SUBJECT: HIPAA PRIVACY RULE: AMENDMENT OF PROTECTED HEALTH INFORMATION

HIPAA CITES: 45 CFR §164.526

POLICY NUMBER: PAT - 602

ISSUED: April 14, 2003

I. POLICY:

A. General Right to Amend Protected Health Information

Except as set forth in Section 1.B. below, the University of Southern California (USC) recognizes the right of a patient to request an amendment to his or her Protected Health Information or a record about a patient maintained by USC in a "Designated Record Set." A Designated Record Set is defined as the following:

1. An individual's medical records and billing records maintained by USC; and

2. The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for USC's health plans (including the USC Network Plan); and

3. Records used by USC providers, in whole or in part, to make decisions about individuals.

1 Protected Health Information is defined as identifiable information that relates to the individual's past, present or future physical or mental health condition or to payment for health care.

2 For purposes of the HIPAA Privacy Rule, USC is defined as those components/units that provide clinical services within the School of Pharmacy, the School of Dentistry and the Independent Health Professions (e.g., Physical Therapy, Occupational Therapy, Nursing) as well as USC Care Medical Group, Inc., the USC-affiliated faculty practice plan corporations at the Keck School of Medicine, the USC-affiliated faculty practice plan corporations for Physical Therapy and Occupational Therapy, clinical researchers who conduct research that involves clinical treatment and those units that support the clinical functions, such as the Office of the General Counsel and the Office of Audit and Compliance.
B. USC Right to Deny Patient Request to Amend Protected Health Information

USC may deny a patient's request to amend his or her Protected Health Information for any of the following reasons:

1. the Protected Health Information or record that is subject to the request was not created by USC; or

2. the Protected Health Information or record is not part of the Designated Record Set, as defined above; or

3. the Protected Health Information or record is not available for inspection under USC HIPAA Policy PAT - 601 [relating to the patient’s right to access his/her Protected Health Information]\(^3\); or

4. the Protected Health Information or record is accurate and complete.

The following section II describes USC's procedures for implementing the above policy regarding patient amendments to Protected Health Information.

II. PROCEDURES:

A. Initial Processing of a Request for Amendment

1. Request for Amendment Form. A patient who requests an amendment to his or her Protected Health Information must make a request in writing on USC's Request to Amend Form. A copy of USC's Request to Amend Form can be downloaded from the USC policies website at http://policies/usc.edu.

2. Referral to Privacy Administrator. Patient requests for amendments to Protected Health Information should be referred to the relevant clinical unit’s Privacy Administrator who will be responsible for responding to the patient's request.

3. Requests to be in Writing. If a patient makes an oral request, the

\(^3\) USC shall not provide a patient with access to the following Protected Health Information maintained in the Designated Record Set: (1) Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding; (2) Minor’s Protected Health Information that is not accessible to that minor’s parent or legal guardian consistent with applicable California law; and (5) Information that may not be accessed pursuant to USC's policy regarding patient access, see USC HIPAA Policy PAT - 601.
Privacy Administrator should inform the patient that such requests must be made in writing. In addition, a copy of USC's Request to Amend Form should be provided to the patient. The Privacy Administrator may refuse an oral request to amend Protected Health Information on the basis that such request is oral and not written.

B. Types of Actions on a Request to Amend. USC, through its relevant clinical unit, may take any of the following actions on a request to amend:

1. Accept the request to amend, in whole or in part; or
2. Deny the request to amend, in whole or in part.

C. Determinations to Accept or Deny Request

1. Determinations to Accept Request to Amend. A determination to accept a request for amendment must be made by the provider who treated the patient or, alternatively, from the provider who has been designated by the USC clinical unit or faculty practice plan to review the Protected Health Information in the absence of the treating provider. The provider or designee also may consult with the USC Office of Compliance for assistance.

2. Determinations to Deny Request to Amend. The Privacy Administrator may deny a request to amend for any of the reasons set forth in Sections I.B.1 - 3. The Privacy Administrator should consult with the USC Office of Compliance for assistance.

A determination to deny a request for amendment based on the reason set forth in Section I.B.4 (i.e., that the Protected Health Information or record is accurate or complete) must be made by the provider who treated the patient or, alternatively, from the provider who has been designated by the USC clinical unit or faculty practice plan to review the Protected Health Information in the absence of the treating provider. The provider or designee also may consult with the USC Office of Compliance for assistance.

D. Procedures if the Amendment is Accepted. If USC, through the relevant clinical unit, accepts the request for amendment:

1. Make the Amendment. USC, through the relevant Privacy Liaison, will make the appropriate amendment to the Protected Health Information or record that is the subject of the request for amendment by following USC Care Medical Group Inc’s Document and Code Policy and
Procedure 301\textsuperscript{4} entitled “Revising Medical Record Documentation” with respect to all records in the Designated Record Set that are affected by the amendment.

