



Your Medical Record Rights in Washington

(A Guide to Consumer Rights under HIPAA)

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INTRODUCTION

Medical records are an important part of your health care. These records are a written history of your health condition and treatment. They are used by medical doctors, chiropractors, hospitals, health care clinics, and other health care professionals and health care facilities to treat you.

A federal law called the HIPAA Privacy Rule gives you the right to see, get a copy of, and amend (correct) your medical record by adding information to it. (HIPAA stands for the "Health Insurance Portability and Accountability Act.") Washington state laws give you similar rights with respect to your medical record.

ABOUT THIS GUIDE

This guide is intended to help you understand how to see, get a copy of, and correct or amend medical records from Washington health care providers who have to follow the HIPAA Privacy Rule. You can read guides about how to get medical records from health care providers in other states at

<http://hpi.georgetown.edu/privacy/records.html>.

This guide was designed so that you can read just the parts that interest you. For example, if you are interested in how much your provider can charge you for copying your medical record, you may want to focus on that part of the guide. We urge everyone to read "Who Is Covered by These Laws?" so that you can be sure the guide applies to your provider. Some basic information is repeated throughout the guide so that it is easily available to those who are reading only certain sections.

The rules explained in this guide only apply when you ask for your own medical record or when you ask for someone else's medical record as their personal representative. These rules do not apply when you request that your health care provider give your medical record to someone else (such as to another doctor or a lawyer).

Words to Know

Some of the words in this guide have a special meaning. In this guide "health care providers" or "providers" mean health care professionals (such as doctors, chiropractors, and podiatrists) and health care facilities (such as hospitals and clinics). Mental health care counselors, marriage and family therapists, social workers, and psychologists are also considered "health care providers." Section 5 explains these and other words that are helpful to know. The words explained in Section 5 are in **boldface** print the first time they appear in each section of the guide.

Rather than use the awkward phrases "he, she, or it" and "his, her, or its" this guide uses "they" and "theirs" when referring to health care providers in a general way. Examples that use "he" or "she" are meant to refer to both genders.

DISCLAIMER

The authors have made every attempt to assure that the information in this guide is accurate as of the date of publication. Many areas of the law can be interpreted more than one way. The authors have tried to interpret the law in a way that is consistent with protecting health care consumer rights. Others might interpret the law in another way.

This guide is only a summary. The rights and procedures described in this guide can change depending on the circumstances. The information in this guide may not apply to your particular situation.

This guide should not be used as a substitute for legal or other expert professional advice. The authors, Georgetown University, and the National Library of Medicine specifically disclaim any personal liability, loss, or risk incurred as a consequence of the use of any information in this guide.

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1. OVERVIEW

Both the *HIPAA Privacy Rule* and Washington law give you rights with respect to your medical record. The HIPAA Privacy Rule sets standards that apply to records held by *health care providers* across the nation. Washington law sets standards for records held by doctors, hospitals and other health care providers within the state. Most health care providers must follow both the HIPAA Privacy Rule and Washington law. If a standard in Washington law conflicts with a standard in the HIPAA Privacy Rule, your health care provider must follow the law that is the most protective of your rights.

SUMMARY OF YOUR RIGHTS

In Washington you have the right to:

- **See and get a copy of your medical record.**

Your health care provider usually must let you see your medical record or give you a copy of it as promptly as required by the circumstances, but no later than 15 working days after they receive your request. This right is called the *right to access* your medical record.

Your health care provider is allowed to charge you a fee for copying your record. They can also charge you the actual cost for postage if you have the copy mailed to you.

- **Request that your health care provider correct or amend your medical record.**

You have the right to request that your provider correct (edit) or amend (add information to) your medical record to make it more complete or accurate. If your provider denies your request, you have the right to add a short statement to your record that includes your requested correction or amendment and the reasons for your request.

- **File a complaint.**

You have the right to file a complaint with the Office for Civil Rights, U.S. Department of Health and Human Services if you believe your health care provider has violated your right to see, get a copy of, or amend your medical record. You can also file a complaint with the state agency that regulates your health care provider.

- **Sue in state court for violations of your rights under state law.**

You have the right under Washington law to sue in state court for violations of your state medical record rights.

You can learn more about these rights in the following sections of guide.



WHO HAS TO FOLLOW THESE LAWS?

Most Washington health care providers (such as medical doctors, chiropractors, hospitals and clinics) must follow both the HIPAA Privacy Rule and state laws that give patients rights in their medical records.

