

**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date]**

Summary: HIPAA grants individuals the right of access to inspect and obtain a copy of PHI about the individual in a designated record set (e.g., their medical and billing records) for as long as the PHI is maintained in the record set. 45 C.F.R. § 164.524(a).

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
General statutory or regulatory provision giving right of access	Except as otherwise provided in paragraph (a)(2) or (a)(3) of this section, an individual has a right of access to inspect and obtain a copy of PHI about the individual in a designated record set, for as long as the PHI is maintained in the designated record. 45 C.F.R. § 164.524(a).	[insert text here]	[insert text here]	[insert text here]
Entities covered by record access law	CE, including health care providers who transmit any health information in electronic form in connection with a HIPAA standard transaction. 45 C.F.R. § 160.103 (definition of "covered entity"); § 164.500 (applicability of privacy standards); 42 U.S.C. § 1320d-2 (enumerating transactions). A "health care provider" is anyone who furnishes, bills, or is paid for health care in the normal course of business. 45 C.F.R. § 160.103 (definition of "health care provider").	[insert text here]	[insert text here]	[insert text here]
Information that is covered by record access law	Information in a "designated record set." 45 C.F.R. § 164.524. For providers, this includes "medical records and billing records" and any other records used to make decisions about the individual. 45 C.F.R. § 164.501 (defining "designated record set").	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
"Ownership" of medical record	<p>N/A            Determined under state law.            HHS, <i>Preamble to Final Privacy Rule</i>, 65 Fed. Reg. 82462 at 82565 (12/28/2000) (Explaining that HHS "do[es] not intend to change current law regarding ownership of or responsibility for medical records. Note: Under state laws, medical records are often the property of the health care provider or medical facility that created them. Note: These statutes typically provide a patient the right to inspect or copy health information from the medical record, but not the right to take the provider's original copy of an item in the medical record. If a particular state law provides greater ownership rights, this regulation leaves such rights in place.")</p>	[insert text here]	[insert text here]	[insert text here]
Record retention period	<p>N/A            But access must be given as long as CE maintains records.            45 C.F.R. § 164.524(a)(1).</p>	[insert text here]	[insert text here]	[insert text here]
<p><b>Adults</b></p> <ul style="list-style-type: none"> <li>General right of access</li> </ul>	<p>Subject of the health information has the right of access to their own health information.            45 C.F.R. § 164.501 (defining "individual"); § 164.524.</p>	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
<b>Minors</b> • Age of majority	N/A Determined under state law.	[insert text here]	[insert text here]	[insert text here]
<b>Minors</b> • Unemancipated – <b>Right of access to minors' records, including parents' rights</b>	As a general rule, minors do not have the right of access to their own medical records. Parents, guardians, or persons acting <i>in loco parentis</i> generally have the right to access and amend the medical records of their minor children. <i>See 45 C.F.R. § 164.502(g)(1) (requiring CE to treat a personal representative as the individual for purposes of Privacy Rule); 45 C.F.R. § 164.502(g)(3) (providing that if a parent, guardian or person acting in loco parentis has authority to act on behalf of an unemancipated minor in making decisions related to health care, a CE generally must treat the parent, guardian or person acting in loco parentis as the personal representative of the minor).</i>	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
<b>Minors</b> (cont.)	<p><b>Exceptions</b></p> <p>There are exceptions to this general rule. Two of the major exceptions are:</p> <ul style="list-style-type: none"> <li>▪ Minors who are emancipated and</li> <li>▪ Minors who lawfully consent to health care services and no other consent is required.</li> </ul> <p>See 45 C.F.R. § 164.502(g)(3), Office for Civil Rights, HHS, <i>Guidance on Personal Representatives</i>, (April 3, 2003) <a href="http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/personalrepresentatives.pdf">http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/personalrepresentatives.pdf</a> and discussion in this chart under “Emancipated minors” and “Unemancipated minors who lawfully consent to health services on their own (no other consent required); General rule regarding right to access related records.”</p>	[insert text here]	[insert text here]	[insert text here]
<p><b>Minors</b></p> <ul style="list-style-type: none"> <li>▪ Emancipated</li> </ul>	<p>Whether a minor is emancipated is determined under state law. HIPAA provides that an emancipated minor has the right of access to her own health information. 45 C.F.R. § 164.501 (defining “individual”); § 164.502(g)(3) (treating parents as personal representatives only with respect to unemancipated minors); and § 164.524.</p>	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
