for as long as the research is in progress, provided that the individual agreed to the denial of access when consenting to participate in the research, and the individual has been informed that the right of access will be reinstated upon completion of the research.
10. Other Limited Circumstances. There are other limited circumstances when an individual does not have the right to access protected health information, listed in 45 C.F.R. § 164.524.



11. When denying an individual access to protected health information, the denial will be written in plain language and
 - a. Contain the basis for the denial
 - b. If applicable, contain a statement of the individual's review rights, including a description of how the individual may exercise such rights; and
 - c. Contain a description of how the individual may complain to **AOS** pursuant to **AOS's** complaint process (and include the title and telephone number of the contact person), or to the appropriate OCR Regional office.
12. **AOS** must, to the extent possible, grant the individual access to any other protected health information requested after excluding the protected health information that was denied.

Reviewing a Denial of Access

1. If access is denied based on (1) Endangerment; (2) Reference to Other People; or (3) Personal Representative (these exceptions are all set forth above), the individual must be given the opportunity to have the denial reviewed.
2. If an individual has requested a review of denial, **AOS** must designate a licensed health care professional, who was not directly involved in the denial, to review the decision to deny access.
3. The reviewing official must determine whether to confirm the denial based on the standards set forth in 45 C.F.R. § 164.524(a)(3). The reviewing official must review the denial of access within a reasonable period of time and then must promptly notify the individual of the decision and take any necessary action to carry out the decision.

Costs and Fees

1. **AOS** may impose a reasonable, cost-based fee for copying costs and postage in response to a request for access.
2. If the individual agrees in advance, **AOS** may impose a reasonable cost-based fee for preparing a summary of the protected health information.

Documentation

1. **AOS** must document and retain:
 - a. The designated record sets that are subject to access by individuals; and
 - b. The titles of the persons or offices responsible for receiving and processing requests for access by individuals.

4.1.3 Applicable Regulation

45 C.F.R. § 164.524



4.2 Right to Request an Accounting of Disclosures

4.2.1 Policy

AOS will permit individuals to request and receive an accounting of disclosures of their protected health information. An individual may request an accounting for disclosures that have been made up to six years prior to the date of his or her request; however, **AOS** is not required to account for any disclosures that occurred prior to the HIPAA compliance date of April 14, 2003. The accounting must include all disclosures except for the following:

- Disclosures made to carry out treatment, payment, or health care operations
- Disclosures made to the individual
- Disclosures made pursuant to an individual's authorization
- Disclosures for a facility directory
- Disclosures to persons directly involved in the individual's care or
- Payment or disclosures for notification purposes pursuant to 45 C.F.R. § 164.510(b)
- Disclosures for national security or intelligence purposes
- Disclosures to correctional facilities or law enforcement officials
- Disclosures made as part of a limited data set
- Disclosures that occurred prior to the compliance date; and
- Other limited disclosures as set forth in 45 C.F.R. § 164.528.

4.2.2 Procedure

Request for Accounting

1. Individuals will be permitted to request and receive an accounting of disclosures of their protected health information.
2. Designated covered components may require requests for an accounting to be submitted in writing.
3. **AOS's** Privacy Officer (PO) shall be responsible for recording and maintaining records of disclosures.
4. A Sample Request for Accounting of Disclosures Form is set forth on page 68 of this Manual.

Accounting Requirements

1. An individual must receive a written accounting of disclosures and the written accounting must include:
 - a. The date of disclosure
 - b. The name of the entity or person who received the protected health information, if known, the address of such entity or person
 - c. A brief description of the protected health information disclosed; and
 - d. A brief statement of the purpose of the disclosure; or in lieu of such statement, a copy of a written request for a disclosure, if any.
2. If **AOS** has made multiple disclosures of the protected health information to the same person or entity for a single purpose, or pursuant to a single authorization, the accounting may, with respect to such multiple disclosures, provide:
 - a. The information required above for the first disclosure during the accounting period
 - b. The frequency or number of disclosures made during the accounting period; and
 - c. The date of the last such disclosure during the accounting period.



