



**Office of Regulatory Compliance**

**HIPAA Policy 6.4**

**Title:** Right to Access and Copy  
**Source:** Office of Regulatory Compliance  
**Prepared by:** Assistant Vice Chancellor for Regulatory Affairs  
**Approved by:** Vice Chancellor for Research  
**Effective Date:** July 1, 2013  
**Replaces:** 04/13/03  
**Applies:** All UCD campuses

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**Introduction**

***Purpose***

The purpose of this policy is to identify the circumstances under which an individual may request to inspect his or her protected health information (“PHI”) and/or obtain a copy of the information; exceptions that restrict an individual’s ability to inspect his or her PHI and/or obtain a copy of the information; and the process for considering requests to inspect and/or obtain a copy of PHI.

***Reference***

45 C.F.R. §164.524

***Applicability***

This policy applies to all requests to inspect and/or obtain a copy of PHI held by the UCD in its designated record set.

## Policy

An individual has a right to inspect and/or obtain a copy of PHI about the individual in the UCD's designated record set for as long as the PHI is maintained in the designated record set, except for:

- a. Psychotherapy notes, unless approved by the originator of the notes or the successor of the originator;
- b. Information compiled in reasonable anticipation of, or for use in, legal proceedings, unless approved by the Office of University Counsel;
- c. PHI maintained by UCD that is:
  - i. Subject to the Clinical Laboratory Improvements Amendments of 1988 ("CLIA") to the extent the provision of access to the individual would be prohibited by law; or
  - ii. Exempt from CLIA pursuant to 42 C.F.R. 493.3(a)(2); and,
- d. PHI that is not part of the UCD's designated record set.

## Procedures

### Process for Requests to Inspect and/or Obtain a Copy

1. An individual must request an opportunity to inspect and/or obtain a copy of his or her PHI in the UCD's designated record set in writing. The person to whom the request was made must inform the individual of this requirement if the request was not made in writing.
2. Upon receipt of a written request, the person to whom the request was made will either permit or deny access. Denials of access must be in writing and must follow the provisions outlined below.
3. The UCD must act on all requests for access no later than 30 days after receipt of the written request.
4. If the person to whom the request was made grants the request, in whole or in part, he or she must inform the individual of the acceptance of the request and provide the access requested by arranging with the individual for a convenient time and place to inspect the PHI. The individual should be provided with access to the PHI in the form or format requested by the individual, if reasonable. If the form or format requested is unreasonable, access may be fulfilled by sharing copies of the information with the individual or some other form or format agreed to by both the UCD and the individual.
5. If the individual agrees in advance to receive a summary of the PHI requested and the fees associated, if any, with creating a summary, the UCD

may provide a summary of the PHI instead of providing access to the PHI itself.

6. If the individual requests copies of the information, the person to whom the request was made should provide copies within the time limits provided above. The person to whom the request was made should arrange with the individual for a convenient time and place for the individual to pick up the information or for the information to be mailed. The UCD may impose a reasonable, cost-based fee for copying and any postage associated with the request.

7. A copy of the completed request form should be maintained by the person to whom the request was made. The person should also maintain any documentation relating to any action taken on the request.

8. All completed request forms and any documentation of action taken on requests must be shared with the UCD HIPAA Privacy Officer.

#### Unreviewable Grounds for Denial

1. The person to whom the request was made may deny an individual access to his or her PHI held by the UCD without providing the individual an opportunity for review in the following circumstances:

- a. The PHI is excepted from the right to access in section A above;
- b. The UCD is acting as a correctional institution or the health care provider of the individual is acting under the direction of a correctional institution, the request comes from an inmate, and obtaining a copy of his or her PHI would jeopardize the health, safety, security, custody, or rehabilitation of the individual or other inmates, or the safety of any officer, employee, or other person at the correctional institution or person responsible for transporting the inmate;
- c. The individual has requested access to PHI created or obtained by the UCD in the course of research that includes treatment, the research is in progress, the individual has agreed to a denial of access when consenting to participate in the research that includes treatment, and the UCD has informed the individual that the right of access will be reinstated upon completion of the research;
- d. The individual has requested access to PHI that is contained in records that are subject to the Privacy Act, 5 U.S.C. § 552a, and the access may be denied under the provisions of the Privacy Act; or,
- e. The individual has requested access to PHI that 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.

2. If the request is denied, see section E below.

#### Reviewable Grounds for Denial

1. The person to whom the request was made may deny an individual access, provided that the individual is given a right to have such denials reviewed, in the following circumstances:

- a. 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;
- b. The PHI makes reference to another person (other than a health care professional) 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 the other person; or
- c. 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 the personal representative is reasonably likely to cause substantial harm to the individual or another person.

2. If access is denied on a ground permitted in section (1) above, the individual has the right to have the denial reviewed by a licensed health care professional who is designated by the UCD to act as a reviewing official and who did not participate in the original decision to deny. (Please contact the UCD HIPAA Privacy Officer to determine the name of the reviewing official.) Requests for review must be immediately referred to the reviewing official. The reviewing official's determinations must be promptly provided to the individual in writing.

3. If the request is denied, see Process below.

#### Process for Denial of Access

1. If the person to whom the request was made denies access, in whole or in part, to PHI, the UCD must:

- a. Contact the UCD HIPAA Privacy Officer before informing the individual that his or her request will be denied;
- b. To the extent possible, give the individual access to any other PHI requested after excluding the PHI to which access was denied;
- c. Provide a timely, written denial to the individual which must:
  - i. be in plain language;
  - ii. contain the basis for the denial;

iii. if applicable, contain a statement of the individual's review rights as provided above, including a description of how the individual may exercise the review rights; and

iv. contain a description of how the individual may complain to the UCD under the complaint process (including the name or title and telephone number of the UCD Office of HIPAA Compliance) or to the Secretary of HHS.

2. If the UCD does not maintain the PHI that the individual has requested and the UCD knows where the information is maintained, the UCD must inform the individual where to direct his or her request for access.