<p><b>Minors</b></p> <ul style="list-style-type: none"> <li>▪ Unemancipated minors who lawfully consent to health services on their own (no other consent required)</li> <li>– <b>General rule regarding right of access to related records</b></li> </ul>	<p>Whether minors may lawfully consent to health services on their own (with no other consent required) is determined under state law.</p> <p><b>Minors</b> HIPAA specifies that minors who lawfully consent to their own health services (where no other consent is required) have the right to access and amend records related to such services. <i>See 45 C.F.R. § 164.502(g)(3)(i).</i></p> <p><b>Parents</b> HIPAA defers to state law in determining whether CE may disclose or grant access to records related to such health care services to parent, guardian or person acting <i>in loco parentis</i>. If state law:</p> <ul style="list-style-type: none"> <li>▪ Permits or requires a provider to disclose such information to a parent or provide access, then the provider may disclose or provide access to the parent;</li> <li>▪ Prohibits providing access or disclosing to the parent, then the provider may <i>not</i> disclose or provide the parent access to such information;</li> <li>▪ Is silent with respect to parental access, the provider may use professional judgment to decide if parent has access rights.</li> </ul>	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
<b>Minors</b> (cont.)	See 45 C.F.R. § 64.502(g)(3)(ii) and Office for Civil Rights, HHS, <i>Guidance on Personal Representatives</i> , (April 3, 2003) <a href="http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/personalrepresentatives.pdf">http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/personalrepresentatives.pdf</a> . [Note: There are some circumstances other than when a minor lawfully consents to treatment on her own in which a parent is not treated as the personal representative of the minor under HIPAA that are not discussed in this chart.]	[insert text here]	[insert text here]	[insert text here]
<b>Minors</b> • Unemancipated – <b>Right to lawfully consent to treatment based on life status</b>	N/A Determined under state law.	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
<p><b>Minors</b></p> <ul style="list-style-type: none"> <li>▪ Unemancipated                             <ul style="list-style-type: none"> <li>– <b>Right of access to record related to treatment lawfully received based on life status</b></li> </ul> </li> </ul>	<p><b>Minors</b>                      Have right to access and amend records related to health care services to which they have lawfully consented.                      45 C.F.R. § 164.502(g)(3)(i).</p> <p><b>Parents</b>                      HIPAA defers to state law in determining whether CE may disclose or grant access to records related to such health care services to parent, guardian or person acting <i>in loco parentis</i>.                      If state law:</p> <ul style="list-style-type: none"> <li>▪ Permits or requires a provider to disclose such information to a parent or provide access, then the provider may disclose or provide access to the parent;</li> <li>▪ Prohibits providing access or disclosing to the parent, then the provider may not disclose or provide the parent access to such information;</li> <li>▪ Is silent with respect to parental access, the provider may use professional judgment to decide if parent has access rights.</li> </ul> <p>▪ 45 C.F.R. § 164.502(g)(3)(ii).</p>	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
<p><b>Minors</b></p> <ul style="list-style-type: none"> <li>▪ Unemancipated                             <ul style="list-style-type: none"> <li>– Outpatient mental health services                                     <ul style="list-style-type: none"> <li>▪ Right to lawfully consent to receive related services</li> </ul> </li> </ul> </li> </ul>	<p>N/A Determined under state law.</p>	[insert text here]	[insert text here]	[insert text here]
<p><b>Minors</b></p> <ul style="list-style-type: none"> <li>▪ Unemancipated                             <ul style="list-style-type: none"> <li>– Outpatient mental health services                                     <ul style="list-style-type: none"> <li>▪ Right of access to record related to treatment for which minor has lawfully consented</li> </ul> </li> </ul> </li> </ul>	<p><b>Minors</b> Have right to access and amend records related to health care services to which they have lawfully consented. 45 C.F.R. § 164.502(g)(3)(i).</p> <p><b>Parents</b> HIPAA defers to state law in determining whether CE may disclose or grant access to records related to such health care services to parent, guardian, or person acting <i>in loco parentis</i>. If state law:</p> <ul style="list-style-type: none"> <li>▪ Permits or requires a provider to disclose such information to a parent or provide access, then the provider may disclose or provide access to the parent;</li> <li>▪ Prohibits providing access or disclosing to the parent, then the provider may not disclose or provide the parent access to such information;</li> <li>▪ Is silent with respect to parental access, the provider may use professional judgment to decide if parent has access rights.</li> </ul> <p>45 C.F.R. § 164.502(g)(3)(ii).</p>	[insert text here]	[insert text here]	[insert text here]

