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Policy for Access and Denial of Patient Request for PHI

Purpose

The purpose of this policy is to explain the procedures involved in a patient's right to access their protected health information and the procedures involved for denial of such requests, and responses to such denials.

Policy

The access and denial process is managed by the office manager or custodian of the medical record. Patients have a right to inspect and receive a copy, at their expense, of the protected health information (PHI) in their designated record set. Exceptions to this include: psychotherapy notes, information compiled in anticipation of or use in a civil, criminal, or administration action or proceeding, and protected health information (PHI) subject to the Clinical Laboratory Improvements Amendments (CLIA) of 1988.

All workforce members must strictly observe the following standards:

ACCESS TO PHI PROCEDURE

1. A patient has the right to inspect, or receive copies of PHI about the patient in a designated record set for as long as the PHI is maintained in the designated record set.
2. If ATL Colorectal Surgery, P.C. does not maintain the PHI that is the subject of the patient's request for access, and ATL Colorectal Surgery, P.C. knows where the requested information is maintained, ATL Colorectal Surgery, P.C. must inform the patient where to direct the request for access.
- 3 The patient must make the request in writing.
4. ATL Colorectal Surgery, P.C. must act on the patient's request no later than the 30th business day after receipt and payment of the request. ATL Colorectal Surgery, P.C. shall:
 - a) Make the information available, in full or in part, for examination; or inform the authorized requestor if the information does not exist, cannot be found, or is not yet complete. Upon completion or location of the information, ATL Colorectal Surgery, P.C. will notify the patient.
 - b) If the access is granted, in whole or in part, ATL Colorectal Surgery, P.C. must comply with the following requirements:
 - ATL Colorectal Surgery, P.C. must provide the patient access to his/her PHI in the designated record sets, including inspection or receiving a copy, or both. 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, ATL Colorectal Surgery, P.C. need only produce the PHI once in response to a request for access.
 - ATL Colorectal Surgery, P.C. must provide the patient with access to the PHI in the form or format requested by the patient, if it is readily producible in such form or format; or, if not, in a readable hard copy form or such other form or format as agreed to by both parties.

ATL Colorectal Surgery, P.C. may provide the patient with a summary of the PHI requested, in lieu of providing access to the PHI or may provide an explanation of the PHI to which access has been provided, if:

- A. The patient agrees in advance to such a summary or explanation; and
- B. The patient agrees in advance to the fees imposed, if any, by the covered entity for such summary or explanation.



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ATL Colorectal Surgery, P.C. must provide the access as requested by the patient in a timely manner, including arranging with the patient for a convenient time and place to inspect or receive a copy of the PHI, or mailing the copy of the PHI at the patient's request.

ATL Colorectal Surgery, P.C. may discuss the scope, format, and other aspects of the request for access with the patient as necessary to facilitate the timely provision of access.

If the patient requests a copy of the PHI or agrees to a summary or explanation of such information, ATL Colorectal Surgery, P.C. may impose a reasonable, cost-based fee, provided that the fee includes only the cost of:

Copying, including the cost of supplies for and labor of copying, the PHI requested. The fee schedule for these services is ten dollars.

Postage, if the patient has requested the copy, summary, or the explanation is mailed. The fee schedule for postage can be obtained from ATL Colorectal Surgery, P.C.; and preparing an explanation or summary of the PHI, if agreed to by the patient.

DENIAL OF PHI PROCEDURE

1. ATL Colorectal Surgery, P.C. must allow a patient to request access to inspect or receive a copy of PHI maintained in their designated record set. However, ATL Colorectal Surgery, P.C. may deny a patient's request without providing an opportunity for review when:

- a) An exception detailed above in the policy statement exists;
- b) ATL Colorectal Surgery, P.C. is acting under the direction of a correctional institution and the prisoner's request to obtain a copy of PHI would jeopardize the patient, other prisoners, or the safety of any officer, employee, or other person at the correctional institution, or a person responsible for transporting the prisoner;
- c) The patient agreed to temporary denial of access when consenting to participate in research that includes treatment, and the research is not yet complete;
- d) The records are subject to the Privacy Act of 1974 and the denial of access meets the requirements of that law; the PHI was obtained from someone other than Georgia Vascular Surgery, P.C. under a promise of confidentiality and access would likely reveal the source of the information.

2. ATL Colorectal Surgery, P.C. may also deny a patient access for other reasons, provided that the patient is given a right to have such denials reviewed under the following circumstances:

- a) ATL Colorectal Surgery, P.C. or a licensed health care provider designated or appointed by ATL Colorectal Surgery, P.C. has determined that the access is likely to endanger the life or physical safety of the patient or another person;
- b) The PHI makes reference to another person who is not a health care provider, ATL Colorectal Surgery, P.C. or a licensed health care professional designated or appointed by ATL Colorectal Surgery, P.C. has determined that the access requested is likely to cause substantial harm to such other person;
- c) The request for access is made by the patient's surrogate decision maker and ATL Colorectal Surgery, P.C. or a licensed health care professional designated or appointed by the ATL Colorectal Surgery, P.C., has determined that access is likely to cause substantial harm to the patient or another person.



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3. If access is denied on a ground permitted above, the patient has the right to have the denial reviewed by ATL Colorectal Surgery, P.C. or a licensed health care professional designated or appointed by ATL Colorectal Surgery, P.C. to act as a reviewing official, and who did not participate in the original decision to deny. ATL Colorectal Surgery, P.C. must provide or deny access in accordance with the determination of the reviewing official.

4. If ATL Colorectal Surgery, P.C. denies access, in whole or in part, to PHI, ATL Colorectal Surgery, P.C. must comply with the following requirements:

- a) ATL Colorectal Surgery, P.C. must, to the extent possible, give the patient access to any other PHI requested, after excluding the PHI to which ATL Colorectal Surgery, P.C. denied access.
- b) ATL Colorectal Surgery, P.C. must provide a timely, written denial to the patient, in plain language and containing:
 - 1) The basis for the denial;
 - 2) If applicable, a statement of the patient's review rights, including a description of how the patient may exercise such review rights; and
 - 3) A description of how the patient may complain to ATL Colorectal Surgery, P.C. pursuant to the ATL Colorectal Surgery, P.C.'s complaint policy.

If the patient has requested a review of a denial, ATL Colorectal Surgery, P.C. must designate or appoint a licensed health care professional, who was not directly involved in the decision to deny access. ATL Colorectal Surgery, P.C. must promptly refer a request for review to such licensed health care professional. The licensed health care professional must determine, within a reasonable period of time, whether or not to deny the access requested based on the aforementioned procedures and standards. ATL Colorectal Surgery, P.C. must promptly provide written notice to the patient of the findings of the reviewing licensed health care professional, and take other action as required by this section to carry out the licensed health care professional's determination.

Enforcement

ATL Colorectal Surgery, P.C.'s office manager and supervisors are responsible for enforcing this policy. Individuals who violate this policy will be subject to the appropriate and applicable disciplinary process, up to and including termination or dismissal.

References

45 C.F.R. § 164.524