

Title: HIPAA: Patient Request for Records	
Number: 396, Version: 16	Original Date: 04/14/2003
Effective: 12/13/2021	Last Review/Revision Date: 12/13/2021
Next Review Date: 12/13/2024	Author: Kristen Eversole
Approved by: Administrative Policy Committee, Chief Financial Officer, PolicyTech Administrators 12/13/2021	
<p>Discrete Operating Unit/Facility: Banner Baywood Medical Center Banner Behavioral Health Banner Boswell Medical Center Banner Casa Grande Medical Center Banner Churchill Community Hospital Banner Del E Webb Medical Center Banner Desert Medical Center Banner Estrella Medical Center Banner Fort Collins Medical Center Banner Gateway Medical Center Banner Goldfield Medical Center Banner Heart Hospital Banner Ironwood Medical Center Banner Lassen Medical Center Banner Ocotillo Medical Center Banner Payson Medical Center Banner Thunderbird Medical Center Banner—University Medical Center Phoenix Banner—University Medical Center South Banner—University Medical Center Tucson East Morgan County Hospital McKee Medical Center North Colorado Medical Center Ogallala Community Hospital Page Hospital Platte County Memorial Hospital Sterling Regional MedCenter Torrington Community Hospital Washakie Medical Center Wyoming Medical Center</p>	<p>Banner Corporate</p> <p>Ambulatory Services Banner Health Clinics Banner Imaging Services Banner MD Anderson Cancer Center Banner Surgery Centers Banner Urgent Care Centers Occupational Health/Employee Services Rural Health Clinics</p> <p>Banner Home Care and Hospice</p> <p>Insurance Banner Health Network Banner Plan Administration University Physicians Health Plans</p> <p>Banner Pharmacy Services</p> <p>Post-Acute Care Services</p> <p>Research</p>

I. Purpose/Population:

- A. **Purpose:** This policy describes Banner Health's (BH) process for 1) determining whether to provide access to and a copy of Protected Health Information (PHI) to a Patient or Patient's Legally Authorized Representative; 2) making such disclosure; 3) denying disclosure; and 4) providing for appeal of that denial.
- B. **Population:** All Employees.

II. Definitions:

- A. Continuity of Care: The co-ordination of care received by a Patient over time and across multiple health-care providers.
- B. Designated Record Set: The Designated Record Set includes the Patient's medical record, the billing record, and any other record about the Patient BH personnel uses to make health care decisions about a Patient. The Designated Record Set does not include quality assurance or other peer review information or documents. Record means any item, collection or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for Banner Health. (**See Appendix A: Patient Designated Record Set Matrix**)
- C. Legally Authorized Representative:
1. Court-appointed Legal Guardian of Minor or adult Patient;
 2. Parent of a Minor who lacks capacity under state law;
 3. Agent/Surrogate of the Patient as authorized under state law (e.g., a health care directive) (Refer to Facility Consent Policy);
 4. Personal representative or administrator of the estate of a deceased Patient as determined by state law.
- D. Minors are persons under state law that are precluded/prohibited from making health care decisions because they have not reached the age of majority, which is eighteen (18) years for all states except NEBRASKA, which is nineteen (19) years. Most states have statutory exceptions that allow Minors to consent for diagnosis/treatment because of emancipation or other special circumstances as defined by law. Where the minor consents to treatment, the minor may request and obtain his/her medical record as provided herein.
- E. Patient is the person whose treatment is documented within the medical record.
- F. Portal is an online web application which permits Patients and Legally Authorized Representatives (proxies) to view, download, and transmit medical information. Portal also permits the exchange of secure messages between Patients and Legally Authorized Representatives and health care providers.
- G. Protected Health Information (PHI): Any oral, written, or electronic individually identifiable health information. PHI may relate to the past, present, or future physical or mental health or condition of an individual; or the payment for the provision of health care to an individual. The Health Insurance Portability and Accountability Act (HIPAA) further defines PHI as information that identifies the individual by one or more (depending on context) of the following 18 identifiers:
1. Names