(continued)



**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
<p><b>Minors</b></p> <ul style="list-style-type: none"> <li>▪ Unemancipated                             <ul style="list-style-type: none"> <li>– Sexually transmitted disease (other than HIV/AIDS)                                     <ul style="list-style-type: none"> <li>▪ Right to lawfully consent to related health services</li> </ul> </li> </ul> </li> </ul>	<p>N/A Determined under state law.</p>	[insert text here]	[insert text here]	[insert text here]
<p><b>Minors</b></p> <ul style="list-style-type: none"> <li>▪ Unemancipated                             <ul style="list-style-type: none"> <li>– <b>Sexually transmitted disease (other than HIV/AIDS)</b> <ul style="list-style-type: none"> <li>▪ <b>Right of access to record related to treatment for which minor has lawfully consented</b></li> </ul> </li> </ul> </li> </ul>	<p><b>Minors</b> Have right to access and amend records related to health care services to which they have lawfully consented. 45 C.F.R. § 164.502(g)(3)(i).</p> <p><b>Parents</b> HIPAA defers to state law in determining whether CE may disclose or grant access to records related to such health care services to parent, guardian or person acting <i>in loco parentis</i>. If state law:</p> <ul style="list-style-type: none"> <li>▪ Permits or requires a provider to disclose such information to a parent or provide access, then the provider may disclose or provide access to the parent;</li> <li>▪ Prohibits providing access or disclosing to the parent, then the provider may not disclose or provide the parent access to such information;</li> <li>▪ Is silent with respect to parental access, the provider may use professional judgment to decide if parent has access rights.</li> </ul> <p>45 C.F.R. § 164.502(g)(3)(ii).</p>	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
<p><b>Minors</b></p> <ul style="list-style-type: none"> <li>▪ Unemancipated                             <ul style="list-style-type: none"> <li>– HIV/AIDS                                     <ul style="list-style-type: none"> <li>▪ Right to lawfully consent to related health services</li> </ul> </li> </ul> </li> </ul>	<p>N/A Determined under state law.</p>	[insert text here]	[insert text here]	[insert text here]
<p><b>Minors</b></p> <ul style="list-style-type: none"> <li>▪ Unemancipated                             <ul style="list-style-type: none"> <li>– <b>HIV/AIDS</b> <ul style="list-style-type: none"> <li>▪ <b>Right of access to record related to treatment for which minor has lawfully consented</b></li> </ul> </li> </ul> </li> </ul>	<p><b>Minors</b> Have right to access and amend records related to health care services to which they have lawfully consented. 45 C.F.R. § 164.502(g)(3)(i).</p> <p><b>Parents</b> HIPAA defers to state law in determining whether CE may disclose or grant access to records related to such health care services to parent, guardian, or person acting <i>in loco parentis</i>. If state law:</p> <ul style="list-style-type: none"> <li>▪ Permits or requires a provider to disclose such information to a parent or provide access, then the provider may disclose or provide access to the parent;</li> </ul>	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
<b>Minors</b> (cont.)	<ul style="list-style-type: none"> <li>▪ Prohibits providing access or disclosing to the parent, then the provider may not disclose or provide the parent access to such information;</li> <li>▪ Is silent with respect to parental access, the provider may use professional judgment to decide if parent has access rights.</li> </ul> 45 C.F.R. § 164.502(g)(3)(ii).	[insert text here]	[insert text here]	[insert text here]
<b>Minors</b> <ul style="list-style-type: none"> <li>▪ Unemancipated               <ul style="list-style-type: none"> <li>– <b>Alcohol and substance abuse</b> <ul style="list-style-type: none"> <li>▪ <b>Right to lawfully consent to related outpa-tient health services</b></li> </ul> </li> </ul> </li> </ul>	N/A	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
<p><b>Minors</b></p> <ul style="list-style-type: none"> <li>▪ Unemancipated                             <ul style="list-style-type: none"> <li>– <b>Alcohol and substance abuse</b> <ul style="list-style-type: none"> <li>▪ <b>Right of access to record related to outpatient treatment for which minor has lawfully consented</b></li> <li>▪ <b>Federally assisted programs</b></li> </ul> </li> </ul> </li> </ul>	<p><b>Minors</b>                      Have right to access and amend records related to health care services to which they have lawfully consented.                      45 C.F.R. § 164.502(g)(3)(i).</p> <p><b>Parents</b>                      Generally no.                      Although HIPAA defers to state law in determining whether CE may disclose or grant access to records related to such health care services to parent, guardian or person acting <i>in loco parentis</i> (45 C.F.R. § 164.502(g)(3)(ii)), federal regulations governing the confidentiality of federally assisted alcohol and substance abuse treatment programs (42 C.F.R. Part 2) provide that if a minor acting alone can lawfully consent to treatment, the minor must always sign the consent form for a program to release information even to his or her parent or guardian, except in limited circumstances where minor lacks capacity for rational choice and there is a substantial threat to life or physical well-being of minor or other person that may be reduced by communicating information to parent.                      See 42 C.F.R. § 2.14.</p>	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
