

## **ETSU**

**Policy Title:** Right to Access, Inspect, and Copy PHI  
**Policy Manual Section:** Patient Rights  
**Policy Number:** HIP PR 010 B  
**Effective Date:** April 14, 2003  
**Date of Approval:**

### **Review/Revision History:**

<b>Reviewed by:</b>	<b>Date:</b>	<b>Revision Number: (i.e. A, B, C)</b>
HIPAA Chair Committee	1/6/03	A
Operations Committee	11/12/2014	B

### **APPROVED BY:**

**Signature:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

---

### **Policy:**

It is the policy of ETSU to honor an individual's right of access to inspect and obtain a copy of his/her protected health information (PHI) in the covered entity's designated record set, for as long as the PHI is maintained in compliance with HIPAA and the covered entity's retention policy.

### **Procedures:**

1. An individual has the right to access his/her PHI in all but a limited number of situations, which include:

- psychotherapy notes,
- information compiled in anticipation of or use in a civil, criminal, or administrative action or proceeding,
- PHI subject to the Clinical Laboratory Improvements Amendment (CLIA) of 1988, and

- PHI exempt from CLIA, pursuant to 42 CFR 493.3(a)(2). In other words, PHI generated by: 1) facilities or facility components that perform testing for forensic purposes; 2) research laboratories that test human specimens but do not report patient-specific results for diagnosis, prevention, treatment, or the assessment of the health of individual patients; 3) laboratories certified by the National Institutes on Drug Abuse (NIDA) in which drug testing is performed that meets NIDA guidelines and regulations.

In the situations above, ETSU may deny the individual access without providing an opportunity for review.

2. ETSU may also deny an individual access without providing an opportunity for review when:

- the covered entity is a correctional institution or a healthcare provider acting under the direction of the correctional institution and an inmate's request to obtain a copy of PHI would jeopardize the individual, other inmates, or the safety of any officer, employee, or other person at the correctional institution, or a person responsible for transporting the inmate,
- the individual, when consenting to participate in research that includes treatment, agreed to temporary denial of access to PHI created or obtained by a healthcare provider in the course of research, and the research is not yet complete,
- the records are subject to the Privacy Act of 1974 and the denial of access meets the requirement of that law, and
- the PHI was obtained from someone other than a healthcare provider under a promise of confidentiality and access would likely reveal the source of the information.

3. ETSU may also deny an individual access under the following circumstances, provided that the individual is given a right to have such denials reviewed:

- a licensed healthcare professional has determined that the access is likely to endanger the life or physical safety of the individual or another person,
- the PHI makes reference to another person who is not a healthcare provider, and a licensed healthcare professional has determined that the access request is reasonably likely to cause substantial harm to such other person, and
- the request for access is made by the individual's personal representative and a licensed healthcare professional has determined that access is reasonably likely to cause substantial harm to the individual or another person.

*(See also below, the section entitled “Access, Inspection and/or Copy Request is Denied in Whole or in Part.”)*

**Request to access and timely action**

1. ETSU must permit an individual to request access to inspect or to obtain a copy of the PHI about the individual that is maintained in the designated record set. ETSU may require the request to be in writing, provided that it informs individuals of such a requirement. The general authorization form may be used for this purpose.
2. Determination of accessibility of the information shall be based on:
  - criteria outlined above, as supported by State and Federal laws, and
  - availability of PHI (i.e., final completion of information, long-term storage, retention practices, etc.)
3. ETSU must take action within 10 working days after receipt of the request. However, in accordance with HIPAA regulations, a 30-day extension may be requested if ETSU provides the patient with a written statement of the reasons for the delay and the date by which the access request will be processed.
4. ETSU must document and retain the designated record sets subject to access, and the titles of persons or offices responsible for receiving and processing requests for access.

**Access, inspection and/or copy request is granted in whole or in part**

1. ETSU must provide the access as requested by the individual, including inspection or obtaining a copy, or both, in a timely manner. The individual and ETSU will arrange a mutually convenient time and place to inspect and/or obtain a copy of the requested PHI. A copy of the requested PHI may also be mailed at the individual's request. ETSU may discuss the scope, format, and other aspects of the request for access with the individual as necessary to facilitate the timely provision of access.
2. If the same PHI that is the subject of a request for access is maintained in more than one designated record set or at more than one location, ETSU need only produce the PHI once in response to a request for access.
3. The individual may choose to inspect the PHI, request a copy or both. ETSU must provide the individual with access to the PHI in the form or format requested if it is readily producible in such form or format. If the PHI is not readily available in the requested form or format, ETSU will provide the individual with a readable hard copy form, or other form or format as agreed to by ETSU and the individual.
4. ETSU may charge reasonable, cost-based fees for:

- copying, including the cost of supplies and labor of copying,
  - postage, when the individual has requested the copy, summary or explanation be mailed, and
  - preparation of an explanation or summary.
5. ETSU may provide a summary of the requested PHI in lieu of providing access, or an explanation of the PHI to which access has been provided, if the individual agrees in advance to such, and agrees in advance to any fees imposed for such summary or explanation.
  6. If, upon inspection of the PHI, the individual feels it is inaccurate or incomplete, he/she has the right to request an amendment to the PHI in accordance with Policy HIP PR 020. ETSU shall process requests for amendment as outlined in additional organizational policy/procedures addressing this right.

#### **Access, inspection and/or copy request is denied in whole or in part**

1. ETSU must provide a timely written denial of access to the individual. The denial must be in plain language and must contain:
  - the basis for the denial,
  - a statement, if applicable, of the individual's review rights including a description of how to exercise such review rights, and
  - a description of how the individual may complain to ETSU or to the Secretary of Health and Human Services. The description must include the name or title, and telephone number of the contact person or office.
2. If access is denied because ETSU does not maintain the requested PHI but knows where that PHI is maintained, ETSU must inform the individual where to direct the request for access.
3. ETSU must, to the extent possible, give the individual access to any other PHI requested, after excluding the PHI as to which ETSU has grounds to deny access.
4. If the individual has the right to have the denial reviewed, ETSU must designate a licensed health care professional who did not participate in the original decision to deny who will review the decision to deny access.
5. The individual must initiate the review of a denial by making a request for review. ETSU must promptly refer the request for review, and must provide or deny access in accordance with the determination of the reviewing professional, who will make the determination within a reasonable period of time.
6. ETSU must promptly provide written notice of the determination of the reviewing professional to the individual and take action consistent with that determination.

### **Documentation requirement**

1. ETSU must document and retain:
  - a. the designated record sets that are subject to access by individuals,
  - b. the titles of the persons or offices responsible for receiving and processing requests for access by individuals,
  - c. all requests for access to PHI and the action taken by ETSU in response to such requests, and
  - d. all records must be kept for six years from the date of the request.

Reference: 45 C.F.R. Sec. 524