



a program of Law Foundation of Silicon Valley

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What to Do When You Disagree with Information on Your Medical Record

What can I do if there is something in my medical records that I believe is incomplete or incorrect?

There are two things that you can do to solve this problem. (1) You can ask the provider to include a correction in your written records. This is called an “amendment.”¹ (2) Or you can submit a statement of disagreement, also called an “addendum,” to be added to your medical records.² This is your opportunity to tell your version of what happened.

AMENDMENTS

What is an “amendment” and how will it affect my medical records?

An “amendment” is a correction that your doctor agrees to make to your medical record. Your original record will remain the same, but the amendment will be added to your record as a correction. The provider must also tell you that the amendment has been made and get your consent to tell other providers who have received the records about the amendment.³ Additionally, the provider must give the amendment to anyone that you or the provider knows has received the records and would rely on the incorrect information contained in the record in a way that could cause harm to you.⁴

How do I request an amendment of my medical records?

You should first contact the treatment provider and ask whether they have a specific form to use in requesting an amendment. You will need the correct address and department or person to whom you should mail the request. If the provider doesn’t have any specific form for you to fill out, you should put your requests in writing and list your reasons for asking for the amendment (see the attached sample letter). Whether you fill out their form or write your own, you should keep a copy of your requests for your own records.

When will I know if my request for an amendment has been granted?

Once your request for amendment has been received, the provider has 60 days to respond.⁵ Providers may extend the repose time by an additional 30 days. If there is an extension, providers are required to inform you of the extension in writing within the initial 60-day deadline. They must also include the reasons for the delay and the date by which the response will be completed.⁶

¹ 45 C.F.R. § 164.526 (b)(1)

² CAL. HEALTH & SAFETY CODE §123111

³ 45 C.F.R. § 164.526(c)(2).

⁴ 45 C.F.R. § 164.526(c)(3)(i)&(ii).

⁵ 45 C.F.R. § 164.526(b)(2)(i).

⁶ 45 C.F.R. § 164.562(b)(ii)(A)&(B).

What will a denial look like?

The denial of an amendment must be sent to you in writing⁷ and should include the following:

1. The reason for the denial
 - The record is accurate and complete.
 - The provider did not create the record in question.
 - The provider does not have the record in question.
 - You do not have the right to access the record (please contact MHAP for more information about your right to access your medical records).
2. Information on your right to submit a statement of disagreement and an explanation of how to submit this statement.
3. Notification that if you do not submit a statement disagreeing with the denial, you can ask the provider to submit his/her request for amendment and the provider's denial with any future disclosures of the record.
4. A description of how you can file a complaint against the provider or with the Department of Health and Human Services Office for Civil Rights (OCR).⁸

What if my provider ignores my request for Amendment?

If you do not receive a response from your provider regarding your request for an Amendment you can file a grievance against the provider (please contact MHAP for more information on how to file a grievance). Please note that there may be a **time limit** on filing a complaint or grievance, so you should seek legal advice as soon as possible.

STATEMENTS OF DISAGREEMENT

What is a statement of disagreement and how will it affect my mental health records?

A statement of disagreement is a statement that you write that explains what in your mental health records you believe to be incomplete or inaccurate and why it is incomplete or inaccurate. Once submitted, the statement of disagreement will be attached to your records. The provider is required to include any statement(s) of disagreement that you provide whenever they make disclosures of the allegedly incomplete or incorrect portion of your records to any third party.⁹

What is the process for submitting a statement of disagreement?

You should first contact the treatment provider and inquire whether they have a specific form to use for submitting a statement of disagreement. Also, get the correct address and department or person to whom you should mail the request. If the provider doesn't have any specific form for you to fill out you should write a letter stating what you think is incorrect in your records and give the reasons why it is wrong (see sample letter). Whether you fill out their form or write your own, you should keep a copy of your statements for your own records. Your statement(s) of disagreement must:

1. Be in writing
2. Clearly state what you think is incorrect or incomplete in your records
3. Contain the sentence, "This is a statement of disagreement to be added to my mental health records."