<p><b>Minors</b></p> <ul style="list-style-type: none"> <li>▪ Unemancipated                             <ul style="list-style-type: none"> <li>– <b>Alcohol and substance abuse</b> <ul style="list-style-type: none"> <li>▪ <b>Right of access to record related to outpatient treatment for which minor has lawfully consented</b></li> <li>▪ <b>Other than federally assisted program</b></li> </ul> </li> </ul> </li> </ul>	<p><b>Minors</b>                      Have right to access and amend records related to health care services to which they have lawfully consented.                      45 C.F.R. § 164.502(g)(3)(i).</p> <p><b>Parents</b>                      HIPAA defers to state law in determining whether CE may disclose or grant access to records related to such health care services to parent, guardian, or person acting <i>in loco parentis</i>.                      If state law:</p> <ul style="list-style-type: none"> <li>▪ Permits or requires a provider to disclose such information to a parent or provide access, then the provider may disclose or provide access to the parent;</li> <li>▪ Prohibits providing access or disclosing to the parent, then the provider may not disclose or provide the parent access to such information;</li> <li>▪ Is silent with respect to parental access, the provider may use professional judgment to decide if parent has access rights.</li> </ul> 45 C.F.R. § 164.502(g)(3)(ii).	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
<p><b>Personal representatives</b></p> <ul style="list-style-type: none"> <li>▪ Living adults and emancipated minors (e.g., health care power of attorney)</li> </ul>	<p>Generally, CE must treat a personal representative as the individual for purposes of Privacy Rule. 45 C.F.R. § 164.502(g)(1). Persons authorized to act on behalf of an individual who is an adult or an emancipated minor in making decisions related to health care must be treated as a personal rep. with respect to PHI relevant to such personal representation. 45 C.F.R. § 164.502(g)(2) (standard for “personal representative”). See discussion above under “Emancipated minors” for discussion of when minors are considered emancipated.</p>	[insert text here]	[insert text here]	[insert text here]
<p><b>Personal representatives</b></p> <ul style="list-style-type: none"> <li>▪ Decedents</li> </ul>	<p>Generally, CE must treat a personal representative as the individual for purposes of Privacy Rule. 45 C.F.R. § 164.502(g)(1). If under applicable law an executor, administrator, or other person has authority to act on behalf of a deceased individual or of the individual’s estate, that person must be treated as the personal representative with respect to all PHI relevant to such personal representation. 45 C.F.R. § 164.502(g)(4) (implementation specification for deceased individuals).</p>	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
Requirement that request for access be in writing	CE may require written requests for access, so long as individual is informed of requirement. 45 C.F.R. § 164.524(b)(1).	[insert text here]	[insert text here]	[insert text here]
<b>Time limit on responding to request for access</b>	Within 30 days after receiving request to access medical record, CE must give access, provide copies, or give notice of denial. If information is not maintained or accessible to provider on site, must respond by 60 days from date of receipt of request. If unable to respond to above deadlines, CE can get one 30 day extension (max total of 90 days). CE must provide written statement of reason for delay and date by which action will be completed. 45 C.F.R. § 164.524(b)(2).	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
Verification of identity of person requesting access	<p>Prior to disclosure to the individual, a CE must take reasonable steps to verify the identity of the individual requesting the information.                      45 C.F.R. § 164.514(h).  <i>See HHS, Preamble to Final Privacy Rule</i>, 65 Fed. Reg. 82462 at 82547 (12/28/2000) (“Under § 164.524, a CE is required to give individuals access to PHI about them (under most circumstances). Under the general verification requirements of § 164.514(h), the CE is required to take reasonable steps to verify the identity of the individual making the request.”).</p>	[insert text here]	[insert text here]	[insert text here]
<b>Fees for providing access and copies</b>	<p>CE may impose reasonable cost-based fee that includes only the cost of copying, including the cost of supplies for and labor of copying, the information requested.                      45 C.F.R. § 164.524(c)(4).                      CE may charge postage if information is mailed.                      45 C.F.R. § 164.524(c)(4).                      CE may not charge fee for just allowing individual to review record. <i>See</i> 45 C.F.R. § 164.524(c)(4) (which permits fees for copying records and for providing a summary or explanation of the record but does not provide for fees for allowing the individual to inspect the record).</p>	[insert text here]	[insert text here]	[insert text here]

