

## Right to Inspect and Obtain PHI

### Policy

Patients have the right to access and inspect their Protected Health Information (“PHI”) contained in the Designated Record Set. Patients also have the right to obtain copies (paper or electronic) of their PHI contained in the Designated Record Set.

NYU LangoneHealth, in limited circumstances, may deny this right. Patients may also have the right to an internal and/or the New York State Medical Access Review Board review of a denial.

All patient requests to inspect and/or obtain a copy of PHI must be submitted in writing in accordance with NYU LangoneHealth procedures. NYU LangoneHealth will respond to all requests as soon as possible and in accordance with this Policy.

imposed for the creation of a summary or explanation

information in lieu of a patient exercising the right to inspect PHI. NYU LangoneHealth may not deny a patient’s request to access, inspect, or obtain copies of medical records solely because

Protected Health Information form is preferred; however, the New York State HIPAA form is acceptable. Any other authorization must be valid under both New York State and HIPAA regulations. Consult the Privacy Officer as necessary.

- The completed form may be mailed or hand delivered to the appropriate address as indicated on the form's directions. Forms may also be faxed or emailed, dependent on location and availability to receive such format.
- Patient requests for copies of HIPAA-Related Authorizations do not require a signed Authorization form and can be provided to the patient at any time.

3. A patient's Personal Representative may request access to inspect the patient's PHI. NYU Langone Health should generally grant or deny access in accordance with the procedures set forth in this Policy as though the Personal Representative were the patient, unless one of the following exceptions apply:
  - If a physician has certified that the patient lacks the capacity to make health care decisions and a Personal Representative is designated, NYU Langone Health must grant the Personal Representative full access to the patient's PHI, even if the patient would otherwise be denied access under this Policy. Full access is required under New York State law to allow the personal representative to make informed decisions regarding the patient's health care.
  - If a personal representative requests access to the PHI of a patient over the age of 12 years, NYU Langone Health may notify the patient and permit the patient the opportunity to object to such access by the Personal Representative. If the patient objects, NYU Langone Health may deny the Personal Representative's request for access. Consultation with the treating practitioner is required before rendering a decision. NYU Langone Health must provide written notice of the decision to the Personal Representative in accordance with the procedures set forth in this policy.
  - A parent or guardian is not entitled to inspect or obtain copies of any patient information concerning the care or treatment of a patient under the age of 18 ("minor") if the treating physician certifies that such access would have a detrimental effect on:
    - the patient's physical or mental health



granting access is reasonably likely to endanger the life or safety of the patient or another person		
The information makes reference to another person and a licensed health care professional has determined, in the exercise of professional judgment, that granting access is reasonably likely to cause substantial harm to the referenced person	Yes	Yes; judicial review also available
The information was requested by the patient or Personal Representative and a licensed health care professional has determined, in the exercise of professional judgment, that granting access is reasonably likely to cause substantial harm to the patient or another person	Yes	Yes; judicial review also available
The information was compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding	No	No
The information was obtained from someone other than a health care provider under an agreement of confidentiality and access to the information would reveal the identity of the person	No	No
Provision of the information to the requesting inmate would jeopardize the health, safety, security, custody, or rehabilitation of the requesting inmate, other inmates, officers or employees at the correctional institution, or other persons responsible for transporting the inmate	No	No
The information is a lab result that must be obtained directly from the ordering clinician; the clinician's authorization is required before release.	No	No

6. Respond to all requests, in the manner described in number 6, to inspect or obtain copies of PHI within 10 days from receipt of the form.
  - If a request obtain copies cannot be fulfilled within the timeframe, notify the requestor in writing of the reasons for the delay (e.g., records are located offsite) and the date by which the patient can expect a response. A 30-day extension is permitted (i.e., records must be provided within 60 days of receiving request).
  
7. Provide the records in the form and format requested by the patient
  - When an individual requests an electronic copy of paper records, NYU Langone Health will provide the individual with an electronic copy in the format requested (e.g., PDF, Word Document) if it is readily producible (i.e., scan the paper documents).
  - When an individual requests an electronic copy of electronic records, NYU

- For fax requests, confirm fax number prior to sending.
- For email requests, notify the recipient that the email will be sent using NYU Langone Health's secure email, Send Safe.
  - If the file is too large (e.g., diagnostic images) notify the requestor and determine appropriate alternative method. Consult with the Privacy Officer as necessary.
- If a patient requests that their medical records be emailed to a patient's email address, the requestor must provide a valid email address and a valid phone number.

- A Workforce Member will remain in the room to ensure that there is no tampering with any information, but remain at a reasonable distance to afford privacy.
- Do not attempt to explain any information contained in the record, unless the Workforce Member is a licensed health care professional associated with the inspected record.
- If the requestor asks to obtain copies, he/she must complete and submit the form.

13. Workforce Members need only produce the requested PH once (for inspection and/or obtaining copies), even if it is maintained in more than one Designated Record Set

16. If the patient requests an internal review of a denial

- Workforce Members must promptly refer the request for review to the Senior Director of HIM or the Privacy Officer who will refer the matter as follows
  - The Chief Medical Officer will review the denial of a request to access NYU Langone Hospitals records
  - The Chief Clinical Officer will review the denial of a request to access School of Medicine or Faculty Group Practice records.
  - The Medical Director at the respective site will review the denial of a request to access the Family Health Center at NYU Langone Health and the Southwest Brooklyn Dental Practice records.
  - If the above listed individuals participated in any manner in the decision to deny access, the Privacy Officer will appoint a reviewing official who is a licensed health care professional to review.
- The Reviewing Official must:
  - determine, within 15 days from receipt of the request whether or not to deny the patient's request to inspect based on the permitted grounds for denial.
  - promptly notify the referring department of his or her decision.
    - The referring department must provide written notice of the decision to the patient within 15 days of receipt of the reviewing official's decision
    - If the Reviewing Official determines that access should be granted, NYU Langone Health must provide access as set forth in this Policy.

17. If the patient requests review of the denial by the appropriate N( )TJ 0(e)4 ( of)3 (hm8Yo)-2

Patient Request to Inspect Protected Health Information ~~Denied~~ Granted template  
Patient Request to Obtain a Copy of Protected Health Information ~~Denied~~ Denied template  
Verification of Identity and Authority Prior to Disclosure of PHI

Legal Reference

45 C.F.R. §164.524

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This version supersedes all NYU Langone Health (as defined in this Policy) previous policies, including but not limited to NYU Hospitals Center, New York University School of Medicine, Lutheran Medical Center and Winthrop University Hospital.