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**PROCEDURE 2515 A**

1. Requestors who wish to amend any of the Protected Health Information (PHI) held by the North Sound Mental Health Administration (NSMHA) must make their request in writing using the Request Form attached to this procedure.
  - a. If necessary, the Requestor should be assisted by NSMHA designated employees in completing the Request Form.
  - b. Requestors will be directed to send all completed Request Forms via the United States Post Office, other private mail delivery system that provides confirmation of delivery or tracking capability, or hand delivery to an NSMHA employee authorized to accept and log delivery at the address of the Privacy Officer. Requests will not be deemed made until they are received by NSMHA.
    - i. NSMHA workforce shall have no authority under any circumstances to offer to use or use NSMHA internal mail to deliver any completed Request Form.
    - ii. If any NSMHA workforce member receives a completed Request Form in error, they should immediately so notify the Privacy Officer in person or by telephone and deliver the Request Form as quickly as possible to the Privacy Officer.
2. The Privacy Officer will log all “Request for Amendment” forms into a database that includes the date of the request, the date received, name of Requestor, and primary provider.
3. The Privacy Officer will determine whether the Requestor is or was a NSMHA client entitled to request an amendment or correction to the PHI in question, and whether NSMHA possesses or is responsible for the PHI in question.
4. Subject to validation as described in (3) above, the Privacy Officer will determine necessary and appropriate persons to contact with regard to the request. The Privacy Officer will notify any necessary individuals (who may include Business Associates) of the request, the nature of the request to the extent reasonably necessary to respond, and deadlines for responding to the Privacy Officer.
  - a. The Privacy Officer should determine:
    - i. Who should be involved in any decision concerning the requested amendment or correction, e.g., the Executive Director, Deputy Director, Ombuds, or NSMHA legal counsel?
    - ii. A reasonable time frame for requesting staff input specific to the disposition of the proposed amendment or correction.
    - iii. The above decisions should be based on the significance of facts and circumstances specific to the requested amendment or correction. Such factors may include, but not be limited to: the intended use of the PHI, both internally and externally, and the impact of the amendment or correction on the Requestor. For example, a simple change in a relatively insignificant date may be able to be approved easily with very little input from others besides the primary staff involved and the Privacy Officer.
    - iv. In all cases absent special circumstances, preliminary staff input should be received no later than 7 days from the date NSMHA receives the completed Request Form, if possible, to allow for additional discussion and input.
  - b. The Privacy Officer will designate staff members for each requested amendment or correction as described above, and shall be responsible for managing communications with staff members.

- c. The Privacy Officer will, in consultation with the Requestor's primary staff contact, review responses of staff members and determine if there is a consensus on whether or not to approve the proposed amendment or correction.
5. NSMHA reserves the right to deny any proposed amendment or correction for any of the following reasons:
  - a. The record is already accurate and complete;
  - b. The information was not created by NSMHA and the original source is not available to make the correction;
  - c. The information is not a part of the designated record set;
  - d. The PHI in question is not available to the individual because access is not permitted or has been denied under § 164.524 of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Regulations (*See Access Policy*). For example, an individual's right to access his or her PHI does not extend to psychotherapy notes as defined in the HIPAA rule.
6. If there is disagreement among staff members, the Privacy Officer should set up a meeting or conference call to try to reach consensus. The Medical Director and/or Executive Director should attend this meeting.
  - a. If at the meeting consensus cannot be reached, the Privacy Officer, in consultation with the Medical Director and/or Executive Director, will make the final decision using the input from all staff members.
  - b. If it appears that the decision cannot be made within the ten-day period required, the Privacy Officer will inform the Requestor of the need for a one-time 11-day extension. This notification shall be made in writing, in plain language explaining why the decision will be delayed and giving the Requestor an estimated date by which NSMHA expects to render a decision. This notification must be provided to the Requestor within the original 10-day period.
  - c. The Privacy Officer will inform the Requestor of the decision.
  - d. This reply will be in plain language and it will be in writing.
7. If the amendment is approved, the Privacy Officer will:
  - a. Determine with the staff how and what records are affected by the amendment and should be corrected. This includes the records of any business associates who have and/or use the amended PHI.
  - b. Direct appropriate staff to make the corrections by either attaching the amended information directly to the PHI being amended or by creating a link to the amended information from the original information. In all cases both the amended and original information will be sent together for any future disclosures of this PHI either internally or externally.