(continued)



**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
Fees for electronic medical record downloading and copying	CE may impose reasonable cost-based fee that includes only the cost of copying, including the cost of supplies for and labor of copying, the information requested. 45 C.F.R. § 164.524(c)(4).	[insert text here]	[insert text here]	[insert text here]
Fees for retrieving medical record	No charge for retrieving and handling the information or for processing the request. <i>See</i> HHS, Preamble to Final Privacy Rule, 65 Fed. Reg. 82462 at 82557 (12/28/2000). Office for Civil Rights, HHS FAQ Answer ID no. 353, available at <a href="http://www.hhs.gov/ocr/privacy/hipaa/faq/notice/353.html">http://www.hhs.gov/ocr/privacy/hipaa/faq/notice/353.html</a> ("The fee [for copying medical records] may not include costs associated with searching for and retrieving the requested information.").	[insert text here]	[insert text here]	[insert text here]
Fees for providing copy of x-ray or similar item	CE may impose reasonable cost-based fee that includes only the cost of copying, including the cost of supplies for and labor of copying, the information requested. 45 C.F.R. § 164.524(c)(4).	[insert text here]	[insert text here]	[insert text here]
Fees for providing copy of medical record requested for continuity of care	CE may impose reasonable cost-based fee that includes only the cost of copying, including the cost of supplies for and labor of copying, the information requested. 45 C.F.R. § 164.524(c)(4).	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
Fees for providing copy of immunization records	CE may impose reasonable cost-based fee that includes only the cost of copying, including the cost of supplies for and labor of copying, the information requested. 45 C.F.R. § 164.524(c)(4).	[insert text here]	[insert text here]	[insert text here]
Fees for providing copy for social security disability or other needs-based benefit programs	CE may impose reasonable cost-based fee that includes only the cost of copying, including the cost of supplies for and labor of copying, the information requested. 45 C.F.R. § 164.524(c)(4).	[insert text here]	[insert text here]	[insert text here]
Format of information provided in response to access request	CE must provide in form or format requested, if readily producible. If not, in a readable hard copy form or such other form as agreed to by the provider and the individual. 45 C.F.R. § 164.524(c)(2)(i).	[insert text here]	[insert text here]	[insert text here]
Provision of summary of medical record	CE may provide a summary in lieu of access to PHI or may provide an explanation of PHI to which access has been provided if individual agrees in advance <ul style="list-style-type: none"> <li>▪ To such a summary or explanation</li> <li>▪ To the fees imposed for such a summary or explanation</li> </ul> 45 C.F.R. § 164.524(c)(2)(ii).	[insert text here]	[insert text here]	[insert text here]
<b>Fees for preparing summary of medical record</b>	CE may charge a reasonable cost-based fee for preparing an explanation or summary of PHI. 45 C.F.R. § 164.524(c)(4). Individual must agree to fee in advance. 45 C.F.R. § 164.524(c)(2)(ii).	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