⁷ 45 C.F.R. § 164.526(a)(2)(iv) & 45 C.F.R. § 164.526(d)(1).

⁸ 45 C.F.R. § 164.526(d)(1)(i-iv).

⁹ CAL. HEALTH & SAFETY CODE §123111(b).

You have the right to submit a **separate** statement of disagreement for **every statement in your records that you disagree with**. The provider may “reasonably limit” the length of a statement of disagreement, but must allow you to include up to **250 words** per alleged incomplete or incorrect item in your record.¹⁰ The provider may prepare a written rebuttal to your statement of disagreement, but the provider must give you a copy.

What do I do after I send the statement?

You can contact your provider to make sure that your statement has been added to your record. If the statement has not been added to your record, you can file a grievance against the provider (please contact MHAP for more information on how to file a grievance). Please note that there may be a **time limit** on filing a complaint or grievance, so you should seek legal advice as soon as possible.

Frequently Asked Questions and Answers

Q. Can I get my medical record destroyed or wiped out?

A. No. You may not get your medical records destroyed, deleted or expunged.

Q. Will my original records remain in my file?

A. Yes. Whether you file a request for an amendment, or you write a statement of disagreement, your original record will remain in the file.

Q. How long do I have to submit a request for an Amendment or a Statement of Disagreement?

A. There is no time limit. You can submit either a request for an amendment or a statement of disagreement for as long as the treatment provider has a copy of your records.¹¹

DISCLAIMER: This fact sheet is intended to provide accurate, general information regarding legal rights. It does not constitute legal advice. Because laws and legal procedures are subject to frequent change and differing interpretations, Mental Health Advocacy Project cannot ensure the information in this fact sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights for your particular case.

¹⁰ CAL. HEALTH & SAFETY CODE §123111(a).

¹¹ 45 C.F.R. § 164.526(a)(1).

Contact Information

Crestwood Center

1425 Fruitdale Ave.
San Jose, Ca 95128
Phone: (408) 275-1010

Golden Living Center

Attn: Program Department
401 Ridge Vista Ave.
San Jose, CA 95127
Phone: (408) 923-7232

El Camino Hospital

Attn: Medical Records Department
2500 Grant Road
Mountain View, CA 94040
Phone: (650) 988-7462 | Fax: (650) 988-8246

Santa Clara Valley Medical Center

Medical Records Division
751 S. Bascom Ave.
San Jose, CA 95128
Phone: (408) 788-5171

Stanford Hospital and Clinics

Health Information Management Services
450 Broadway, PAV-C, Room C14, MC 5200
Redwood City, CA 94063
Phone: (650) 723-5721 | Fax: (650) 725-9821

Good Samaritan Hospital

Health Information Management Department
2425 Samaritan Drive
San Jose, CA 95124-2404
Phone: (408) 559-2434

Palo Alto Veterans Hospital

VA Palo Alto Health Care System
Release of Information (11MR)
3801 Miranda Avenue
Palo Alto, CA 94304
Phone: (650) 849-0403 | Fax: (650) 617-2603

***** Remember to first get any special forms from the treatment provider *****

* Sample Statement of Disagreement

(Your name)

(Your City, State and Zip Code)

(Date)

(Treatment Provider's Name)

(Treatment Provider's Address)

(Treatment Provider's City, State and Zip Code) s

Dear (Treatment Provider's Name):

I was a patient at _____ (name of treatment facility) located at _____ (address) from _____ (date you were admitted) to _____ (date that you were released). Recently, I have reviewed my mental health records and found information that I believe to be inaccurate or incomplete. Under HEALTH & SAFETY CODE §123111, I have a right to submit a statement of disagreement. This letter is a statement of disagreement to be added to my records.

It is noted in my records from _____ (date of record which contains the statement that you disagree with) that _____ (describe the information that you are disagreeing with). I do not agree with this statement because... (list your reasons why you think your record is incomplete or inaccurate).

If you have any questions or need more information, you may contact me at _____ (your phone number).

Sincerely,

(Sign your name)

(Type or print your name)