2. Geographic subdivisions smaller than a state, including street address, city, county, precinct, zip code, and their equivalent geocodes except for the initial three digits of a zip code in certain situations
3. All elements of a date (except the year) directly related to an individual, including birth date, discharge date, date of death; and all ages over 89 and all elements of dates indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older
4. Telephone numbers
5. Fax numbers
6. Electronic email addresses
7. Social Security Numbers (SSNs)
8. Medical record numbers
9. Health plan beneficiary numbers
10. Account numbers
11. Certificate/license numbers
12. Vehicle identifiers and serial number
13. Medical device identifiers
14. Web Universal Resource Locators (URLs)
15. Internet Protocol (IP) addresses
16. Biometric identifiers, including finger and voice prints
17. Full-face photographic images and any comparable image
18. Any other unique identifying number, characteristic, or code

H. Requestor is the Patient or Legally Authorized Representative or, for access to the Portal, the Proxy.

III. Policy:

A. Access to Records.

1. BH will provide Portal access to Patients and their Legally Authorized Representatives who have registered for Portal access. Patients and their Legally Authorized Representatives may authorize their proxies to access their records through the Portal.
2. Upon request, BH will provide Patients or their Legally Authorized Representatives with access to the Patient's Protected Health Information (PHI) included in the Patient Designated Record Set, except as noted in this policy. This includes the right to inspect or obtain a copy, or both, of the PHI as well as to direct BH to transmit a copy to a designated person or entity of the Patient's or Legally Authorized Representative's choice. Patients and their Legally Authorized Representatives have a right to access this PHI for as long as the information is maintained by BH, or by a business associate on behalf of BH regardless of the date the information was created; whether the information is maintained in paper or electronic systems onsite, remotely, or is archived; or regardless of where the PHI originated. (e.g., whether Banner Health, another provider, the Patient, etc.)

B. Student Immunizations.

1. BH may disclose proof of immunization of child to schools in states with school entry laws with an oral or written agreement of parent.

C. Access to Designated Record Set (Not through the Portal).

1. If legally authorized the Requestor will have access to the records listed on the Patient Designated Record Set Matrix and in the form and format that is requested, if readily producible in that form and format, or if not, in a readable hard copy form or other form

- and format as agreed to by BH and the Requestor. (See **Appendix A: Patient Designated Record Set Matrix**)
2. For Inpatients:
 - a. For behavioral health Patients, the treating physician must be notified when Patients request to **view** records while hospitalized as an inpatient.
 - i. The treating physician may request to be present or that a nurse/therapist review the record with the Patient.
 - b. BH staff must be present during the entire review.
 - c. No Patient written request is required while hospitalized as an inpatient for copies of documents created during that inpatient visit, such as discharge instructions, or for release of treatment results, such as laboratory or pathology results.
 - d. If the Patient requests pertinent records and/or a complete medical record, the request when completed is sent to Health Information Management Services (HIMS) for processing.
 - i. It will be explained to the Patient that the record is incomplete and when completed a copy will be sent to them.
 3. Post Discharge:
 - a. If the Patient requests to **view** his or her record
 - i. HIMS or designated personnel will be present at the time the Patient or Legally Authorized Representative reviews the medical record.
 - ii. Personnel present when the medical record is being reviewed will not comment on or answer any questions regarding the substance of the information contained in the medical record or interpretation, including handwriting.
 - b. If the Patient requests a **copy** of the record
 - i. The Patient or Legally Authorized Representative will be asked to put the request in writing, Banner's form, BH Authorization to Use or Disclose PHI, may be used but is not required.
 - ii. The Requestor may request individual reports, all "pertinent records", or a copy of the entire record. A request for all "pertinent" records will include:
 - (i) Allergies
 - (ii) Consultations
 - (iii) Discharge Summaries
 - (iv) Emergency Room Reports
 - (v) Electrocardiogram Reports
 - (vi) History & Physicals
 - (vii) Laboratory Reports
 - (viii) Medication List
 - (ix) Operative Reports
 - (x) Pathology Reports
 - (xi) Problem List
 - (xii) Radiology Reports
 4. Denial of Access to the Designated Record Set:
 - a. Unreviewable grounds for denial: BH may deny an individual access without providing the individual an opportunity for review, in the following circumstances:
 - i. The PHI in the designated record set is excepted from the right of access, this includes:
 - (i) Psychotherapy notes; and
 - (ii) Information compiled in reasonable anticipation of, or for use in, a civil, criminal or administrative action or proceeding.
 - ii. The Designated Record Set was created under the direction of a correctional institution and it has been determined that obtaining a copy of the Designated Record Set would jeopardize the health, safety, security, custody, or