<b>Denial of access not subject to right of review under Health Privacy Rule</b>	<p>CE may deny access to following information without any right of review:</p> <ul style="list-style-type: none"> <li>▪ Psychotherapy notes;</li> <li>▪ Information compiled in reasonable anticipation of, or for use in, a civil, criminal or administrative action or proceeding;</li> <li>▪ Information related to research involving treatment if the individual agreed to limit access when they consented to participate in research (Access rights are reinstated at conclusion of research);</li> <li>▪ In certain circumstances, information that is requested by inmates; and</li> <li>▪ Information obtained from someone other than a health care provider under a promise of confidentiality and access requested is reasonably likely to reveal the source of the information.</li> </ul> <p>45 C.F.R. § 164.524(a).</p>	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
Denial of access subject to review under Health Privacy Rule ▪ Potential endangerment	Access can be denied to <i>any</i> PHI, so long as CE provides right to have denial reviewed where: ▪ A licensed health care professional has determined in the exercise of professional judgment that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person; or ▪ PHI makes reference to another person and a licensed health care professional has determined, in the exercise of reasonable judgment that the access requested is reasonably likely to cause substantial harm to such other person. 45 C.F.R. § 164.524(a)(3).	[insert text here]	[insert text here]	[insert text here]
Denial of access ▪ Due to nonpayment of medical bill	No. HHS takes the position that “neither failure to pay a bill nor burden are lawful reasons to deny access under this rule.” <i>Preamble to Final Privacy Rule</i> , 65 Fed. Reg. 82462 at 82735 (12/28/2000).	[insert text here]	[insert text here]	[insert text here]
<b>Scope of denial of access</b>	CE must give access to extent possible after excluding information to be denied. 45 C.F.R. § 164.524(d)(1).	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
Procedure for denial of access	<p>CE must provide to individual a timely (within 30 days) written denial in plain language that specifies:</p> <ul style="list-style-type: none"> <li>▪ Basis for denial;</li> <li>▪ Individual’s right to review of denial, if applicable; and</li> <li>▪ Description of how the individual may complain both to CE and to HHS.</li> </ul> <p>45 C.F.R. § 164.524(d)(2).                      If denial is based on fact that CE does not maintain the information and CE knows where information is maintained, CE must inform individual of where to address request.                      45 C.F.R. § 164.524(d)(3).</p>	[insert text here]	[insert text here]	[insert text here]
Requesting review of denial of access	<p>Individual must request review. No set format.                      See 45 C.F.R. § 164.524(d)(4).</p>	[insert text here]	[insert text here]	[insert text here]
<b>Party who chooses person to review denial of access</b>	<p>Reviewer is chosen by provider.                      Must be a health care professional who was not directly involved in the original denial.                      45 C.F.R. § 164.524(d)(4).</p>	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1a. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Access Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
Reviewer's procedure	Reviewer must, within a reasonable amount of time, determine whether or not to deny access based on standards in § 164.524(a)(3). CE must provide individual with written notice of reviewer's determination. CE must carry out reviewer's determination. 45 C.F.R. § 164.524(d)(4).	[insert text here]	[insert text here]	[insert text here]

Access—Includes right to inspect and to copy medical record unless otherwise noted.