There are some health care providers, however, that do *not* have to follow the HIPAA Privacy Rule. The HIPAA Privacy Rule only covers health care providers that use computers to send health information for certain administrative or financial purposes (such as filing claims for insurance).

Example

Sometimes Ashley goes to a doctor at a free clinic for medical treatment. The doctor does not accept private insurance, Medicaid, or Medicare. The doctor does not file any insurance claims. Ashley's doctor probably does not have to follow the HIPAA Privacy Rule because the doctor does not appear to send health information for the types of administrative or financial purposes that would make her a covered health care provider under the Rule.

What if my health care provider does not have to follow HIPAA?

Even if your provider does *not* have to follow the HIPAA Privacy Rule, they still have to follow Washington laws that give you rights to your medical record. Section 6 lists some resources where you can read these state laws.

This guide, however, only explains how to get your medical record from Washington providers who *have* to follow the HIPAA Privacy Rule and state law.

If you have questions about whether your health care provider must follow the federal HIPAA Privacy Rule, you can contact the Office for Civil Rights, U.S. Department of Health and Human Services (OCR), the agency that is in charge of enforcing the HIPAA Privacy Rule. Section 4 of this guide lists contact information for OCR.

Are nursing homes covered by HIPAA?

Yes. Most nursing homes are covered by the HIPAA Privacy Rule. They also have to follow other specific rules that only apply to nursing homes and long term care facilities. Because the rules for nursing homes are different than they are for other health care providers, they are not covered by this guide.



WHAT RECORDS ARE COVERED BY THESE LAWS?

Generally, you have the right to see, get a copy of and amend your medical record. Your medical record includes such things as:

- Information that identifies you, such as your name and Social Security number.
- Information that you tell your doctor, such as:
 - Your medical history.
 - How you feel at the time of your visit.
 - Your family health history.
- The results of your examination.
- Test results.
- Treatment received in a hospital.
- Medicine prescribed.
- Notes your doctor makes about you.
- Other information about things that can affect your health or health care.

You also have the right to obtain other information about you that is used to make decisions about you. You have the right to get these records whether they are kept on paper, on a computer or in another format.

What happens if my medical record has information in it that came from a different health care provider?

Generally, if your provider has the medical information that you request, they must give it to you. You have the right to get medical information that is used to make decisions about you no matter who originally put it in the record. Your right to amend this information may be limited, though. For more information about how to amend information in your record you can read Section 3 of this guide.

Do I have the right to get records related to mental health treatment?

Generally yes. In Washington, psychologists, mental health counselors, marriage and family therapists, and social workers have to follow the same rules for providing access to client records as other health care providers. You can read more about when your provider can deny access to your mental health or medical records in "Can My Provider Deny My Request for My Medical Record."

WHO HAS THE RIGHT TO GET AND REQUEST A CORRECTION OR AMENDMENT OF MY MEDICAL RECORD?

You have the right to see and get a copy of medical records that are about you. You also have the right to request that your provider correct (edit) or amend (add information to) to your medical record to make it more complete or accurate. (This guide calls these rights the right to "get and amend" your medical record.) If there is someone who acts as your *personal representative* for health care, they usually have the right to get and correct your record on your behalf.



Do I have the right to get and amend my minor child's medical record?

Generally, yes. As a parent or guardian, you usually have the right to get and amend your minor child's medical record. In Washington, you generally have these rights when your child is younger than 18 years old.

As a parent, do I always have the right to get and amend my child's medical record?

No. A parent does not always have the right to get and amend a minor child's medical record. For example, if a health care provider reasonably believes that a parent is abusing or neglecting a child, the provider does not have to give the parent access to the child's medical record.

Some other situations where parents do not have the right to get and amend their child's medical records are discussed in the following questions and answers.

Who has the right to get and amend my child's medical record once she turns 18?

Once your child turns 18, your child has the right to get and amend her own medical record. This includes getting access to records that were created when she was still a minor. After your child turns 18, you usually no longer have the right to get and amend her medical record just because you are her parent.

I am under 18 and am emancipated. Who has the right to get and amend my medical record?

In Washington, if you are under 18 and emancipated, you have the right to consent to your own medical treatment. You also have the right to get and amend medical records that are related to this treatment.

I am an unemancipated minor but I can legally consent to certain kinds of medical treatment without my parents' permission. Who has the right to get and amend my records that are related to this treatment?

