

Right to Amend Records

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... How does your state's law differ from HIPAA regulations on the issue of the right of the patient to amend your mental health treatment records? Do you need to know the answer to this question? Yes you do, especially if you are a "covered provider" under HIPAA regulations. If you are not a "covered provider," then you need to know what the law is in your state. Some states may not specifically grant to patients the right to amend records. One state, for instance, allows the patient to submit an addendum to the records, but not to obtain an amendment. Do you know what the law is in your state?

The general rule under HIPAA is that a patient has the right to have a "covered" therapist amend personal health information or a record about the patient for as long as the information is maintained. This right to amend is not without limitation. For instance, the therapist would be able to deny a request for amendment if it pertains to "psychotherapy notes" (which are not available for inspection or copying by the patient, at the discretion of the therapist) or if the therapist takes the position that the records are accurate and complete. If the request to amend records is denied by the therapist, the HIPAA regulations provide for a process for both the patient and the therapist to follow.

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