CE—Covered entities.

N/A—No state statutory or regulatory provision or case law was found that was directly on point.

PHI—Protected health information.

**Table B-1b. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Amend Medical Records [Insert Date]**

Summary: HIPAA grants individuals the right to request that PHI in their medical and billing records be amended to make it more complete or accurate. [45 C.F.R. § 164.526.]

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
General statutory or regulatory provision giving right to amend medical record	Individual has the right to request CE amend information in a designated record set for as long as the PHI is maintained in the designated record set. 45 C.F.R. § 164.526(a).	[insert text here]	[insert text here]	[insert text here]
Entities covered by the law granting right to amend	CE, including health care providers who transmit any health information in electronic form in connection with a HIPAA standard transaction. 45 C.F.R. § 160.103 (definition of "covered entity"); § 164.500 (applicability of privacy standards); 42 U.S.C. § 1320d-2 (enumerating transactions). A "health care provider" is anyone who furnishes, bills, or is paid for health care in the normal course of business. 45 C.F.R. § 160.103 (definition of "health care provider").	[insert text here]	[insert text here]	[insert text here]
Information that is covered by law granting right to amend	Information in a "designated record set." 45 C.F.R. § 164.524. For providers, this includes "medical records and billing records" and any other records used to make decisions about the individual. 45 C.F.R. § 164.501 (defining "designated record set").	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1b. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Amend Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
<b>Person who generally has right to request amendment</b>	Subject of the health information has the right to request amendment of their own health information. 45 C.F.R. § 164.501 (defining "individual") § 164.526.	[insert text here]	[insert text here]	[insert text here]
Right to amend records of minors	See discussion in "Unemancipated minors; General rights of parents;" and "Unemancipated minors who lawfully consent to health services."	[insert text here]	[insert text here]	[insert text here]
Right to remove or correct information in the record	No. Only right to add information to make it more correct or complete. 45 C.F.R. § 164.526 (right to "amend") and HHS, <i>Preamble to Final Privacy Rule</i> , 65 Fed. Reg. 82462 at 82736 (explaining why HHS deleted the term "correction" from the final rule).	[insert text here]	[insert text here]	[insert text here]
Procedure for requesting amendment of record	Not specified in rule. See 45 C.F.R. § 164.526(b) (implementation specifications for requests for amendment) and HHS, <i>Preamble to Proposed Rule for Standards for Privacy of Individually Identifiable Health Information</i> , 64 Fed. 59987 (November 3, 1999) (explaining that the regulatory requirements for amendment are general and permitting each plan and provider to develop own procedures).	[insert text here]	[insert text here]	[insert text here]
<b>Requirement that request to amend be in writing</b>	CE may require individuals to make requests for amendment in writing. 45 C.F.R. § 164.526(b)(1).	[insert text here]	[insert text here]	[insert text here]

(continued)



