SECTION 4: PATIENT RIGHTS

4.2. Individuals’ Right to Access their Health Records

POLICY

1. Right to Inspect or Receive Copies: In general, patients and/or personal representatives have the right to inspect and/or receive copies of personal protected health information (PHI) that is maintained in a designated record set by the University of Florida (UF). See also SECTION 2: Health Information Management: General Policies.
   a. When a patient’s psychiatric, psychological, or psychotherapeutic records are requested by the patient or representative, the patient’s healthcare provider may elect to provide a report of examination and treatment in lieu of copies of records.
   b. Patients or their representatives may request copies of completed laboratory test reports directly from CLIA-regulated labs, as long as the reports, using the laboratory’s authentication process, can be identified as belonging to that patient.

2. The Right of Access Does Not Apply to:
   a. Psychotherapy notes;
   b. Information being compiled for a legal proceeding.

3. Authorizations:
   a. For Treatment Purposes: A signed authorization is not required to provide copies of patient records to another healthcare provider for treatment purposes; however, all requests for records should be in writing, and an authorization may be requested at the discretion of the clinic or department manager.
   b. For Non-Treatment Purposes: Requests for access to personal health records for purposes not related to treatment, must be made in writing by the patient or the patient’s legal representative, using the authorization forms provided on the UF Privacy website.
   c. Authorization Delivery: Correctly completed record request forms and authorizations may be delivered in person, or by mail or fax; forms may also be scanned and e-mailed to the appropriate record owner/custodian. If an authorization is not delivered in person, UF reserves the right to contact the patient or the legal representative to verify the authorization and its contents.

4. Deceased Patients: Access to records of a deceased patient must be authorized in writing by:
   a. The Executor of the patient’s estate,
   b. A documented healthcare decision-maker appointed by the patient,
   c. The legal next-of-kin.
   d. See also 3.9 Verification of Identity and Authority and Personal Representatives.

5. UF will respond to all requests for access within 30 days of receiving the written request. If the request cannot be fulfilled within 30 days, UF will notify the requestor of the delay and the reason for the delay, and will fulfill the request within 60 days, as allowed by the Privacy Rule.
6. UF may charge a reasonable fee for producing copies of health records and for appointments to view records when the copies or the viewing are for purposes not related to treatment. This fee may only include the actual cost of copying (supplies and labor) and postage for paper or electronic copies of medical records.

7. Form and Format: Generally, record copies will be produced in hard-copy or paper format. UF will make reasonable efforts to accommodate requests for record copies in electronic formats.

DEFINITIONS

1. Designated Record Set: A defined group of health and billing records that contain PHI maintained by UF and used to help make decisions about patients. (See the full definition in Appendix A: Glossary; see also SECTION 2: Health Information Management).

2. Inspect: To visually review the original record elements that are part of the designated record set whether maintained in paper or electronic formats.

3. Personal Representative (HIPAA): A person who, under applicable law, has authority to act on behalf of an individual in making decisions related to health care; or a person who, under applicable law, has authority to act as an executor or administrator on behalf of a deceased individual or of the individual's estate. A covered entity (CE) must treat such a representative as the individual for purposes of the Privacy Rule.

PRIVACY REQUIREMENTS

1. **Right of Access:** An individual has a right of access to inspect and obtain a copy of PHI about the individual in a designated record set, for as long as the PHI is maintained in the designated record set, except for Psychotherapy notes and information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding.

2. **Denial of Access:** A CE may deny an individual access to PHI in certain specified circumstances. If the CE denies a request for access, the CE must provide a timely, written denial to the individual in plain language that includes the basis for the denial, a statement of the individual's review rights, if applicable, a description of how the individual may complain pursuant to the CE's complaint procedures, and the name, or title, and telephone number of the contact person or office.
   a. Unreviewable grounds for denial: A CE may deny an individual access, without providing an opportunity for review, when the PHI requested does not meet specified conditions for access under the Privacy Rule.
   b. Reviewable grounds for denial. A CE may deny an individual access, provided that the individual is given a right to have such denials reviewed, when 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.
   c. Review of a denial of access. If access is denied on reviewable grounds, the individual has the right to a review by a licensed health care professional who is designated by the CE to act as a reviewing official and who did not participate in the original decision to deny. The designated reviewing official must determine, within a reasonable period of time, whether or not to deny the access requested. The CE promptly provide written notice to the individual of the determination and must provide or deny access in accordance with the determination of the reviewing official.

3. **Other responsibility:** If the CE does not maintain the PHI that is the subject of the individual’s request for access, and the CE knows where the requested information is maintained, the CE must inform the individual where to direct the request for access.
4. **Requests for access:** The CE may require individuals to make requests for access in writing, provided that it informs individuals of such a requirement.

5. **Timely action by the covered entity:** The CE must act on a request for access no later than 30 days after receipt of the request, according to the provisions and exceptions of the Privacy Rule. If the CE is unable to take an action as required, the CE may have one extension of time by no more than 30 days, provided that the CE provides a written statement of the reasons for the delay and the date by which the CE will complete the request.