3. **AOS** must act on the individual's request for an accounting no later than 60 days after receipt of such a request. If **AOS** is unable to provide the accounting within this time frame, it may extend the time to provide the accounting by no more than 30 days, provided that: (1) **AOS** provides the individual with a written statement of the reasons for delay and the date by which **AOS** will provide the accounting; and (2) **AOS** may have only one such extension of time for action on a request for an accounting.

Suspension of Accounting of Disclosures

- An accounting of disclosures may be suspended at the request of a health oversight agency or law enforcement official if certain conditions are met.
- If a designated health care component receives a request to suspend an individual's right to receive an accounting of disclosures, the designated covered component should contact **AOS's** PO.

Costs and Fees

- The first accounting of disclosures to an individual in any twelve (12) month period must be provided at no charge.
- A reasonable cost-based fee may be imposed for each subsequent request for an accounting by the same individual within the 12-month period, provided that **AOS** informs the individual in advance of the fee and provides the individual with an opportunity to withdraw or modify the request.

4.2.3 Applicable Regulation

45 C.F.R. § 164.528



4.3 Right to Request an Amendment to Protected Health Information

4.3.1 Policy

AOS will permit an individual to request an amendment to his or her protected health information in their designated record set for as long as the information is maintained in the designated record set. An individual can request an amendment to his or her protected health information that was not created by **AOS**, but the individual must provide **AOS** with a reasonable basis to believe that the originator of the information is no longer available to act on the request. **AOS** has the right to deny the request to amend in certain circumstances.

4.3.2 Procedure

Requests for an Amendment

1. A Sample Request for an Amendment Form is set forth on page 69 of this Manual.
2. Each covered component of **AOS** must designate the title of the person(s) or office responsible for receiving and processing requests for an amendment by individuals.
3. Individuals must be instructed to direct their requests for an amendment to **AOS**'s PO, who is responsible for receiving such request.
4. A covered component may instruct individuals to make their requests in writing and may require the individual to provide a reason to support the requested amendment, as long as the designated covered component informs the individual in advance of such requirements.
5. **AOS** must act upon an individual's request for amendment no later than 60 days after receipt of the request. If we are unable to act on the amendment within this time period, **AOS** may extend the time for such action by no more than 30 days, provided that: (1) **AOS** provides the individual with a written statement of the reasons for the delay and the date by which **AOS** will complete its action on the request; and (2) **AOS** may have only one such extension of time for action on a request for an amendment.

Accepting a Request to Amend

1. If the requested amendment is accepted, in whole or in part, the covered component shall inform the individual of the acceptance and make the appropriate amendment.
2. At a minimum, the covered component shall amend the information by identifying the affected information in the designated record set and appending or otherwise providing a link to the location of the amendment.
3. The covered component and the individual should identify the relevant persons or entities, including business associates, who need to be informed about the amendment.

Denying a Request to Amend

1. An individual's request for an amendment may be denied if the covered component determines that the protected health information or record that is the subject of the request:
 - a. Was not created by **AOS**, unless the individual provides a reasonable basis to believe that the originator of the protected health information is no longer available to act on the requested amendment.
 - b. Is not part of the individual's designated record set.
 - c. Is not available for inspection by the individual pursuant to the Access to Right to Request Access to PHI policy, set forth herein.
 - d. Is accurate and complete.



2. If a covered component denies the requested amendment, the covered component shall inform the individual in writing.
3. The denial shall be written in plain language and contain the following:
 - a. The basis for the denial.
 - b. A statement notifying the individual that he or she has the right to submit a written statement of disagreement and a description of how the individual may file such a statement.
 - c. A statement notifying the individual that if he or she does not submit a statement of disagreement, the individual may request that the designated covered component provide the individual's request for amendment and the denial with any future disclosures of the protected health information that is the subject of the amendment.
 - d. A description of how the individual may file a complaint pursuant to the Privacy Complaint Policy and Procedure, set forth above.
4. If **AOS** denies a request for an amendment, the individual has the right to file a statement of disagreement.

Statement of Disagreement

- If **AOS** denies an individual's request for an amendment, the individual will have the right to submit a statement of disagreement. **AOS** may then prepare a written rebuttal to the individual's statement of disagreement.
- A copy of the rebuttal must be provided to the individual.