You do. In Washington, as an unemancipated minor, you can consent to the following types of medical treatment without the permission of your parents:

- Birth control and abortion related services.
- Outpatient mental health counseling if you are 13 or older.
- Treatment for sexually transmitted diseases if you are 14 or older. (This includes tests and treatment to determine if you have a sexually transmitted disease.)

When you alone lawfully consent to any of the treatments listed above, only you have the right to access the medical record related to that treatment. Your parents do not have the right to access this part of your medical record unless you give your written permission. If you and your parents jointly consent to your treatment, both you and your parents may have access to information related to this treatment.

Example

Jason is 16 and is sexually active. On his own, he consents to be tested for gonorrhea, a sexually transmitted disease. Jason's mother later requests a copy of his medical record. The doctor may not release the part of Jason's medical record related to the gonorrhea test to his mother unless Jason gives written permission to do so.

When minors consent to certain other types of treatment in Washington, such as inpatient mental health treatment, their parents must be notified.

If you have questions or concerns about whether your parent will have access to your medical information or be notified about your treatment, you should talk to your health care provider.

I have my mother's durable power of attorney for health care. Do I have the right to get her medical record?

Yes. If you have your mother's durable power of attorney for health care, you generally have the right to get and amend her medical records that are relevant to making those health care decisions. You have the right of access during the time that the power of attorney for health care is in effect.

Example

Maria's mother signed a durable power of attorney for health care form that gives Maria the power to make health care decisions if her mother is unable to make such decisions. Maria's mother was in a bad accident and is not able to make decisions about her health care. Maria now has the right to make health care decisions on her mother's behalf. She also has the right to get her mother's medical records. For example, Maria has the right to see the records about her mother's current medical condition and treatment.

Maria is curious about the time her mother had a miscarriage. Maria wants to look at these old medical records. Maria does *not* have the right to get and amend these old medical records because the records have nothing to do with her mother's current condition or treatment.

My father recently died. Do I have the right to get his medical record?

It depends. You have the right to get a deceased person's medical records from a Washington health care provider if you are the personal representative of the deceased person's estate (such as the executor or administrator). If there is no executor or administrator of the estate, the following persons generally have the right to access a deceased person's medical records in this order of priority:

- The patient's appointed guardian, if any.
- The person, if any, to whom the patient had given a durable power of attorney to make health care decisions.
- The patient's surviving spouse.
- Children of the deceased patient who are 18 or older.
- Parents of the patient.
- Adult brothers and sisters of the patient.

The person with the highest priority on the list generally has the right to access the deceased patient's medical record. For example, if a deceased patient has a surviving spouse and an adult brother, the spouse (not the brother) has the right to access the deceased's medical record.



HOW LONG DOES MY PROVIDER HAVE TO KEEP MY MEDICAL RECORD?

State law requires many health care providers to keep your medical record for a specific period of time. For example, hospitals generally must keep medical records no less than 10 years following the most recent discharge of the patient. Hospitals must keep the medical records of minors until the minor reaches the age of 21, or for at least 10 years following the minor's discharge, whichever is longer. In practice, many health care providers keep their medical records longer.

You have a right to see, get a copy of, and amend your medical record for as long as your health care provider has it. Once you request your medical record, your provider must keep your record until they respond to your request (even if the general record retention period has expired).

2. GETTING YOUR MEDICAL RECORD

SUMMARY

You have the right to see your medical record. You also have the right to get a copy of your medical record. These rights are often called the *right to access* your medical record.

Usually, your *health care provider* must respond to your request for your record as promptly as required under the circumstances, but no later than 15 working days after receiving your request.

Generally, your health care provider must give you a copy in the format that you request if it is easy for them to do so.

You may have to pay a fee to get a copy of your record.



HOW DO I ASK FOR MY MEDICAL RECORD?

You should ask your health care provider about their specific procedures for getting your medical record. Often, your provider has a form for requesting your medical record. You should use this form if one is available. You should be able to find some information about getting your medical record in your health care provider's *notice of privacy practices*.



Can my provider require that I put my request for my medical record in writing?

Yes. Your health care provider can require that you put your request in writing. Your provider must let you know that they have such a requirement.

What information should I include in my request for my medical record?

If your health care provider does not have a form for requesting your medical record, you should check to see what information they require. Generally, when you ask for your medical record, your request should include:

- The date of your request.
- Your name, address, telephone number or other contact information.
- Any other name you may have previously used (such as your maiden name).
- Your date of birth or medical record number.
- Date(s) of service (such as dates you were in the hospital).

