



## Oklahoma State University

<b>Title: Access to Protected Health Information</b>	<b>Policy #: PRV-10.01</b>
<b>Category: HIPAA Compliance</b>	<b>Authority: 45 CFR § HIPAA SECTION: 164.524(a)</b>
<b>Standard: Access to Protected Health Information</b>	<b>Responsibility: Health Care Components</b>
<b>Effective Date: 4/14/2003</b>	<b>Page 1 of 3</b>
<b>Approved By: OSU Legal Counsel</b>	<b>Revised: 7/1/2013</b>

### **PURPOSE:**

To identify the patient's rights regarding access to their own medical record or Protected Health Information.

### **POLICY:**

OSU recognizes the individual's right of access to inspect and obtain a copy of PHI about the individual contained within the designated record set, for as long as the PHI is maintained in the designated record set, except for: §164.524(a)(1)

1. Psychotherapy notes §164.524(a)(1)(i)
2. HIV/Aids notes upon doctor's permission.
3. Information compiled in reasonable anticipation of, or for use in, a civil, criminal or administrative action or proceeding; and. §164.524(a)(1)(ii)
  - a. Subject to the Clinical Laboratory Improvements Amendments of 1988, 42 U.S.C. 263a, to the extent the provision of access to the individual would be prohibited by law; or §164.524(a)(1)(iii)(A)
  - b. Exempt from the Clinical Laboratory Improvements Amendments of 1988, pursuant to 42 CFR 493.3(a)(2) §164.524(a)(1)(iii)(B)

OSU may deny an individual access without providing the individual an opportunity for review, in the following circumstances. §164.524(a)(2)

4. The PHI is excepted as stated above. §164.524(a)(2)(i)
5. OSU acting under the direction of the correctional institution may deny, in whole or in part, an inmate's request to obtain a copy of protected health information, if obtaining such copy would jeopardize the health, safety, security, custody, or rehabilitation of the individual or of other inmates, or the safety of any officer, employee, or other person at the correctional institution or responsible for the transporting of the inmate. §164.524(a)(2)(ii)
6. An individual's access to protected health information created or obtained by OSU in the course of research that includes treatment may be temporarily suspended for as long as the research is in progress, provided that the individual has agreed to the denial of access when consenting to



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participate in the research that includes treatment, and OSU has informed the individual that the right of access will be reinstated upon completion of the research. §164.524(a)(2)(iii)

7. An individual's access to protected health information that is contained in records that are subject to the Privacy Act, 5 U.S.C. 552a, may be denied, if the denial of access under the Privacy Act would meet the requirements of that law. §164.524(a)(2)(iv)
8. An individual's access may be denied 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. §164.524(a)(2)(v)

OSU may deny access in the following circumstances, provided that the individual is given a right to have such denials reviewed, in the following circumstances: §164.524(a)(3)

9. 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; §164.524(a)(3)(i)
10. The protected health information makes reference to another person (unless such other person is a health care provider) and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person; or §164.524(a)(3)(ii)
11. 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. §164.524(a)(3)(iii)

If access is denied on grounds that allow the opportunity for review, the individual has the right to have the denial reviewed by a licensed health care professional who is designated by OSU to act as a reviewing official and who did not participate in the original decision to deny. OSU must provide or deny access in accordance with the determination of the reviewing official. §164.524(a)(4)

### PROCEDURE:

1. All patients have the right to access their own medical record information. Access must be requested in writing, and presented to authorized personnel of medical records. The appropriate form may be found [here](#). The form may also be mailed to the address on the form.



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2. All staff preparing records to be copied or accessed by a patient or a patient representative whom is authorized, shall check to see if any restrictions on use and disclosure are in place. (PRV-09.01 *Right of an Individual to Request Restriction of Uses and Disclosures*)
3. The medical records personnel or OSU Agent shall then follow this policy as stated above.
4. Staff and Agents of OSU and their family members who are also patients must follow PRV-10.06 Employee's Own Access to Protected Health Information policy to gain access to their own or family member's medical record.
5. Clinical Faculty and other non-faculty clinician's shall follow PRV-10.07 Clinical Faculty Own Access to Protected Health Information policy.

### REFERENCE:

PRV-09.01 Right of an Individual to Request Restriction of Uses and Disclosures  
PRV-10.06 Employee's Own Access to Protected Health Information  
PRV-10.07 Clinical Faculty Own Access to Protected Health Information