- rehabilitation of the individual or of other inmates, or the safety of any officer, employee, or other person at the correctional institution or response for the transporting of the inmate.
- iii. An individual's access to PHI created or obtained by BH in the course of research that includes treatment may be temporarily suspended for as long as the research is in progress, provided that the individual has agreed to the denial of access when consenting to participate in the research that includes treatment, and BH has informed the individual that the right of access will be reinstated upon completion of the research.
 - iv. An individual's access to PHI that is contained in records that are subject to the Privacy Act, 5 u.s.c. 552a, may be denied if the denial of access under the Privacy Act would meet the requirement of that law.
- b. Reviewable grounds for denial: BH may deny an individual access to all or part of the Designated Record Set based on the following circumstances, however, the individual has a right for this denial to be reviewed:
- i. A licensed healthcare professional had determined, in the exercise of professional judgement, that the access requested is reasonably likely to endanger the life of physical safety of the individual or another person;
 - ii. The PHI makes reference to another person (unless such other person is a healthcare provider) and a licensed healthcare professional has determined, in the exercise of professional judgement, that the access requested is reasonably likely to cause substantial harm to such other person; or
 - iii. The request for access is made by the individual's personal representative and a healthcare professional has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the individual or another person
5. Appeals for Denials of Access: The Patient or Legally Authorized Representative has the right to appeal a denial described in 4.b. by submitting a written appeal. The appeal is an internal review process whose purpose is to review the initial decision to deny access to a record and determine whether that denial is appropriate. The appeal will be reviewed by a designated licensed healthcare professional that did not participate in the original decision to deny. The designated reviewing official must determine, within a reasonable period of time, whether or not to deny the access requested based on the standards in 4.b. above. The reconsidered decision will be final and a written notice should be promptly provided to the individual as well as applicable action taken as required to carry out the designated reviewing official's determination.

D. Requests for Records through the Portal

1. If legally authorized, the Requestor will have access to records available in the Portal. Legally authorized parties will be able to request additional medical records be sent to the Portal using the secure messaging function.
2. Denial of Access to the Portal. (Removal from the Portal)
 - a. Patients and their Legally Authorized Representatives may be removed from the Portal for rude, profane or other unprofessional conduct.

- E. Banner hospitals will honor all Requests/Authorizations for PHI by a Patient or the Patient's Legally Authorized Representative for hospital records, if the records are electronically available to the facility receiving the request. Banner hospitals may release records from any facility, or they may elect to send the request to the Central Release of Information Department.**