**Table B-1b. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Amend Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
Requirement that individual explain basis for request to amend record	Yes. CE may require individuals to provide a reason to support a requested amendment, provided that it informs individuals in advance of such requirements. 45 C.F.R. § 164.526(b)(1).	[insert text here]	[insert text here]	[insert text here]
<b>Time limit on responding to request to amend</b>	CE must act on the individual’s request for an amendment no later than 60 days after receipt of such a request. 45 C.F.R. § 164.526(b)(2)(i). If the CE is unable to act on the amendment within 30 days, they may extend the time by 30 days Only one extension allowed (for a total of 60 days). 45 C.F.R. § 164.526(b)(2)(ii). Must within the original 30 days provide the individual with a written statement of the reasons for the delay and the date by which the CE will complete its action on the request. 45 C.F.R. § 164.526(b)(2)(ii).	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1b. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Amend Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
General procedure for accepting request to amend	If the CE accepts the requested amendment, in whole or in part, the CE must make the appropriate amendment to the record by, at a minimum, identifying the records in the designated record set that are affected by the amendment and appending or otherwise providing a link to the location of the amendment. 45 C.F.R. § 164.526(c)(1).	[insert text here]	[insert text here]	[insert text here]
Notifying the individual that request to amend has been approved	CE must timely inform the individual that the amendment is accepted. Does NOT specify that this notice has to be in writing. 45 C.F.R. § 164.526(c)(2).	[insert text here]	[insert text here]	[insert text here]
<b>Notifying others that record has been amended</b>	CE must make reasonable efforts to inform and provide the amendment within a reasonable time to: <ul style="list-style-type: none"> <li>▪ Persons identified by the individual as having received the information and needing the amendment; and Is not part of the designated record set;</li> <li>▪ Persons, including business associates, that the CE knows have the PHI that is the subject of the amendment and that may have relied, or could foreseeably rely, on such information to the detriment of the individual.</li> </ul> 45 C.F.R. § 164.526(c)(3).	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1b. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Amend Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
Grounds for denying request to amend	<p>A CE may deny an individual’s request for amendment, if it determines that the PHI or record that is the subject of the request:</p> <ul style="list-style-type: none"> <li>▪ Was not created by the CE, unless the individual provides a reasonable basis to believe that the originator or PHI is no longer available to act on the requested amendment;</li> <li>▪ Is not part of the designated record set;</li> <li>▪ Would not be available under 164.524 (right to inspect); or</li> <li>▪ Is accurate and complete.</li> </ul> <p>45 C.F.R. § 164.526(a).</p>	[insert text here]	[insert text here]	[insert text here]
Notice to individual of denial of request to amend	<p>CE must provide the individual with a timely written denial. Must be in plain language. Must contain basis of denial. 45 C.F.R. § 164.526(b)(2)(B) and § 164.526(d)(1).</p>	[insert text here]	[insert text here]	[insert text here]
Right to submit statement of disagreement with denial of request to amend	<p>CE must permit the individual to submit to the CE a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such disagreement. 45 C.F.R. § 164.526(d)(2).</p>	[insert text here]	[insert text here]	[insert text here]
<b>Length of statement of disagreement</b>	<p>CE may reasonably limit the length of a statement of disagreement. 45 C.F.R. § 164.526(d)(2).</p>	[insert text here]	[insert text here]	[insert text here]

(continued)

**Table B-1b. Data Collection Tool: [Insert State Name] Laws Giving Individuals Right to Amend Medical Records [Insert Date] (continued)**

Issue	HIPAA Health Privacy Rule	State Law Medical Doctors	State Law Hospitals	Comments
CE's rebuttal statement to individual's statement of disagreement	CE may prepare a written rebuttal to the individual's statement of disagreement. 45 C.F.R. § 164.526(d)(3). CE must provide a copy of a rebuttal statement to individual who submitted statement of disagreement. 45 C.F.R. § 164.526(d)(3).	[insert text here]	[insert text here]	[insert text here]
Right to review of denial of request to amend	None. 45 C.F.R. § 164.526.	[insert text here]	[insert text here]	[insert text here]
<b>Future disclosures when request to amend is denied</b>	If request to amend is denied and individual has <i>not</i> submitted a statement of disagreement, CE must include the request to amend plus denial with future disclosures of PHI at issue <i>only</i> if individual so requests. 45 C.F.R. § 164.526(d)(5)(ii). If request to amend is denied and individual <i>has</i> submitted a statement of disagreement, CE must include the following material (or summary) with any subsequent disclosure of the related PHI: <ul style="list-style-type: none"> <li>▪ Request to amend;</li> <li>▪ Denial;</li> <li>▪ Statement of disagreement; and</li> <li>▪ Rebuttal, if any.</li> </ul> 45 C.F.R. § 164.526(d)(5)(i).	[insert text here]	[insert text here]	[insert text here]

Access—Includes right to inspect and to copy medical record unless otherwise noted.  
 CE—Covered entities.  
 N/A—No state statutory or regulatory provision or case law was found that was directly on point.  
 PHI—Protected health information.