



Denver
Las Vegas
Salt Lake City

What is a designated record set?

HIPAA precisely defines what records are covered under the law. Even if your clinic uses a different term, you have a right under HIPAA to your **designated record set**.

A **designated record set** is defined by the United States Department of Health and Human Services at this web page:

<https://www.hhs.gov/hipaa/forprofessionals/privacy/guidance/access/index.html>

Information Included in the Right of Access: The "Designated record set"

Individuals have a right to access PHI in a "designated record set." A "designated record set" is defined at 45 CFR 164.501 as a group of records maintained by or for a covered entity that comprises the:

- *Medical records and billing records about individuals maintained by or for a covered health care provider;*
- *Enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or*
- *Other records that are used, in whole or in part, by or for the covered entity to make decisions about individuals. This last category includes records that are used to make decisions about any individuals, whether or not the records have been used to make a decision about the particular individual requesting access.*

The term "record" means any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for a covered entity.

Thus, individuals have a right to a broad array of health information about themselves maintained by or for covered entities, including: medical records; billing and payment records; insurance information; clinical laboratory test results; medical images, such as X-rays; wellness and disease management program files; and clinical case notes; among other information used to make decisions about individuals. In responding to a request for access, a covered entity is not, however,



required to create new information, such as explanatory materials or analyses, that does not already exist in the designated record set.

Some items containing your private information may be excluded from the **designated record set**. These restrictions include information used for internal quality assurance or peer review panels, a facility's safety reviews, documents required for federal or state audits, or information created solely for a regulatory body or court.

The FAA's specification to the psychiatrist is that the psychiatrist must review the entire record of treatment from health professionals who have or who may have provided any type of mental health care.

This means providers who have prescribed a medication to treat a mental health symptom; any licensed counselor, psychologist, or psychiatrist who provided any type of mental health therapy; any hospital, emergency department, or crisis center that cared for you; any residential treatment center, detoxification center, or hospital-based substance abuse recovery program; any group therapy provider providing any type of mental health or substance use care.

For most medical systems, records that you can print for yourself at home are restricted and are not your designated record set. The FAA specifically asserts that a MyChart or After Visit Summary print function is not a suitable document for your assessment.

Requesting Your Healthcare Records

1. **Do not make your initial request from your personal provider.** Instead, contact your healthcare institution or clinic's main medical records department first. You only go through your personal provider if the health information department directs you there. For most institutions, the health information department will be linked or at least searchable from the entity's main web page.
2. **Ask for the procedure to obtain your entire designated record set.** If the analyst is not familiar with the term **designated record set**, then make certain you are requesting the **entire record** held by the facility.

3. **If you have or strive to hold a medical certificate allowing you to work in aviation, explain that your request is for employment purposes.**
4. **Request your designated record set for all dates of care starting with your first visit in the clinic and ending with your last.** State laws determine how long a facility has to keep your files but, in most states, records are retained for at least five years.
5. **You will be given a form to request your records. Read the form carefully.** Most forms will not use the term **designated record set** but may include an option to request your **entire record** using a different term. If the form has multiple checkboxes about the types of records to be released, **check every single box.**

If the form has a section designating a timeline, be sure you are requesting all records back to your first visit.

On some forms, you must specifically check a box asserting that you are requesting health care records for mental health and substance use care.

6. Records can be sent to Dr. Kirk by one of two methods:

a. **US Mail to: Gregory Kirk, M.D.**
2036 E 17th Ave
Denver, CO 80206

b. **HIPAA compliant email: gregkirk@avipsy-secure.org**

I receive all mail at my Denver office even if your visit was in Las Vegas or Salt Lake City.

7. **Whether a paper copy, an email copy, or a screenshot, please preserve your own copy of your medical records request.** If you share the request with me, then I can verify its accuracy and more easily track the records I am expecting.