

Health Information Compliance Alert

Privacy: 2 Scenarios Help You Act On Patients' Amendment Requests

Hint: Amend does not mean erase.

A patient points out that another patient's information is filed in his medical chart. Your employee removes the wrong data and gets back to work, right? Wrong. Failure to correctly act on a patient's amendment request can not only put you in violation of the privacy rule -- it could lead to improper patient care. Before you make another amendment to patients' records, consider the following two scenarios.

Scenario 1: Misfiled data. Jimmy Jones comes in for a routine physical and prostate exam. His doctor makes several notes, along with the standard treatment information, on a separate piece of paper. The paper is then mistakenly filed in Jackie Jones' medical record.

Jackie Jones discovers the error three weeks later when she receives a call from your staff concerning the results of the prostate exam. She informs your staffer that there is a mistake. Your staffer checks over the information and sees that it is clearly marked Jimmy Jones. No information for Jackie Jones has been recorded on the paper.

Amend this way: "It's on a separate sheet of paper, clearly has the right name on top," and contains none of Jackie Jones' information, so you can pull it out and file it in the correct chart, says **Tessa Chenaille**, president and CEO of **Chenaille Compliance Consulting** in Medford, MA.

Next step: Though none of Jackie Jones' PHI was recorded on Jimmy Jones' data sheet, you must investigate whether any treatment decisions were made based on that information, Chenaille says. And be sure to update any other providers you released her medical records to during that time.

Scenario 2: Data recorded in wrong chart. Shelly Green presents with flu-like symptoms and is prescribed antibiotics. Her information is accidentally recorded in Roberta Greer's medical record.

Ms. Greer is moving and requests a copy of her medical record to take with her. She notices that information was added to her file recently, yet she was last seen seven months ago for her yearly physical. She notifies your staff of the mistake.

Amend this way: Because Shelly Green's information was written into Roberta Greer's file, you should not remove it, says **Sigrid Haines**, an attorney with **Lerch Early & Brewer** in Bethesda, MD.

Better: Draw a line through the information in Roberta Greer's file, and add Shelly Green's information to the correct file. In each chart, note the error, the date you corrected the error and your initials. For example, in Greer's chart you might write "Information written in wrong chart -- corrected 12/05/09 (XX)," Haines recommends.

Why: Removing, erasing or otherwise making the wrong information illegible could be considered altering or destroying the record, notes **Joseph Truhe**, general counsel for **Eisenhower Medical Center** in Rancho Mirage, CA. Also, an employee may have copied the information in its uncorrected form. You'll need the original as documentation that recognized and corrected the mistake.

The bottom line: The privacy rule allows patients to request amendments if they find erroneous information in their medical records. Make sure your staffers know how to act on those requests without damaging future patient care.