



Access to Protected Health Information Policy
January 30, 2017

SCOPE

This policy applies to Florida Atlantic University's Covered Components and those working on behalf of the Covered Components (collectively "FAU") for purposes of complying with the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

POLICY

FAU shall afford individuals the right to access, inspect, and obtain a copy of their Protected Health Information ("PHI") in a Designated Record Set, in accordance with the provisions of the HIPAA Privacy Rule.

REASON FOR POLICY

To establish that FAU will allow individuals to access, inspect and copy their PHI in accordance with certain policies and procedures.

DEFINITIONS- Refer to Glossary and Terms

PROCEDURE

1. Request for Access and/or Copying Form. An individual who seeks to access and/or copy his or her PHI contained in a Designated Record Set must complete a request in writing and submit it to FAU's privacy officers in the Covered Components, as described in our Notice of Privacy Practices. The individual can obtain forms from the privacy officers or from FAU's HIPAA website.
2. The designated privacy officers from the Covered Components shall respond to the request within thirty (30) days of receipt of the request. The Chief Compliance Officer may extend the deadline once for no more than thirty (30) days by providing the patient with a written statement of the reasons for any delay and the date by which the Chief Compliance Officer will complete the request.

If the request for access/or copying is denied, the designated privacy officer shall forward the form and information pertaining to the denial to the Chief Compliance Officer, who will consult with the Office of General Counsel, if necessary or appropriate, and then decide whether to grant or deny the individual's request in accordance with this policy.

The Chief Compliance Officer will notify the individual of where to direct his or her request for access if the Covered Component does not maintain the PHI that is sought but knows where it can be obtained.

3. Granting Access. If the Chief Compliance Officer grants access, he or she will provide the individual with timely access to the records in the form and format requested (unless not producible in such form), including inspection and the opportunity to copy the records at a convenient time and place. If the individual's PHI is maintained electronically and the individual requests an electronic copy of such information, FAU must provide the individual with access to the PHI in the electronic form and format requested by the individual (unless not readily producible in such form). FAU may mail a copy of the PHI to the individual at his or her request. In addition, the Chief Compliance Officer may provide the individual with a summary of the information requested, in lieu of providing access to the PHI, or may provide an explanation of the PHI in addition to that PHI, if the individual agrees in advance to such a summary or explanation and the fees (if any) imposed for such summary or explanation. Any fee imposed must be reasonable and cost-based that only includes the cost of: a) copying, including the cost of supplies for and labor of copying; and b) postage (when the individual or Personal Representative requests the copy of PHI be mailed).

4. Denying Access.

If the Covered Entity denies access, in whole or in part, to PHI, it must comply with the following requirements:

The individual requesting access or a copy of his or her PHI or the individual's Personal Representative is entitled to receive a written notice of denial. The individual or Personal Representative may request a review of some denials; others are not reviewable.

a. Unreviewable grounds for denial - An individual has no right to access the following information, and the Chief Compliance Officer does not have to provide the individual with the opportunity for review:

i. Psychotherapy notes;

ii. Information compiled in anticipation of civil, criminal, or an administrative action or proceeding;

iii. PHI that is prohibited from disclosure pursuant to the Clinical Laboratory Improvement Act ("CLIA"), to the extent the provision of access to the individual would be prohibited by law; or

iv. PHI that was obtained from another person (other than a health care provider) under a promise of confidentiality and granting access would reasonably likely reveal the source's identity.

b. Reviewable grounds for denial – The Chief Compliance Officer may deny access for the following reasons but must give the individual a chance to seek a review of the denial:

- i. A licensed healthcare professional has determined that access is reasonably likely to endanger the life or physical safety of the patient or another individual;
- ii. When the PHI sought refers to another person, and a licensed healthcare professional determines that access is likely to cause substantial harm to that person; or
- iii. When the request for access is made by a Personal Representative and a licensed healthcare professional determines that providing access to the representative is likely to cause substantial harm to the patient or another person.

If access is denied on a reviewable basis, the individual or individual's Personal Representative has the right to have the denial reviewed by a licensed healthcare professional chosen by FAU who was not involved in the original denial. That individual must determine, within a reasonable period of time, whether the denial was proper and provide written notice of the determination to the requestor.

- c. Denial Notice - If the Covered Component denies access *for any reason*, it must provide the patient with a written denial which includes: (a) the basis for the denial: (b) a statement of the individual's right to have the denial reviewed and how such right may be exercised: and (c) a description of how the individual can file a complaint with FAU and the Secretary of Health and Human Services. The description must include the name (or title) and telephone number of the person or office responsible for receiving complaints.
5. Documentation. FAU will document and retain (a) the records that are subject to access and (b) the title of the person or office responsible for receiving and processing the request for access for six (6) years.
 6. Sending PHI to a Third Party. If an individual's (or Legally Authorized Representative's) request for access to PHI directs FAU to transmit the copy of PHI directly to another person designated by the individual, FAU must provide the copy to the person designated by the individual. The individual's request must be in writing, signed by the individual, and clearly identify the designated person and where to send the copy of PHI.