- F. Banner clinics will only release records from their individual clinic. When a clinic receives a request for a different clinic, they will send it to the Central Release of information Department for processing.
- G. If the request involves multiple clinics and/or hospitals, staff will accept the Patient's or Legally Authorized Representative's request and send it to the Central Release of Information Department for processing.
- H. Documentation of the records disclosed to the Requestor will be maintained for a period of at least six years.
- I. Time Frames for Responding to Requests to View and Copy PHI.
 - 1. BH facilities will respond to requests to view and copy PHI within time frames established by federal or state regulations.
 - a. Copies of records will be provided, or a written denial made, in response to requests from Patients or their Legally Authorized Representatives for access to all or part of the Patient's Designated Record Set within **30 days** of receipt of the request, or within time limits established by state regulation, if more restrictive.
 - b. If BH personnel cannot produce the records within the time limits in the above statement, the Requestor will be notified by a written statement explaining the delay and setting forth the date by which BH will provide records or a response. BH personnel may have no more than **30 extra days** (extended to a total of 60 days) under this extension. (See **Form: Unable to Process Request**)
- J. Fees for Copying and Electric Delivery of Medical Information. If the Patient requests PHI for Continuity of Care, the Patient or Legally Authorized Representative will not be charged. For all other requests, the facility may impose a reasonable cost-based fee to include the cost of certain labor, supplies and postage. HIMS or designated personnel will inform the Requestor of the copying or electronic delivery charges before processing the request and allow the Requestor to withdraw the request. All information mailed is subject to postage or other delivery fees.
 - 1. Labor: Labor for copying includes only labor for creating and delivering the electronic or paper copy in the form and format requested or agreed upon by the Requestor, once the PHI that is responsive to the request has been identified, retrieved or collected, compiled and/or collated, and is ready to be copied. Labor for copying does not include costs associated with reviewing the request for access; or searching for and retrieving the PHI, which includes locating and reviewing the PHI in the medical or other record, and segregating or otherwise preparing the PHI that is responsive to the request for copying.
 - 2. Preparation of Summary: Labor to prepare an explanation or summary of the PHI, if the Requestor in advance, both chooses to receive an explanation or summary and agrees to the fee that may be charged.
 - 3. Supplies: Supplies for creating the paper copy (e.g., paper, toner) or electronic media (e.g., CD or USB drive), if the Requestor requests that the electronic copy be provided on portable media. BH may not require a Requestor to pay for a portable media, if the individual requests to have their PHI e-mailed or mailed to them upon request.
 - 4. Postage: Postage may be charged when the Requestor requests that the copy, or the summary or explanation, be mailed.
- K. Person or Department Processing Requests. The title of the person or department designated to receive and process requests for PHI will be maintained for at least six years. (See **Appendix A: Patient Designated Record Set Matrix**)

- L. Skilled Nursing Facility. A resident upon oral or written request has access to view all records including current clinical records within 24 hours of request and after inspection, may purchase at a cost not to exceed the community standard, photocopies of the records or any portions of them upon request with two (2) working days advance notice. [42 CFR CH. IV (10-1-01) Edition, Section 483.10(2)(i)(ii)]

IV. Procedure/Interventions:

- A. Requests for Portal Access:
 - 1. Advise the Patient or his/her Legally Authorized Representative of the Portal and provide registration information (BH Employee / Registration).
 - 2. Verify the Patient or his/her Legally Authorized Representative.
 - 3. Request an email address to which a Portal enrollment invitation is sent.
 - 4. Verify appropriate demographics to validate identity.
 - 5. Agree upon a "challenge" question and answer.
 - 6. Send Portal enrollment invitation email.
- B. Requests for the Designated Record Set:
 - 1. Inpatient Requests for Review of PHI:
 - a. Notify the treating provider of Patient or Legally Authorized Representative request. **(PERSON RECEIVING REQUEST)**
 - b. Follow provider instructions regarding access to records.
 - c. Remain with the Patient or Legally Authorized Representative while the PHI is being reviewed. **(BH EMPLOYEE)**
 - 2. Post-Discharge Requests/Authorizations for PHI will be processed as follows:
 - a. Request/Authorization
 - i. Ask the Patient or Legally Authorized Representative to provide a request in writing. The BH Authorization form may be used but is not required. **(PATIENT OR LEGALLY AUTHORIZED REPRESENTATIVE)**
 - ii. Note: If the Requestor has **written authorization** from the Patient to obtain access and it is documented on the authorization or request signed and dated by the Patient then this person is authorized to receive the records. A person may request a BH Authorization form by telephone, fax, or on the Patient Portal.
 - 3. Verify Identity
 - a. Verify the Requestor's identity upon receipt of a written request by comparing the name and signature on the request/authorization to the medical record. **(HIMS or other DESIGNATED PERSONNEL)**
 - i. If the Requestor is not the Patient, verify that they meet the definition of Legally Authorized Representative.
 - b. Ask for and review identification of the individual picking up the records in person, if not the Patient or Legally Authorized Representative.
 - 4. The Request
 - a. Log the request in the facility tracking system upon receipt of a written request.
 - i. A response must be made thirty (30) days after the date of receipt.
 - b. Log the completed request in the tracking system.
 - 5. Route to Appropriate Department
 - a. Process requests for copies of medical information.
 - b. Process requests for the billing record. **(BUSINESS OFFICE)**
 - c. Refer requests/authorization for copies of other records that are not part of the Designated Record Set, such as medical imaging films, cineangiograms, and pathology slides to the appropriate ancillary departments, as per facility policy. **(HIMS or other DESIGNATED PERSONNEL)**