- A description of the information that you want to see or copy. This might include:
 - o Whether you want the entire record or just part of the record.
 - o Medical condition for which you are asking information.
 - o Specific test results.
 - o Whether you want X-rays or records made by heart monitors or similar medical devices, or interpretations of these tests.
- Whether you want to see your medical record, want a copy of your record, or would like both.
- Your signature.

Can my health care provider require that I include my Social Security number in my request for my medical record?

Yes. Because some health care providers use Social Security numbers as a way to identify medical records, they may need your Social Security number to locate your medical record. There is nothing in the HIPAA Privacy Rule or the Social Security Act that prohibits a private provider from engaging in this practice.

Do I have to choose between seeing my medical record and getting a copy of it?

No. You have the right to do both.

Can my health care provider require me to show some proof of who I am in order to see or get a copy of my medical record?

Yes. Your health care provider must make sure you are the person who has the right to get the medical record before they give it to you. Your provider is allowed to choose the method for verifying your identity. For example, your provider might ask for an identification card (such as a driver's license).

If you are acting under a durable power of attorney, your provider may require you to show them a copy of the power of attorney form. If you are requesting medical records of a deceased patient, you should expect to show documentation that you have the authority to request the patient's medical records.



WHAT WILL HAPPEN IF MY REQUEST FOR MY MEDICAL RECORD IS ACCEPTED?

Your health care provider will inform you if they agree to give you your medical record. If you asked to *see* your records, your health care provider must arrange a convenient time and place for you to review the record. If you have requested a *copy* of your record, your health care provider must either send it to you or arrange for you to pick up a copy.



HOW LONG SHOULD IT TAKE MY PROVIDER TO ACT ON MY REQUEST FOR MY MEDICAL RECORD?

Generally, as promptly as required by the circumstances, but no later than 15 working days after they receive your request, your health care provider must take one of the following actions:

- Let you see or give you a copy of your medical record
- Inform you if the information does not exist or cannot be found
- If the health care provider does not maintain the record you requested, inform you and provide the name and address of the health care provider who maintains the record *or*
- Tell you that they are denying your request for your record.

Can it ever take longer?

Yes. If your medical records are in use or unusual circumstances delay handling of your request, your health care provider can take a maximum of 21 working days to give you access to your medical record. Your provider must inform you in writing of the delay and tell you the date that your records will be available within the original 15 working days after they receive your request.

My health care provider says that in certain cases they can take up to 90 days to give me a copy of my medical record. Is that true?

No. There are times when the HIPAA Privacy Rule would let a health care provider take up to 90 days to respond to a request for a medical record. However, Washington law generally requires a health care provider to give you a copy of your record no later than 15 working days after they receive your request (21 days if there are unusual circumstances). Your provider must follow the shorter deadline set by Washington law.



CAN MY HEALTH CARE PROVIDER CHARGE ME FOR COPYING MY MEDICAL RECORD?

Yes. Generally, health care providers may charge for copying your medical record. In Washington, your provider is allowed to charge you 91¢ a page for the first 30 pages and 69¢ per page for all other pages. These fees are in effect until June 30, 2007, at which time they can be adjusted by the state secretary of health.

Your provider also may charge you the actual cost of postage if you have the copies sent to you.

Washington law also permits a provider to charge you a \$21 clerical fee for searching for and handling your medical record. However, it is not clear whether providers who must comply with the HIPAA Privacy Rule can charge this fee. The HIPAA Privacy Rule allows providers only to charge for the actual cost of copying (including labor and supplies). Since the Privacy Rule does not permit providers to charge fees for searching for and handling medical records, many people believe that providers must follow the Privacy Rule and are prohibited from charging this \$21 clerical fee when you ask for your own record. If you have questions or complaints about being charged this clerical fee, you may want to contact one of the state or federal agencies listed in Section 4 of this guide.

Can I be charged if I just want to look at or read my medical record?

No. Your health care provider cannot charge you a fee if you just look at or read your medical record.

Can I be charged if I want a copy of my medical record sent to another health care provider or to a lawyer?

The procedures and fees for having a copy of your medical record sent to someone else (such as to another doctor or to a lawyer) are not covered by the HIPAA Privacy Rule. They are not discussed in this guide.