If disclosure of any PHI containing appended material is made by NSMHA using one of the standard transactions that do not permit additional material, NSMHA reserves the right to transmit the appended material to the recipient of the standard transaction.

- c. Direct the staff contact to discuss with Requestor and develop a list of who should be informed of the amendment and obtain written agreement of the Requestor to do so.

Both the client and the staff contact should sign the bottom of the list as in indication that the Requestor has agreed with the list.

- d. Direct appropriate staff to make reasonable efforts to locate and inform those on the list in (c) above of the amendment.
    - i. Designated staff should make sure that written confirmation, including a copy of the amendment, is sent to all persons on the list who could be located. If staff is not able to locate any person, they should make a notation on the "Request for Amendment" form.
    - ii. Reasonable efforts include the following steps: (1) request that the Requestor provide you with their most recent contact information for each individual and/or entity on the list; (2) confirm the contact information via telephone; (3) mail a written copy of the amendment to the confirmed addresses [amendment information cannot be delivered orally nor should it be mailed to non-confirmed addresses]; (4) if the address cannot be confirmed, notify the client and do not send the amendment; (5) document that you have notified the Requestor that contact information could not be confirmed by noting on the list next to the name of the individual or entity "Requestor notified that address could not be confirmed" and the date; and (6) initial the note.
    - iii. Inform the Requestor in writing of all actions taken.
  - e. If the amendment or correction is not approved, the Privacy Officer will include in the notice of denial the following information:
    - i. The basis for the denial;
    - ii. The Requestor's right to file a written statement disagreeing with the denial;
    - iii. The Requestor will be directed to send the statement to the Privacy Officer at the address included in the notice of denial;
    - iv. The process for the Requestor to use to file a complaint about the denial, including the name, title, and telephone number of the NSMHA person or office responsible for complaints; and
    - v. The process for filing a complaint with the Secretary of Department of Health and Human Services (DHHS).
8. If the Requestor files a written statement of disagreement with the denial of their amendment request, the Privacy Officer will consult with both the Requestor's primary staff contact and the Medical or Deputy Director to determine if NSMHA wishes to create a rebuttal statement to the written statement of disagreement.
- a. If NSMHA decides not to file a rebuttal statement, a copy of the request, denial, and statement of disagreement should be attached to the PHI the client asked to be amended and all included in any future disclosures of this PHI.
  - b. If NSMHA decides that it will file a rebuttal statement, this statement along with the request, denial, and statement of disagreement will be included together in any future disclosures of this PHI and a copy of the rebuttal statement will also be mailed to the client.
  - c. The Privacy Officer will be responsible for setting up a meeting with the Requestor and either the Medical Director or the Executive Director to discuss any disagreement with the denial.
  - d. The Medical Director or Executive Director will then meet separately with the Privacy Officer, and, if appropriate, with legal counsel, to discuss their reasons for denying the amendment.

- e. The Medical or Executive Director will then send a written notice to the Requestor and to staff members, of a final decision.
- f. The notice to the Requestor will include information on the process for filing a complaint with the Secretary of Department of Health and Human Services (DHHS), if the decision to deny the amendment is upheld.

**Procedure for Amending PHI Held in the Designated Record Set but Created by Another Covered Entity, Health Care Provider or Other Third Party**

1. If any NSMHA workforce member receives a notice of amendment of PHI by another Covered Entity or provider, they are directed to immediately notify the Privacy Officer and deliver the notice to the Privacy Officer as quickly as possible.
2. The Privacy Officer, in consultation with the Executive Director, Deputy Director, and/or other relevant staff, will determine in which, if any, record sets the PHI is located. This includes a determination of whether or not the PHI that has been maintained by NSMHA, has been amended or corrected, or has been disclosed to any Business Associates for their use.
3. The Privacy Officer will direct the appropriate staffer(s) to attach or link the notice of amendment and the amendment language to the original PHI.
4. All future disclosures of this PHI should include both the original and amended information. If disclosure of PHI containing appended material is made by NSMHA using one of the standard transactions that do not permit additional material, NSMHA reserves the right to transmit the appended material to the recipient of the standard transaction.