

**YUMA COUNTY  
ADMINISTRATIVE MANUAL**

Adopted by Board of Supervisors: March 15, 2004 - Addendum No. 1

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SUBJECT:	REQUEST FOR AMENDING PROTECTED HEALTH INFORMATION	ITEM NUMBER	<b>99-02</b>
AUTHORITY:	45 CFR SECTION 164.526	ID #:	0407
EFFECTIVE DATE:	APRIL 14, 2004	PAGE	1 OF 5

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Purpose

To establish a policy regarding requests to amend protected health information that meets HIPAA requirements.

Definitions

*Note: The definitions below are in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Standards for Privacy of Individually Identifiable Health Information (Privacy Rule).*

*Designated Record Set:*

1. County as Health Care Provider. Records maintained by or for the County that are:
  - Patient/resident/client medical records, including images (e.g. radiology films, fetal monitor strips, electrocardiograph (EKG) tracings, electroencephalograph (EEG) tracings, imaged records of procedures, and the like);
  - Patient/resident/client billing records; or
  - Records used, in whole or in part, by or for the County to make decisions about individuals.
  
2. County as Health Plan. Records maintained by or for the County that are for:
  - Enrollment;
  - Payment;
  - Claims adjudication;
  - Case or medical management systems; or
  - Records used, in whole or in part, by or for the County to make decisions about individuals, as such relates to said health plan.

The designated record set **excludes** information compiled by the County that is not used to make decisions about specific individuals, and includes, but is not limited to, information compiled for peer review, quality assurance, and business operations.

*Individually Identifiable Health Information:* Information that identifies an individual (or could reasonably be used to identify an individual) that:

- Is created or received by the County; and
- Relates to the past, present, or future physical or mental health or condition of an individual;
- Relates to the provision of health care to an individual; or
- Relates to the past, present, or future payment for the provision of health care to an individual.

This includes demographic information (such as name, address, date of birth, sex, and race)

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collected from an individual.

*Legal Representative:* An individual's legal representative may include the following:

- Conservator of the Person – Court appointed;
- Attorney-in-Fact for Health Care – Holder of a valid Durable Power of Attorney for Health Care;
- Guardian of the Person – Court appointed;
- Parent – Unemancipated minor where the minor does not have the authority to authorize the release of records on his or her own behalf;
- Decedent's Personal Representative – Court appointed;
- Executor of a Decedent's Estate – Court appointed;
- Administrator of a Decedent's Estate – Court appointed;
- Personal Representative – Court appointed; or
- Beneficiary of a Decedent's Estate – Must provide adequate documentation that the person is a beneficiary of the decedent's estate and that no other person has the authority to prevent the release of the Protected Health Information.

Note: This policy uses the term "legal representative." That term is meant to be synonymous with the Privacy Rule term "personal representative." This policy uses the term "legal representative" because the term "personal representative" has a separate and distinct legal meaning under Arizona law.

*Protected Health Information (PHI):* Individually identifiable health information that is transmitted or maintained by electronic or any other medium.

*Psychotherapy Notes:* Notes recorded in any medium by a mental health professional documenting or analyzing the contents of conversations during a private, joint, family, or group counseling session that are filed separately from the rest of the individual's medical record.

Psychotherapy notes **exclude:**

- Medication prescription and monitoring records;
- Counseling session start and stop times;
- Modalities and frequency of treatment;
- Results of clinical tests; or
- Summaries of diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

Policy

In compliance with state and federal laws and regulations, individuals will be given the opportunity to request that amendments be made to their PHI. This right applies to PHI and records in a designated record set for as long and the information is maintained in the designated record set.

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Procedure

1. Request for Amendment

An individual or their legal representative must submit the request in writing and give a reason in support of the requested amendment.

2. Timely Review

The County shall inform the individual who requests that an amendment be made to his or her PHI of the requirements for properly making such a request. The County shall respond no later than sixty (60) days after the request is received. This deadline may be extended for no more than thirty (30) days by providing the individual with a written statement of the reason for the delay and the date on which the County will complete its action. Any notice that the County will take longer than sixty (60) days to respond must be provided to the individual within sixty (60) days of receiving the request.

3. Grounds for Denial of Amendment

The County may deny an individual's request for an amendment to his or her PHI as follows:

- The PHI was not created by the part of the County subject to the Privacy Rule. The information may be amended, however, if the individual provides a reasonable basis on which to believe that the originator of the PHI is no longer available to act on the requested amendment;
- The PHI is not part of the designated record;
- The PHI would not otherwise be available to the individual for inspection (See Individual Access to Protected Health Information in the Designated Record Set, County Policy.);
- The PHI that the individual has asked to be amended is accurate and complete.

4. Amending or Identifying Request and Notice to Individual

The County will inform the individual whether the amendment has been accepted or denied.

- If accepted in whole or in part, the County will do the following:
  - Identify the records that are affected by the amendment and must append or otherwise provide a link to the location of the amendment.
  - The County must seek the individual's agreement to have the amended

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information shared with and then make reasonable efforts to provide a copy of the amendment within a reasonable time to the following:

- i. Persons or entities identified by the individual as having received the PHI and as needing the amendment; and
  - ii. Persons or entities that the County knows have the PHI that is subject to amendment.
- If denied in whole or in part, the County must give the individual a statement of denial written in plain language. The written denial must include:
  - o The basis of denial as allowed under Section 3 of this Policy and Procedure, "Denial of Amendment";
  - o A statement that the individual may submit a written statement of reasonable length disagreeing with the denial and explaining how the individual may file that written statement;
  - o How the individual may make a complaint; and
  - o A statement that, if the individual does not submit a statement of disagreement, the individual may request that the County 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 request.
- If an individual has requested an amendment to his or her PHI and when providing that protected health information to other persons or entities in the future, the County may prepare and place in the designated record along with the individual's written statement a rebuttal statement to the individual's statement. The County shall provide a copy of the rebuttal statement to the individual who submitted the statement of disagreement.

**5. Future Disclosures of Amendment Information**

In the event an individual has requested an amendment to his or her PHI and when the County provides that PHI to other persons or entities in the future, the County will provide either the information included in the designated record pertaining to the amendment request (e.g. amended record, individual's written statement of disagreement and County's rebuttal, or individual's request and County's denial), or at the County's election, an accurate summary of information relating to the requested amendment.

**6. Notice to County by Other Entities of Amended PHI**

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If a part of the County that is subject to the Privacy Rule is informed by another covered entity of an amendment to an individual's designated record, the County must identify the records that are affected by the amendment and append or otherwise provide a link to the location of the amendment.