- d. Refer requests to the treating physician, when Patient states the physician took a photo or videotape of their procedure and said that they could have it.
6. Off-site Records
 - a. Determine whether records can be retrieved and copied within thirty (30) days for records not accessible on site.
 - b. Perform the following for records that cannot be retrieved within thirty (30) days.
 - i. Log in the facility tracking system a reminder that the off-site records must be copied or provided or a written denial made no later than sixty (60) days after the receipt.
 - ii. Send to the Requestor a written statement explaining the delay and setting forth the date by which BH will provide records or a response.
- C. Denials of Access to the Portal
 1. Warn the individual that Portal access will be denied, if the offensive behavior continues. (**BH EMPLOYEE**)
 2. Restrict access to the Portal and advise the individual that access has been terminated.
 3. Give the individual the opportunity to appeal.
- D. Denials of Access to All or Part of the Patient's Designated Record Set:
 1. Determine if any part of the Patient's Designated Record Set may not be provided to the Requestor.
 - a. If a partial denial is made, the excluded portions will be removed.
 2. Notify the Requestor, in writing, of the decision to deny full or partial access to the PHI using the **Form: Denial of Access Letter**.
 - a. Make sure description for filing a complaint or appeal is included in the notification.
 3. Notify the Requestor of the location of the requested records when records are not maintained by BH, but the information regarding location is known.
- E. Appeals of Denials of Access to Designated Record Set or to the Portal:
 1. Log the appeal in the facility tracking system upon receipt of a written appeal,
 2. Forward the appeal and the reasons for the initial denial to the facility designee who is a licensed health care professional who was not involved in the denial.
 3. Reviewer will complete the appeal review in a reasonable time. The reviewer will provide a decision in writing to HIMS or designated personnel.
 4. Notify the Requestor promptly in writing upon receipt of the appeal review decision.
 5. Maintain documentation of the Requestor's written appeal, the appeal reviewer's decision, and the notice to the Requestor.

V. Procedural Documentation:

- A. **Form: Authorization for Release of Medical Information**
- B. **Form: Denial of Access Letter**
(Forms can be obtained at [HIPAA website](#))

VI. Additional Information:

- A. **Appendix A: Patient Designated Record Set Matrix**
- B. 21st Century Cures Act Information Blocking Compliance: BH is committed to making Electronic Health Information (EHI, as defined in [21st Century Cures Act: Information Blocking](#) policy #7171) available in accordance with applicable law. It is the intention of BH to integrate the Information Blocking rule set forth in the 21st Century Cures Act into its current HIPAA patient access policies and procedures as applicable. BH will not knowingly engage in information blocking and as a general rule, requests for patient EHI must be

fulfilled unless one of the eight Information Blocking exceptions can be applied to the request. If there is a conflict between any HIPAA policy and the **21st Century Cures Act: Information Blocking** policy, it will be addressed by the Information Blocking Committee.

