

Title:	Health Insurance Portability and Accountability Act (HIPAA) and the Privacy Act of 1974 Adopted by ANMC as it Applies to Release of Protected Health Information (PHI) from the Health Record Procedure	Page 1 of 7
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Department:	Organization-Wide Procedure	Procedure #1000-01
Reference Policy:	Health Information Services Policy	Reference Policy #1000
Approved By:	Executive Management Team	Effective Date: 12/05/2007
Policy Owner:	Health Information Services Director	Last Reviewed: 2/16/2023

1. Purpose:

- 1.1. To inform the Alaska Native Medical Center (ANMC) staff of the requirements of the Health Insurance Portability and Accountability Act (HIPAA) and the Federal Privacy Act of 1974.
- 1.2. All employees are required to be aware of their responsibilities under HIPAA, the Federal Privacy Act of 1974 and, if applicable, 42 C.F.R. Part 2 of the Confidentiality of Substance Use Disorder Patient Records.
 - 1.2.1. Instructions on the requirements of these acts shall be provided to all new staff/employees and all other individuals working at ANMC, as defined by the scope below.
 - 1.2.2. In addition, supervisors shall be responsible for assuring that all employees/individuals authorized to work with protected health information (PHI) are periodically trained on the requirements of these acts; training should also include any new provisions or interpretations of the acts.

2. Scope:

- 2.1. All organizational components of the Alaska Native Medical Center (ANMC) accredited campus defined as its staff, residents, non-physician interns, students, volunteers, and contractors as described in and established by Alaska State Statute.

3. Definitions:

- 3.1. For purposes of this procedure, these terms have the following definitions.
 - 3.1.1. Authorized Individual: the person who makes a legitimate request to receive records and is the subject of the PHI.

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- 3.1.2. Designated Record Set: the medical and billing records about individuals maintained by ANMC which includes any item, collection, or grouping of PHI about an individual patient, used in whole or in part to make decisions about the individual, maintained by ANMC, and containing the individual's name or some identifying number, symbol, or element assigned to the individual, such as social security number, health record number, etc.
- 3.1.3. Disclosure: releasing PHI of a patient to another entity outside of the ANMC Campus.
- 3.1.4. Protected Health Information: individually-identifiable health information that is a subset of health information, in any format, that is created or received by ANMC, including demographic information, and relates to the past, present, or future physical or mental health or condition of an individual, the provision of healthcare to an individual or payment for that care, or identifies the individual or could reasonably be used to identify the individual.
- 3.1.5. Routine Use: those that are used regularly and frequently. For example, using PHI for treatment is a routine use. PHI is also routinely used to manage a health care facility.

4. Procedure:

- 4.1. HIPAA and the Federal Privacy Act of 1974 were created to provide the privacy and security rules for healthcare entities regarding health information with the following:
 - 4.1.1. the rules concerning physical, administrative, and technical safeguards to protect the confidentiality of PHI;
 - 4.1.2. a means by which an individual may gain access to one's own health record, or to request correction of, or an amendment to, a Designated Record Set and obtain an accounting of certain disclosures made to third parties, and;
 - 4.1.3. the rules concerning the specific circumstances where a health record may be released to someone other than the individual without the individual's consent.

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- 4.1.4. HIPAA and the Federal Privacy Act of 1974 do not address educational or employment records. Please refer to other HR policies addressing such records.
- 4.2. Any authorized individual may request access to their Designated Record Set. The Designated Record Set may only be released directly to the individual or a third party the individual has designated and properly authorized.
- 4.3. All requests for access to PHI maintained by or for ANMC shall be referred to ANMC Health Information Management.
 - 4.3.1. The patient has the right to obtain their Designated Record Set, in an oral or written request, within 30 days:
 - 4.3.1.1. in the form and format requested by the individual, if it is readily producible in such format, including an electronic format when such Designated Record Set is maintained electronically; or
 - 4.3.1.2. if not, in a readable hard copy form or such other form and format as agreed to by the facility and the individual, including the current Designated Record Set.
 - 4.3.2. In the event the request cannot be completed in 30 days, notification will be sent to the requestor of an extension.
 - 4.3.3. If there is a question about the legitimacy of the request, employees shall notify ANMC Health Information Management. See 42 CFR § 482.13.
- 4.4. A valid authorization for release of information is required for all information covered by the acts, to include requestor's proof of identity and their authority to request the Designated Record Set. Health Information Management will follow internal procedures for validating oral requests.
 - 4.4.1. A valid authorization must clearly indicate the Designated Record Set to be accessed (i.e. "Health Record") and it shall

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clearly specify to whom the Designated Record Set is to be released.

- 4.5. Situations where a written authorization would be required include:
 - 4.5.1. requests for a Designated Record Set from outside of ANMC may be made as permitted by ANMC policy and Notice of Privacy Practices (NPP); and
 - 4.5.2. routine uses are those consistent with the HIPAA Privacy Rule as outlined in the NPP.