2. **Notification to the Patient.** The relevant Privacy Administrator will inform the patient promptly in writing that the amendment has been accepted and obtain the patient’s identification of and agreement to have the Privacy Administrator arrange to notify the relevant persons with which the amendment needs to be shared as required under Section II.D.3 below. A copy of USC's *Acceptance of Request to Amend* can be downloaded from the USC policies website at [http://policies/usc.edu](http://policies/usc.edu).

3. **Reasonable Efforts to Notify Third Parties.** The relevant Privacy Administrator will make reasonable efforts to arrange to inform and provide the amendment within a reasonable time to:

   i. Persons identified by the patient as having received Protected Health Information about the patient and requiring the amendment; and

   ii. Persons, including Business Associates of USC, that the clinical unit knows have the Protected Health Information that is the subject of the amendment and that may have relied, or could foreseeably rely, on such information to the detriment of the patient.

4. **Timing of Response.** USC, through the relevant clinical unit, shall act on a patient’s request no later than sixty (60) days after its receipt of the request. If the relevant clinical unit is unable to act on the request within sixty (60) days, USC may request an extension of no more than thirty (30) days by providing the patient with a written statement indicating the reasons for the delay and the date by which USC will respond. USC may have only one such thirty (30) day extension.

\textsuperscript{4} DC Policy and Procedure 301 provides in part as follows:

If a physician needs to delete any material, the physician may do so by drawing a line through it in such a way that the underlying notes can still be read. The physician must sign and date the deletion with the date the deletion was made.

If a physician replaces any deleted notes, or adds new notes, the physician may do so by writing these in the patient record on the day on which he/she is writing the changed or new notes. The physician must date and sign those notes on the day on which he/she is writing the notes and should cross-reference these notes to the date upon which the patient care was actually rendered. The physician may not “black out” or remove the notes on the day when they were originally written, nor write new or amended notes into the record for that earlier date.
E. Procedures if Amendment Denied. If USC, through the relevant clinical unit, denies the amendment in whole or in part:

3. Notice of Denial. The relevant Privacy Administrator will provide the patient who requested the amendment with a written denial within sixty (60) days after receipt of the request for amendment. A copy of USC's Denial of Request to Amend can be downloaded from the USC policies website at http://policies.usc.edu. The Notice of Denial must contain:

   i. The basis for the denial in accordance with Section I.B. above;
   ii. A statement of the patient’s right to submit a written statement disagreeing with the denial and how the patient may file such a statement;
   iii. A statement that, if the patient does not submit a statement of disagreement, the patient may request that USC provide the patient's request for amendment and the denial with any future disclosures of the Protected Health Information that is the subject of the amendment; and
   iv. A description of how the patient may submit a complaint to USC or the Office of Civil Rights.

2. Written Statement of Disagreement. USC will permit the patient to submit to the relevant USC clinical unit a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such disagreement. Any statement of disagreement shall be limited to no more than two (2) single-sided, single-spaced pages.

3. Written Rebuttal to Statement. USC, through the relevant provider or designee, will prepare a written rebuttal to the patient’s statement of disagreement. Whenever such a rebuttal is prepared, USC, through the relevant Privacy Administrator, will arrange to provide a copy to the patient who submitted the statement of disagreement.

4. Identification of Disputed Record or Information. The relevant Privacy Administrator will, as appropriate, identify the record or Protected Health Information in the Designated Record Set that is the subject of the disputed amendment and append or otherwise link the patient’s request for an amendment, USC's denial of the request, the patient’s statement of disagreement, if any, and USC's rebuttal, if any, to the Designated Record Set.

5. Future disclosures.

   i. If a statement of disagreement has been submitted by the patient, the relevant Privacy Administrator will arrange to
include the material appended as described in II.E.4, or at the election of the clinical unit, an accurate summary of any such information, with any subsequent disclosure of the Protected Health Information to which the disagreement relates.

ii. If the patient has not submitted a written statement of disagreement, the Privacy Administrator will arrange to include the patient's request for amendment and its denial, or an accurate summary of such information, with any subsequent disclosure of the Protected Health Information only if the patient has requested such action in accordance with this policy.

F. Notice from Another Covered Entity. If USC is informed by another Covered Entity (e.g., health care provider or health plan) of an amendment to a patient’s Protected Health Information, USC, through the relevant clinical unit, will amend the Protected Health Information in the Designated Record Sets as provided by Section II.D. The Privacy Administrator and Privacy Liaison are responsible for ensuring that the Protected Health Information is amended as required under this section.

G. Documentation. USC, through the relevant clinical unit, will retain all documentation associated with requests for amendments (and the associated determinations) in the patient's medical record.