VII. References:

- A. Federal Register, Vol. 67, No. 157, August 14, 2002, Standards for Privacy of Individually Identifiable Health Information; Final Rule.
- B. Federal Register, Vol. 78, No. 17, January 25, 2013, 45 CFR Parts 160 and 164, Modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules Under the Health Information Technology for Economic and Clinical Health Act and the Genetic Information Nondiscrimination Act; Other Modifications to the HIPAA Rules; Final Rule.
- C. Federal Register, 42 CFR Public Health, Chapter IV Centers for Medicare and Medicaid Services, Department of Health and Human Services, Subchapter G Standards and Certification, Subpart B Requirements for Long Term Care Facilities, Section 483.10 Resident rights, Subsection 483.10(a)(i)(ii).
- D. U.S. Department of Health & Human Services, Office for Civil Rights, January 2016, Guidance Individual's Right under HIPAA to Access their Health Information 45 CFR §164.524.
- E. U.S. Department of Health & Human Services, Office for Civil Rights, January 2016, Questions and Answers About HIPAA's Access Right.

VIII. Other Related Policies/Procedures:

- A. [HIPAA: Authority to Request Protected Health Information \(PHI\)](#)
- B. [HIPAA: Notice of Privacy Practices](#)
- C. [HIPAA: Use and Disclosure of Protected Health Information \(PHI\) Requiring Patient Authorization](#)
- D. [HIPAA: Use and Disclosure of Protected Health Information \(PHI\) Concerning Decedents](#)
- E. [HIPAA: Use and Disclosure of Mental Health Information](#)
- F. [21st Century Cures Act: Information Blocking #7171](#)

IX. Keywords and Keyword Phrases:

- A. HIPAA
- B. Privacy
- C. Release of Information
- D. Patient Access
- E. Patient Rights
- F. Electronic Delivery
- G. Designated Record Set

X. Appendix:

- A. Appendix A: Patient Designated Record Set Matrix

Appendix A: Patient Designated Record Set Matrix

Included items	Excluded items	Format/Media supplied to Patient	Title or Department /As Appropriate to Facility
<p>Medical Record:</p> <p>Records of care in any health-related setting used by health care professionals while providing Patient care services, for reviewing Patient data, or documenting observations, actions, or instructions. This includes clinic phone notes (messages). Other provider's records</p>	<p>See Exclude lists below.</p>	<p><u>Online Access</u></p> <p><u>Copy:</u> Paper document</p> <p><u>View:</u> Electronic screen or paper record with attendant only</p> <p><u>Electronic:</u> CD or encrypted mail</p>	<p>Physician, nursing, HIMS department, behavioral health, social services, case manager</p>
<p>Billing Record:</p> <p>Patient-specific claim, remittance, eligibility response, and claim status response, charge screen, statement of account balance, and payment agreement</p> <p>Medicare ABN letter, Medicare Life Time Reserve Letter, Medicare Notice of Non-Coverage Letter</p>	<p>Administrative data, such as audit trails, appointment schedules, and practice guidelines that do not imbed Patient data</p>	<p><u>Online Access</u></p> <p><u>Copy:</u> Paper document or electronic printout</p>	<p>Patient Financial Services</p>

Medical Record Exclude List:

- Administrative data, which is Patient-identifiable and used for administrative, regulatory, or other healthcare operations, such as event history/audit trails, data used for quality assurance or utilization management, data prepared in anticipation of legal action, etc.
- Derived data stored in aggregate or summarized, which is not Patient-identifiable, such as data used for accreditation reports, research data, statistical report, best practice guidelines, etc.
- Psychotherapy notes maintained separate from the rest of the Patient's medical record.
- Patient information created as part of a research study to which the Patient has temporarily waived right to access.
- Records that have been destroyed because they have exceeded their required retention period or because they have been rendered unusable to fire, flood, or other circumstances.
- Information that is subject to a legal privilege such as peer review or attorney/client privilege.

Excluded from the Designated Record Set but may be disclosed with appropriate authorization:

- Source data such as radiology films, videos, photographs, slides, EKG strips, fetal monitor strips, neuropsychiatric raw test data, etc., when available.