6. **Providing the access requested:** The CE must provide the access requested by individuals, including inspection or obtaining a copy, or both, of the PHI about them maintained in designated record sets.
   
   a. The CE must provide the individual with access to the PHI in the form and format requested by the individual, if it is readily producible; or, if not, in a readable hard copy or such other form and format as agreed to by the CE and the individual.
   
   b. If PHI is maintained electronically and if the individual requests an electronic copy of such information, the CE must provide the PHI in the electronic form and format requested, if it is readily producible; or, if not, in a readable electronic form and format as agreed to by the CE and the individual.
   
   c. The CE may provide a summary of the PHI requested, in lieu of providing access or may provide an explanation of the PHI to which access has been provided, if:
      
      i. The individual agrees in advance to such a summary or explanation;
      
      ii. The individual agrees in advance to fees imposed by the CE for such summary or explanation.

7. **Time and manner of access:** The CE must provide the access as requested by the individual in a timely manner, as required above. The CE may discuss the scope, format, and other aspects of the request with the individual as necessary to facilitate the timely provision of access, including arranging for a convenient time and place to inspect or obtain a copy of the PHI, mailing the copy of the PHI at the individual’s request, or transmitting the copy of PHI directly to another person designated by the individual.

8. **Fees:** If the individual requests a copy of the PHI, or agrees to a summary or explanation of such information, the CE may impose a reasonable, cost-based fee that includes only the cost of labor, supplies, and postage for copying, or the cost of preparing the explanation or summary.

9. **Documentation:** A CE must document the following and retain the documentation as required by the Privacy Rule: the designated record sets that are subject to access by individuals; and the titles of the persons or offices responsible for receiving and processing requests for access.

**PROCEDURES**

1. **Authorization and Verification:**
   
   a. When necessary, ask the patient or representative to complete an Authorization to Use or Disclose PHI form (see policies above; also see Forms; also see SECTION 3: Uses and Disclosures of PHI: Authorizations for Release of PHI).
   
   b. Make reasonable efforts to verify the identity of the person making the request, and if not the patient, their relationship to the patient and authority to access the patient’s PHI (See also SECTION 3: Verification of Identity and Authority and Personal Representatives). If a patient or legal representative has documents to corroborate identity or authority, make and attach copies to the authorization form.
c. If the records requested are psychiatric, psychological, or psychotherapeutic, notify the patient’s healthcare provider for further instructions; the provider may elect to provide a summary report of examination and treatment instead of actual copies of records.

2. To Receive Copies of Records:
   a. For purposes not related to treatment:
      i. After receiving a fully completed and verified authorization form, inform the patient or representative of the copying charges that will apply.
      ii. Forward the completed Authorization form to the person designated to produce copies of records for your area.
   b. For treatment-related purposes:
      i. Ask the patient or representative for the name and address, fax number, or e-mail address of the health care provider to whom the copies should be sent; or
      ii. If the request is urgent (i.e., an appointment the next day), make other reasonable arrangements with the patient for supplying the needed information to the new health care provider. Arrangements can include:
         • Giving the copies directly to the patient for transport,
         • Scanning and e-mailing the pertinent information in an encrypted or other protected format, or
         • Faxing the information.
      iii. There can be no charge for providing copies of records for treatment purposes.
      iv. Review the records needed with the health care provider and only send the necessary documents. Do not send whole records unless specifically requested to do so.
   c. Producing copies: Provide copies of requested records in the format specified by the patient or representative, if possible.
      i. Paper copies should be printed or photocopied from original materials.
      ii. Electronic copies may be produced on a CD, DVD, USB drive or other appropriate recording media. Do not use electronic storage media provided by a patient.
      iii. Electronic storage media must be encrypted. Provide the encryption key to the patient by a separate means (letter, (authorized) e-mail, or hand-delivery).

NOTE: Physicians, at their discretion, may authorize the release of a copy of a lab or other report to the patient or representative at the time of providing care, without requiring a written authorization.

3. To Inspect or View Personal Health Records:
   a. After receiving a fully completed and verified Authorization form, schedule an appointment for the patient and/or representative to visually inspect records at the earliest opportunity, but no more than 30 days from the date of the request.

NOTE: Patients and personal representatives may only review records in the company of a UF or Shands representative.
b. Record the appointment date and time on the Authorization form and forward the form to the clinic or department manager.
   
   i. If the inspection is for purposes not related to treatment: The manager notifies the patient’s health care provider of the appointment date and time. Together they decide who will sit with the patient during the inspection.
   
   ii. If the inspection is for treatment-related purposes: Ensure that the care giver knows the patient has requested to view the health record during the appointment.

c. Prior to the appointment, prepare the paper record for inspection by removing all parts of the health record that are not included in the designated record set (see SECTION 2: Health Information Management: General Policies). For electronic records, make a list prior to the appointment of all components to be viewed.

   NOTE: Patients or their representatives may not personally alter any part of a health record during the inspection, but may make notes and request an amendment or correction, using the Request for Amendment of a Medical Record form and procedure.

d. After the inspection, document on the Authorization form the participants and the date and time that the inspection took place. File or scan the original form into the patient’s health record (paper or electronic). Give the original or a copy of the annotated authorization form to the patient or representative who inspected the records, depending on whether the form will go into a paper or electronic record. If paper, keep the original and give the patient a copy; if electronic, scan the original and then give it to the patient.

REFERENCES
1. HIPAA: 45 CFR §164.501 Definitions; §164.524 Right of Access
2. 24. CLIA: 45 CFR § 493.1291 Standard: Test report
3. 25. Florida Statutes: 456.057 Ownership and control of patient records; report or copies of records to be furnished.

EXHIBITS
1. UF Privacy Patient Rights Form Authorization to Use and Disclose PHI at, http://privacy.ufl.edu/uf-health-privacy/forms/
2. UF Health Medical Records website, https://ufhealth.org/medical-records