Name of Policy: **Medical record availability and access** **Policy Number:** 3364-90-07 **Approving Officer:** President **Responsible Agent:** Executive Director and Chief Compliance Officer **Scope:** All University of Toledo campuses	**Effective date**: September 13, 2023 **Original effective date:** August 9, 2006
Keywords: Do not capitalize unless a proper noun	

	New policy		Minor/technical revision of existing policy
	Major revision of existing policy	X	Reaffirmation of existing policy

(A) Policy statement

The university of Toledo's (UToledo) health information management department (HIM) maintains a medical record for each inpatient and outpatient encounter. The medical record is made available upon request to individuals by HIM. Patients may request access to their medical record protected health information (PHI) through processes established by HIM.

(B) Purpose of policy

To ensure availability and access to the medical record in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Regulations, C.F.R 164.524.

(C) Procedure

UToledo and covered components maintain a medical record for each inpatient and outpatient encounter. The legal definition of the medical record is found in policy 3364-100-53-06, Legal medical record.

The medical record is made available to individuals who have completed an authorization to release form provided by HIM or a form that is provided to HIM that is in compliance with HIPAA, unless there is federal law denying access as listed in sections (D) 1 and (D) 2 below.

(D) Individual patient right to access protected health information

(1) Individual rights: Individuals, or their personal representative as defined by HIPAA regulations, have a right to have access to inspect and/or obtain a copy of their medical record (PHI) about the individual in a designated record set, for as long as the PHI is maintained in the designated record set, through a written request. This does not mean that the covered components must provide original records or permit unsupervised access to a record containing health information. An individual does not have the right to access, inspect or obtain a copy of their medical records in the following instances:

(a) Where the request is for access to psychotherapy notes that are maintained separately from the medical record.

(b) Where the access pertains to information compiled in reasonable anticipation of, or for use in a civil, criminal or administrative action or proceeding.

While present and under care at a UToledo covered component, and with assistance by a clinical caregiver, a patient or their authorized representatives may view their medical record

Patients may request to access or obtain copies of their medical record by providing HIM with a signed HIPAA authorization to release form obtained from HIM. HIM will coordinate with the revenue cycle department with respect to requests concerning billing information records. HIM will verify the identity of the individual making the request using any or all of the following:

(a) Comparison of signature on the authorization to release form with the signature on file.
(b) Comparison of address on request form with address on file where copies of the medical record are to be sent by mail.
(c) A government issued picture ID such as a driver's license or state-issued ID card may be used as verification.
(d) When an executor of an estate or durable power of attorney request is made, the appropriate legal documents must be submitted as verification.
(e) Request for deceased patient accounts without an executor/ executrix must obtain a state of Ohio document certifying legal authority over the estate.

(2) Denial of request for access: UToledo and its covered components under certain limited circumstances may deny an individual's request for access to all or a portion of the PHI requested. In some of these circumstances, an individual has a right to have the denial reviewed by a licensed healthcare professional designated by the covered entity who did not participate in the original decision to deny.

(a) A denial of access is not subject to review in the following instances:

(i) The request is for psychotherapy notes, or information copied in reasonable anticipation of, or for use in, a legal proceeding.

(ii) An inmate requests a copy of the PHI held by a covered entity that is a correctional institution, or healthcare provider acting under the direction of the institution, and providing the copy would jeopardize the health, safety, security, custody, or rehabilitation of the individual or other inmates, or the safety of any officer, employee, or other persons at the institution or responsible for the transporting of the inmate. However, in these cases, an inmate retains the right to inspect the PHI.

(iii) Concerning a temporary suspension of access to information created or obtained in connection with the individual's participation in a research study that includes treatment if the individual has agreed to be denied access and is informed that access will be reinstated at the completion of the study.

(iv) Where the request is for PHI that was originally obtained from someone other than a healthcare provider under a promise of confidentiality and thus providing the access would reasonably likely reveal the source of information.

(v) Where the PHI is contained in records that are subject to the Federal Privacy Act and a denial would fulfill the requirements of such law.

(b) Denial of access is subject to review where a licensed healthcare provider, in the exercise of professional judgment, has decided that:

(i) The request is reasonably likely to endanger the life or physical safety of the individual or another person. The ground for denial does not extend to concerns about psychological or emotional harm (e.g., concerns that the individual will not be able to understand the information or may be upset by it).

(ii) The request includes information which makes reference to other person(s) other than a healthcare provider and is likely to cause substantial harm to that person if access is granted.

(iii) The request was made by the individual's personal representative and such release would harm the patient or another person.

(3) Review of denials: Individuals may request a review of a decision to deny access to PHI. Only denials made in exercise of professional judgment by a healthcare provider as outlined in (D)(2)(b) are subject to review.

Licensed healthcare professionals who were not directly involved in the initial decision to deny may conduct the review. The chief medical officer and/or chief of staff will serve as review officers. The review officers will promptly evaluate requests for reviews using the standards set forth in (D)(2)(b) above, including a determination if the request may be granted in whole or in part. A written notice will be provided to the individual about the final decision of the reviewing officers and other action(s) to be taken, if any. The decision of the reviewing officers is final and not subject to appeal.

(4) Notification: Individuals will be notified about the status of their requests within thirty days from the date of receipt of the request. The notification will inform the individual whether all or part of the request has been granted or denied and what action, if any, needs to be taken by the individual.

Where the hybrid and affiliated covered entity is unable to respond to a request for access within thirty days after receipt, the individual will be notified in writing stating the reason for the delay. The notification will include an estimated date of response which will not exceed sixty days from the date of receipt of the initial request for access.

Where the request for access is denied, a written notification will include the basis for denial, a statement of the individual's right for review if applicable and process for exercising those rights. The statement will also include information on how to file a complaint with the hybrid and affiliated covered entity including the title and phone number of the officer authorized to receive such complaints at the entity and the secretary of health and human services.

Where the information requested is not maintained by the hybrid and affiliated covered entity, but the entity has knowledge of where the information is located, the individual will be directed to such entity accordingly.

(5) Form of Access: If a request for access is granted, the entity will provide the individual with access in the form or the format requested if the information is readily producible in such form or format. If the information is not producible in the format or form requested, a readable hard copy or other format as agreed will be provided.

(6) Fees: Copy fees for records include the cost of labor, supplies and postage if the copies are to be mailed. Fee calculations cannot include costs for certain types of labor, such as search and retrieval, or other costs not permitted by HIPAA even if authorized by state law. Covered entities and business associates must be aware

that reasonable fees for this service are defined solely by HIPAA and state-authorized fees may not be considered reasonable.

(7) Copy charges apply for records that are requested for non-patient care reasons, which is defined as anything other than treatment, payment or operations

(8) Documentation: The hybrid and affiliated covered entity will maintain documentation sufficient to meet its burden of proof regarding designated record sets that are subject to access by individuals and the titles of the persons or offices responsible for receiving and processing requests for access by individuals.

Approved by: /s/ Gregory Postel, MD President **Date:** September 13, 2023 **Review/revision completed by:** • *Executive Director and Chief Compliance Officer*	**Policies superseded by this policy**: • *7-90-7* **Original effective date:** *August 9, 2006* **Review/revision date:** *October 12, 2010* *September 1, 2013* *June 1, 2014* *September 1, 2016* *October 16, 2017* *October 6, 2020* *September 13, 2023* **Next review date:** *September 13, 2026*