CAN I HAVE MY MEDICAL RECORD SENT SOMEWHERE OTHER THAN MY HOME ADDRESS?

Yes. You can ask your health care provider to send the copy of your medical record to your regular address (such as your home) or to a different, preferred address (such as to your office or to a friend's house). As long as your request is reasonable, your provider must send your record to the place that you identify.



CAN I GET A PAPER, E-MAIL, OR FAX COPY?

It depends. Generally, your health care provider must give you your medical record in the format that you request if it is not difficult to do so. For example, if you request a paper copy of your record, your provider generally must give you a paper copy.

Providers also must make sure that they send your records to you in a secure manner. Due to security concerns, many health care providers are reluctant to send copies of medical records by e-mail or fax. You should check with your provider to see whether they are willing to send you a copy by e-mail or fax and to find out their specific procedures.



CAN I GET A SUMMARY OF MY MEDICAL RECORD?

It depends. You may want just a summary of your record. Under the HIPAA Privacy Rule, your health care provider can give a summary of your medical record if you both agree *in advance*

- That it is all right for them to give you a summary, *and*
- To the fee, if any, they want to charge for writing the summary.

If your health care provider agrees to give you a summary, they generally must give it to you no later than 30 days after they receive your request. If they are unable to produce the summary in this time, they can get a 30 day extension. Sometimes it can take longer.

Your provider can charge you a reasonable fee for the actual time they spend preparing the summary.

As a practical matter, if you have been an inpatient in a hospital and want a summary of your care while you were there, you can request a copy of the "discharge summary." A discharge summary is routinely prepared for hospital stays of more than 2 days.

Example

Leon asks for a summary of his medical record. The record does not currently contain a summary and the doctor does not have the time or staff to prepare one. Leon's doctor is not required to prepare a summary in response to Leon's request. But the doctor must let Leon see or get a copy of his medical record.

I received a copy of my medical record, but I can't understand it. Can I get an explanation of the codes or abbreviations in it?

Yes. Health care providers often use codes or a type of medical shorthand to refer to specific medical conditions or treatment. Under Washington law, your health care provider must provide an explanation of any code or abbreviation used in your medical record upon your request.

You also can find some resources that explain medical terms in Section 6 of this guide.



CAN MY PROVIDER DENY MY REQUEST FOR MY MEDICAL RECORD?

Yes. Your health care provider (including your mental health care provider) can deny your request to see or get a copy of your medical record, but only in a few cases. For example, if your provider believes that letting you see your record might physically endanger you or another person, they can deny your request.

How will I know if my request for my medical record has been denied?

Your health care provider must tell you in writing if they deny your request for your medical record. They must tell you why your request was denied. They also must tell you if you have a right to have their decision reviewed and how you can file a complaint.

Generally, under Washington law, your health care provider must give you this information within 15 days after receiving your request for your record.

Can my health care provider deny my request for my medical record just because they think I might get upset if I read it?

No. Your health care provider cannot deny you access to your record because they think the information in the record might upset you or that it might cause you mental harm. However, they can deny your request if they believe you will become upset enough to physically harm yourself or another person.



Can my health care provider deny my request for my medical record because I have not paid my medical bill?

No. Your provider cannot deny your request for your medical record because you have not paid your medical bill.

My medical record contains some information that my provider is allowed to deny me access to. Does this mean that I can't get any of my medical record?

No. Your health care provider must give you as much of your medical record as possible. Your provider may remove only the information that they are allowed to refuse to give you access to.



WHAT CAN I DO IF MY HEALTH CARE PROVIDER DENIES MY REQUEST FOR MY MEDICAL RECORD?

If your health care provider denies your request for your medical record because they believe that seeing it might endanger you or another person, you have the right to have a different health care professional review their decision.

Washington Law

Under Washington law, if your request for your medical record is denied, you can request that your medical record be furnished to another health care provider of your choice. You must designate a provider who is licensed, certified, registered or otherwise authorized under Washington law to treat you for the same condition as the health care provider who denied your request. Your provider must furnish your record to the provider that you have chosen. You will be responsible for arranging for compensation of the other health care provider you have selected to review your medical record.

To help minimize any confusion, your request to furnish your medical record to another provider of your choice should plainly state that you are making the request under Washington Revised Code, Section 70.02.090(3).

HIPAA Privacy Rule

Under the HIPAA Privacy Rule, if your provider denies your request for your medical record you have the right to have another health care professional review their decision. At the time your provider denies your request for your record, they must tell you in writing if you have a right to a review. They also must tell you how to ask for a review.