4.3.3 Applicable Regulation

45 C.F.R. § 164.526

4.4 Right to Request Confidential Communication

4.4.1 Policy

Individuals may request to receive communications of protected health information in a confidential manner (e.g., by alternative means or in alternative locations). **AOS** shall accommodate reasonable requests to receive confidential communications.

4.4.2 Procedure

1. A covered component may require an individual to make a request to receive confidential communications in writing.
2. Covered components may condition the provision of a reasonable accommodation on: (1) information as to how payment (if any) will be handled; and (2) specification of an alternative address or other method of contact.
3. A covered component may not require an explanation from the individual as to the basis for the request as a condition of providing confidential communications.

4.4.3 Applicable Regulation

45 C.F.R. § 164.522(b)



4.5 Right to Request Restrictions on the Use and Disclosure of Protected Health Information

4.5.1 Policy

Individuals may request restrictions on the use and disclosure of their protected health information. Requests for restriction do not have to be granted; however, if **AOS** agrees to a restriction, it may not use or disclose the protected health information in violation of the restriction, except in emergency situations. Further, any agreed-to restriction will not be effective to prevent uses and disclosures to the individual or as required by law.

4.5.2 Procedure

Request to Restrict Use or Disclosure of Protected Health Information

1. An individual may request a restriction on the use and disclosure of his or her protected health information.
2. A covered component does not have to agree to requests for restrictions; however, if it does agree, the covered component may not use or disclose the protected health information in violation of such restriction, except in emergency situations.
3. The covered component should discuss with the individual whether the restriction should be communicated to others (i.e., other covered components of **AOS** or business associates who may be sending the individual communications on behalf of **AOS**).

Terminating a Restriction

1. A restriction can be terminated if:
2. The individual requests the restriction in writing or orally (if the termination is requested orally, it should be documented; or
3. The designated covered component informs the individual that it is terminating the agreement to a restriction, in which case the termination will only apply to protected health information created or received after the individual has been notified of the termination.

4.5.3 Applicable Regulation

45 C.F.R §§ 164.502(c), 164.522(a)

4.6 Complaints

4.6.1 Policy

An individual who believes his or her HIPAA privacy rights have been violated may file a complaint regarding the alleged privacy violation with **AOS's** PO or the appropriate office of Civil Rights (OCR) Regional office. Complaints submitted to **AOS's** PO will be documented, reviewed, and if necessary, acted upon.



4.6.2 Procedure

Filing a Complaint

1. A Sample Complaint Form is set forth on page 63 of this Manual.
2. If an individual believes his or her privacy rights have been violated, an individual may file a complaint with the appropriate OCR Regional office, or with **AOS's** PO.
3. Individuals must file complaints in writing, either paper or electronically. A complaint must be filed 180 days from when the individual knew or should have known of the circumstance that led to the complaint, unless this time limit is waived for "good cause" shown.
4. A complaint must name the entity that is the subject of the complaint and describe the acts or omission believed to be in violation of the HIPAA requirements.
5. Any member of the workforce (employees, volunteers, trainees, and contractors) receiving notice from the HHS Secretary is required to notify the PO immediately.
6. OCR may prescribe additional procedures for the filing of complaints, as well as the place and manner of filing, by notice in the Federal Register.
7. **AOS** will cooperate with complaint investigations and compliance reviews.
8. Individuals may not be penalized for filing a complaint.
9. Any retaliation or intimidation shall be reported immediately to **AOS's** PO.

Investigation, Sanctions

The PO will investigate alleged complaints to determine if a breach of privacy has occurred. If the PO determines that a violation occurred, the PO will apply appropriate sanctions against the person or entity who failed to comply with the privacy policies and procedures and instruct the person or entity to take the corrective actions, if necessary. The PO will document any sanctions imposed.

4.6.3 Applicable Regulations

45 C.F.R. §§ 160.304, 160.306, 160.308, 160.310, 160.410, 164.530

4.7 Revision History

Revision	Date	Description of Changes	Approved By
1	11/10/2015	Initial Release	Christine Sitton
2	12/26/2019	Reformatted, updated	D. Hamilton, RHIA, CHPS