- 4.6. In a situation where a patient cannot authorize, but the information is needed because of a serious and imminent threat of harm to the health and safety of the individual, the public, or any other person, PHI from the Designated Record Set may be disclosed without the patient's authorization if disclosed to an individual in a position to lessen or prevent the potential harm. See 45 CFR 164.512(j)(4).
 - 4.6.1. A minor's Designated Record Set must first be reviewed by a designated physician or other healthcare professional to determine if disclosure would be a violation of the minor's privacy before the records may be released to the parents or guardian. See also Verification of Individual's Identity and Authority to Access Health Information Procedure #1001-02 at sections 4.3.2. Minor Patient's PHI and 4.3.4. Minor Right to Access Own PHI.

- 4.7. There are very limited circumstances when ANMC may deny an individual access to a portion of their Designated Record Set.
 - 4.7.1. Access may be denied if a healthcare 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 patient or another person. The denial letter must be sent within 30 days of patient's request, or 60 days if ANTHC notifies the patient of an extension.
 - 4.7.2. If a staff member believes that direct access will endanger the life or physical safety of the individual or another

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person, the Designated Record Set must be reviewed by a healthcare professional.

4.7.3. The Compliance Department will ensure that the individual receives appropriate notice of their right to review their Designated Record Set, according to the Patient Right to Access and Copy Health Information Procedure #1008-03. This Procedure also describes other permissible grounds for denying access, in accordance with 45 C.F.R. 164.524(a).

4.8. Appeal Process. If the denial was based on a reviewable ground for denial and the individual requests review, the covered entity must promptly refer the request to the designated reviewing official. The reviewing official must determine, within a reasonable period of time, whether to reaffirm or reverse the denial. The covered entity must then promptly provide written notice to the individual of the determination of the reviewing official, as well as take other action as necessary to carry out the determination. See 45 CFR 164.524(d)(4).

4.8.1. The designated reviewing official will be identified by the ANTHC or SCF Compliance Department on a case-by-case basis. The request needs to be submitted to ANMC HIM.

4.8.2. A patient's 42 C.F.R. Part 2 Designated Record Set is maintained in connection with the federally-assisted substance use disorder treatment program and is subject to additional confidentiality safeguards.

4.8.2.1. Mere mention of a substance use disorder in a patient's Designated Record Set does not subject the Designated Record Set to these additional safeguards. See 42 U.S.C. § 290dd-2.

4.8.2.2. If an employee has any questions about whether information is subject to Part 2, the employee should contact the Privacy Officers of ANTHC or Southcentral Foundation (SCF), or the General Counsel.

4.9. Questions concerning whether a Designated Record Set from any department within ANMC may be subject to these safeguards must be referred to the Director of Health Information Services at ANMC, who

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may seek assistance from ANTHC Ethics and Compliance Services, ANTHC Office of Legal Affairs, SCF Corporate Compliance, or SCF General Counsel.

4.10. ANMC Employee Responsibilities in the Health Record.

4.10.1. Employees whose duties require that they use, maintain, or otherwise handle records subject to this procedure are governed by the general provisions as stated in the purpose of this procedure. In addition, employees are held to the following standards of conduct:

- 4.10.1.1. comply with applicable laws, regulations, policies, and procedures;
- 4.10.1.2. be alert to possible non-compliance and report any potential, suspected, or actual violations of laws, regulations, policies, or procedures;
- 4.10.1.3. ensure that any disclosure made by ANMC falls under one of the “routine uses” and/or disclosures to an employee with a legitimate need for the information to carry out responsibilities within the scope of their job;
- 4.10.1.4. ensure that the integrity of the health record is not violated;
- 4.10.1.5. all forms of PHI, whether electronic, hard copy, or oral, are to be treated confidentially;
- 4.10.1.6. employees at ANMC are not allowed to access any form of health information without a legitimate business need to know, and such access must be within the scope of their job responsibilities and limited to the minimum necessary amount needed to carry out those responsibilities. Employees shall not:
 - 4.10.1.6.1 permit unauthorized persons to be present in controlled areas,

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including areas where people may have access to PHI;

- 4.10.1.6.2 knowingly perform any acts which might subject the organization to civil liability in regard to the applicable laws, regulations, policies, or procedures pertaining to access, use, and disclosure of PHI;
- 4.10.1.6.3 access, without authorization or a job-related need, any form of health information;
- 4.10.1.6.4 access any family, friend, or their own personal Designated Record Set through use of their work-related access privileges provided to them for carrying out their official responsibilities; or
- 4.10.1.6.5 remove PHI in any form from the ANMC campus without either prior approval of the Health Information Services Director, Risk Management, or the Privacy Officer(s).

4.10.2. Employees may only request access to their health information through normal processes and are prohibited from accessing their own information.

References:

- 1) 42 C.F.R. Part 2 of the Confidentiality of Substance Use Disorder Patient Records
- 2) 45 CFR 164
- 3) 42 U.S.C. § 290dd-2
- 4) Notice of Privacy Practices Procedure #1000-10A
- 5) Verification of Individual's Identity and Authority to Access Health Information Procedure #1001-02
- 6) Patient Right to Access and Copy Health Information Procedure #1008-03