If you request a review, your provider must choose another licensed health care professional to review their decision. They cannot choose someone who was involved in the original decision. The reviewer makes the final decision whether you are allowed to get access to your medical record. Your provider must tell you in writing what the reviewer decides.

3. CORRECTING OR AMENDING YOUR MEDICAL RECORD

SUMMARY

When you review your medical record you may find something that you believe does not belong in your record. You might also believe that important medical information is missing. If this is the case, in Washington you have the right to request that your health care provider correct (edit) or amend (add information to) your medical record to make it more accurate or complete.



HOW DO I ASK MY HEALTH CARE PROVIDER TO CORRECT OR AMEND MY MEDICAL RECORD?

Before you ask your health care provider to correct or amend your medical record, you should:

- Identify the part of your medical record that you think is inaccurate or incomplete.
- Identify the health care provider that created the information or that first put the information into your record.

You should ask your provider about their specific procedures for requesting that they correct or amend your medical record. Your health care provider may have a form for this request. You should use this form if one is available. You should be able to find some information about correcting or amending your medical record in your provider's *notice of privacy practices*.



Can my health care provider require that I put my request to correct or amend my record in writing?

Yes. Your health care provider is allowed to require that you put your request to correct or amend your record in writing. They are also allowed to require that you give them a reason why you want to correct or amend your record.

What information must be included in my request to correct or amend my medical record?

If your provider does not have a form for requesting your medical record, you should check to see what information your provider requires. Generally, you may want to include the following information in your request:

- The date of your request.
- Your name, address and other information about where they can contact you.
- Your date of birth or medical record number.
- The type of information you want to amend.
- A description of the information that you believe is inaccurate or incomplete.
- The information that you want them to add to your record.

- The reason why you want the information added.

Can my health care provider require that I include my Social Security number in my request to amend my medical record?

Yes. Because some health care providers use Social Security numbers as a way to identify medical records, they may need your Social Security number to locate your medical record so that they can amend it. There is nothing in the HIPAA Privacy Rule or the Social Security Act that prohibits a private provider from engaging in this practice.



HOW LONG SHOULD IT TAKE MY PROVIDER TO ACT ON MY REQUEST TO CORRECT OR AMEND MY MEDICAL RECORD?

Generally, as promptly as required under the circumstances but no later than 10 days after they receive your request, your health care provider must take one of the following steps:

- Add the information to your medical record as you requested
- Mark the challenged information as corrected
- Inform you if the record no longer exists or cannot be found
- If the health care provider does not maintain the record, inform you and provide you with the name and address, if known, of the person who maintains the record *or*
- Deny your request in writing and tell you of your right to add a statement of disagreement.

You might know people or organizations that should be told about the new information. You should give their names and contact information to your health care provider. Your provider must give the amended health information to the people and organizations you identify.

Can it ever take longer?

Yes. If your medical records are in use or unusual circumstances delay handling of your request, your health care provider can take a maximum of 21 working days to amend or correct your medical record. Your provider must inform you in writing of the delay and tell you the date that your request will be acted on within the original 15 working days after they receive your request.

My provider says they can take up to 60 days to amend my record. Is this accurate?

No. Under HIPAA, in certain cases a health care provider can take up to 60 days to amend your record, but Washington law has shorter deadlines. Because Washington law gives you more rights in this area, your provider must follow the shorter deadlines set by state law.



CAN MY HEALTH CARE PROVIDER DENY MY REQUEST TO CORRECT OR AMEND MY MEDICAL RECORD?

Yes. There are times when your health care provider can deny your request to correct or amend your medical record. Generally, your provider can deny your request when:

- They determine your record is already accurate or complete.
- They did not create the information that you want to correct or amend.

If your health care provider denies your request to correct or amend your record, they must let you know in writing. Your provider also must tell you why they denied your request.

The provider that created the information that I want to amend isn't around any more. Is there anything I can do?

You can ask your current provider to amend your information. You should explain to them in as much detail as possible that the health care provider who first created the information that you want to amend is no longer available to act on your request. If your explanation is reasonable, your current provider cannot deny your request to amend just because they did not create the medical information.

Example

Brianna wants to amend information in her medical record that was originally put in her record by Dr. Smith. Dr. Smith has retired. Brianna asks Dr. Jones, her current doctor, to amend her medical record. She shows Dr. Jones the letter Dr. Smith sent to his patients announcing his retirement. Dr. Jones cannot refuse to amend Brianna's record just because he didn't create the information she wants to amend.

WHAT CAN I DO IF MY REQUEST TO CORRECT OR AMEND MY MEDICAL RECORD IS DENIED?

If your request is denied, you have the right to give your health care provider a written statement of your request that explains why you think the change should be made. Your provider may reasonably limit the length of your statement. Your provider must make your statement part of your medical record. In the future, when your provider shares your medical information with others, your provider must also give them a copy of their denial of your request to correct or amend and a copy of your statement of disagreement.

Do I have the right to have someone else review my health care provider's denial of my request to correct or amend my records?

No. If your health care provider denies your request to amend your medical record you do not have the right to have someone else review that decision.

4. ASKING QUESTIONS AND FILING COMPLAINTS

This guide is just a summary of your rights to see, get a copy of, and amend (or correct) your medical record. If you have more questions or would like to file a complaint you can contact the people and organizations listed below. You can also contact professional help if necessary.



WHO CAN ANSWER MY QUESTIONS ABOUT GETTING AND AMENDING MY MEDICAL RECORD?

There are a number of resources available to answer your questions about getting and amending your medical record.

Your health care provider

Your health care provider should be able to answer many of your questions about getting and amending your medical record. Your provider's *notice of privacy practices* must contain a general description of your right to see, get a copy of, and amend your medical record. The notice also must list the name (or title) and the telephone number of a contact person who should be able to answer your questions about getting and amending your medical record. In addition, some providers have Web sites that list information on how to see, get a copy of and amend your medical record.

Office for Civil Rights, United States Department of Health and Human Services (OCR)

You may be able to get answers to your questions about your rights under the HIPAA Privacy Rule from OCR, the federal agency in charge of enforcing the HIPAA Privacy Rule. OCR provides fact sheets for consumers and responses to frequently asked questions on its Website <http://www.hhs.gov/ocr/hipaa/>.

If you do not find your question answered here you can call OCR at **1-866-627-7748**. This is a toll free number. OCR requests that you read their responses to frequently asked questions before you call this number.



WHAT CAN I DO IF I BELIEVE MY RIGHTS TO GET AND AMEND MY MEDICAL RECORDS HAVE BEEN VIOLATED?

Before taking any formal action, you should try to informally solve your problems getting and amending your medical record with your health care provider. If you are unable to resolve your issues informally, there are a number of possible actions you can take.

You can file a complaint with your health care provider.

You have the right, under the HIPAA Privacy Rule, to file a complaint with your health care provider. Your health care provider's notice of privacy practices must describe how to file a complaint.

Your provider cannot threaten you or do anything else to get even with you if you file a complaint.

You can file a complaint with the Office for Civil Rights, Health and Human Services (OCR).

You can get detailed information about filing a complaint with OCR at:
<http://www.hhs.gov/ocr/privacyhowtofile.htm>.

You can file a complaint with your regional OCR office at:

Office for Civil Rights
U.S. Department of Health & Human Services
2201 Sixth Avenue - Mail Stop RX-11
Seattle, WA 98121
(206) 615-2290 or (202) 615-2296 (TDD)
(206) 615-2297 (FAX)

You can call OCR at **1-800-368-1019** if you need help filing a complaint or have a question about the complaint form. This is a toll free call.

Your provider cannot threaten you or do anything else to get even with you if you file a complaint.

You can file a complaint about your doctor or other health care professional with the Washington State Department of Health at:

Washington State Department of Health
Health Professions Quality Assurance
P.O. Box 47865
Olympia, WA 98504-7865
(360) 236-4700

You can download a complaint form at

<https://fortress.wa.gov/doh/hpqa1/disciplinary/complaint.htm>

You can file a complaint about your hospital with the Washington State Department of Health, Facilities & Services Licensing at:

Washington State Department of Health
Facilities and Services Licensing
ATTN Investigations
PO Box 47852
Olympia WA 98504-7852
Phone: (360) 236-2905
Fax: (360) 236-2901
24-Hour Hotline: 1-800-633-6828

You can download a complaint form at:

<http://www.doh.wa.gov/hsqa/fsl/Documents/Complaints/ComplainantIntakeForm.pdf>

Can I sue my health care provider for violating my rights to get and amend my medical record?

You have the right to sue your health care provider in a Washington state court to remedy violations of your state rights to get and correct or amend your medical record.

You do not have the right to sue your health care provider in federal court (United States District Court) for violating your right to get and amend your medical record under the HIPAA Privacy Rule.

5. WORDS TO KNOW

Amend. This guide uses the word "amend" to mean having information added to your medical record to make it more complete or accurate.

Correct. This guide uses the word "correct" to mean editing or changing your medical record.

Health care provider or provider. As used in this guide, "health care provider" or "provider" includes health care professionals (including doctors, dentists, chiropractors, podiatrists, mental health care counselors, marriage and family therapists, social workers, psychologists and others) and health care facilities (such as hospitals, clinics, and nursing homes.)

HIPAA Privacy Rule. A set of legal rules written by the United States Department of Health and Human Services under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). These rules set national standards that give patients the right to see, copy, and amend their own health information. They also set standards protecting the privacy of health information. The HIPAA Privacy Rule does not apply to everyone who keeps health information about you. Only health care providers (such as doctors and hospitals), health plans (such as health insurers and Medicare) and health care clearinghouses (organizations that put health information into or out of an electronic format) have to follow the HIPAA Privacy Rule. Other people (such as employers) generally do not have to follow the HIPAA Privacy Rule.

HIPAA. Health Insurance Portability and Accountability Act of 1996. This federal law directed the United States Department of Health and Human Services to write rules protecting the privacy of health information. The federal law leaves in place state laws that have privacy protections that are equal to or greater than the federal law.

Notice of Privacy Practices. A notice that health care providers must give their patients that explains the patients' rights under the HIPAA Privacy Rule. Your provider must give you this notice when they first see you. They also must give you a copy of the notice when you ask for one. The notice of privacy practices must also explain how a provider can use health information and share it with others.

Personal representative. This guide uses the term "personal representative" to refer to someone who has the legal right to make health care decisions on behalf of another person.

Right to Access. The right to see and get a copy of your medical record.

6. WHERE TO FIND MORE INFORMATION

This guide only discusses how to get and amend your medical records from health care providers who have to follow the HIPAA Privacy Rule. The guide mentions some related topics without discussing them in detail. Here are some resources where you can find information about these related topics.

Alcohol and Drug Treatment Records

Records related to alcohol and drug treatment may be subject to other privacy rules. You can get more information about these records at:

<http://hipaa.samhsa.gov/Part2ComparisonCleared.htm>

Medical Records in General

You can read general information on your medical record rights, the flow of medical information, and how to create a personal medical record at <http://www.myphr.com/> a Website operated by the American Health Information Management Association, an association of professionals who manage medical records and information.

Medical Records in Washington

You may be able to get answers to your questions about your rights under Washington State law and the HIPAA Privacy Rule from Washington State Health Information Management Association (WSHIMA), a Washington state association of professionals who manage medical records and information. You can contact WSHIMA at:

Email: WSHIMA@mindspring.com

Phone: (206) 285-3842

Medical Terms

You can find out the meaning of many medical terms and medical shorthand from the Medical Library Association's Website at:

http://www.mlanet.org/resources/consumr_index.html

Your library might also have books or brochures that explain medical terms.

Mental Health Treatment Records

You can find links to mental health resources and information regarding your rights to your mental health records on the web site of the Washington State Department of Social & Health Services at:

<http://www1.dshs.wa.gov/mentalhealth/>

The HIPAA Privacy Rule treats most mental health treatment records like other medical records. However, psychotherapy notes (as defined by the HIPAA Privacy Rule) are treated differently. You can find what types of records are included in psychotherapy notes and how these notes are treated in the *Summary of the Privacy Rule* written by the Office for Civil Rights, HHS at: <http://www.hhs.gov/ocr/hipaa/>.

Minors' Health Care Rights in Washington

The Northwest Justice Project has written a summary of minors' health care rights in Washington called, *Health Care Rights of Those Under Eighteen Years of Age*. It is available at: <http://www.washingtonlawhelp.org/>. You can find the summary by using the search term "health care rights."

Washington Health Record Access Laws

Some health care providers do *not* have to follow the HIPAA Privacy Rule. These providers must still follow Washington laws that give you the right to see and get a copy of your medical record. The Washington Revised Code, Title 70 (Public Health and Safety), Chapter 2 (Medical Records - Health Care Information Access and Disclosure) gives patients access rights to their health records. You can read this statute at: http://www.leg.wa.gov/rcw/index.cfm#RCW_by_Title