

UNIVERSITY OF PITTSBURGH POLICY 07-02-02

CATEGORY: PERSONNEL
SECTION: Confidentiality of Medical Information
SUBJECT: Release of Protected Health Information
EFFECTIVE DATE: April 14, 2003
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I. POLICY

It is the policy of the University of Pittsburgh to preserve the confidentiality and security of Protected Health Information created, received, obtained, maintained, used or transmitted by the University, and to protect this information from unauthorized access or disclosure. This policy defines appropriate administrative guidelines to ensure the confidentiality of Protected Health Information (PHI). PHI is the property of the University and is maintained and disclosed for the purpose of treatment, payment and healthcare operations, research and education, consistent with legal, accrediting and regulatory agency requirements or upon the patient's express written consent.

II. PURPOSE

To ensure that PHI is released as appropriate.

III. GENERAL GUIDELINES

1. The following statement shall accompany all disclosures of PHI:

This information has been disclosed to you from records whose confidentiality is protected by state and federal law. Federal regulations (45 CFR Part 2 which can be found at www.access.gpo.gov/nara/cfr/cfr-table-search.html) prohibit you from making any further disclosure of this information without the specific written authorization of the person to whom it pertains or as otherwise permitted by such regulations. A general authorization for the release of medical or other information is not sufficient for this purpose.

The additional following language shall also be included for all disclosure of sensitive type PHI (Drug and Alcohol, HIV and Behavioral Health):

A. Drug and Alcohol/Behavioral Health

This information has been disclosed to you from records protected by Pennsylvania law and is also protected by 4 Pa. Code 255.5(b) (which can be found at www.pacode.com/secure/browse.asp) and federal law (42 CFR Part 2). Pennsylvania and federal laws prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written authorization of the person to whom it pertains. A general authorization for the release of medical or other information is not sufficient for this purpose. The federal rules restrict any use of drug and/or alcohol information to criminally investigate or prosecute any alcohol or drug abuse.

B. HIV

This information has been disclosed to you from records protected by Pennsylvania law and federal law (42 CFR Part 2). Pennsylvania and federal laws prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written authorization of the person to whom it pertains or is authorized by the confidentiality of HIV-related information act or by 4 Pa. Code 255.5(b) and 42 CFR Part 2. A general authorization for the release of medical or other information is not sufficient for this purpose.

2. PHI identified as the property of the University is subject to release under the terms of

this policy and in compliance with all related regulations.

3. PHI identified as not being the property of the University (e.g., copies received from external healthcare entities and/or providers, etc.) is subject to the regulations related to re-disclosures of PHI and therefore will not be released under the terms of this policy, unless such external PHI has been determined to be a component of the University health record.
4. All University units/departments or Schools that release PHI shall follow the guidelines set forth in this policy. It shall be the responsibility of each unit/Department or School to implement processes and procedures to meet the requirements set forth in this policy based on the facility's unique systems and processes.
5. Patients have the right to amend the information contained in their PHI; said amended information will be considered a part of the PHI, and therefore will be released through any valid authorization process. Refer to policy entitled "Patient Amendments to Protected Health Information".
6. Any suspected privacy violation or related complaints shall be handled in accordance with policy entitled "Complaint Management Process Pursuant to the HIPAA Privacy Rules".
7. All disclosures of PHI shall be limited to the amount reasonably necessary to achieve the purpose of the disclosure.
8. University shall be entitled to rely (if reasonable under the circumstances) on a requested disclosure as the minimum necessary for the stated purpose when:
 - A. making permitted disclosures to public officials if such official represents that the information requested is the minimum necessary;
 - B. the information is requested by another "Covered Entity" (as defined in the privacy regulations at 45 C.F.R. §160.103);
 - C. the information is requested by a professional or a University business associate for the purpose of providing professional services to the University, provided they represent the information being requested is the minimum necessary, or
 - D. representations that comply with the requirements of 45 C.F.R. §164.512(l) have been provided by a person requesting the information for research purposes.

IV. AUTHORIZATIONS

1. Components of a Valid Authorization. A valid authorization must include at a minimum:
 - A. the patient's full name at the time of treatment;
 - B. identification information (i.e., date of birth, social security number, medical record number);
 - C. specific purpose of the disclosure;
 - D. the unit/department or School in which the encounter occurred;
 - E. the name of the person, company or agency to whom the information is to be released;
 - F. dates of treatment;
 - G. authorizations are valid for 90 days from date of signature unless otherwise noted by the patient but not to exceed one year;

- H. the exact information to be released must be specified - including type of information such as Behavioral Health, Drug and Alcohol and HIV;
- I. be signed and dated by the patient or their legal representative. When legal representation is utilized, a description of the representative's name and authority to act on behalf of the patient must be included;
- J. revocation statement that explains the procedure to effect such revocation;
- K. statement to notify authenticator of University release of liability for subsequent re-disclosures.

2. Special Authorization Requirements

A. Expired Patients

If an Authorization for Release of Protected Health Information form or letter is received regarding a patient who has expired, it must be signed by the administrator or executor of the decedent's estate or the person who is listed as next of kin. A copy of the court order appointing the administrator or executor must also accompany the form or letter.

B. Incapacitated/Guardian Appointed Patients

If an Authorization for Release of Protected Health Information form or letter is received regarding a patient who is unable to approve the release of their information, it should be signed by a properly designated surrogate or legally appointed guardian.

C. Minors

If a signed Authorization for Release of Protected Health Information form or letter is received regarding a patient who is not an emancipated minor, it should be signed by their parent or legal guardian who is serving as their legal representative.

Despite divorce proceedings or an actual divorce, either parent may be provided access to the PHI unless otherwise noted by court order. Legal counsel should be consulted if there are concerns about the purpose of the request or if providing such access is not in the child's best interest.

Any minor can give authorization to treatment and/or release of information for detection or treatment of pregnancy, venereal disease, or any other reportable condition.

NOTE: For exceptions related to minors please reference the "Sensitive Information Requests" of this policy (Section VII).

D. Drug and Alcohol/Behavioral Health/HIV Authorizations

All drug and alcohol, behavioral health, and HIV related records may have additional requirements for release of information. For additional information, refer to (i) Section VII of this policy (titled "Sensitive Information Requests") and (ii) the attached table titled "Guidelines for release of PHI".

3. Release of PHI without an Authorization

Information may be released by the University without an authorization in the following circumstances.

- A. true health care emergencies in which the need to know clearly outweighs

confidentiality considerations;

- B. unusual, rare circumstances where serving the common good outweighs confidentiality considerations. Such requests may not be processed without the permission of the University legal counsel;
- C. for the purpose of conducting University treatment, payment and healthcare operations;
- D. direct transfer of the patient to the care of the patient-designated treating physician within a University unit/department or School;
- E. licensure, accreditation, audits and other oversight activities by or in compliance with federal or state regulations, Pennsylvania Department of Health, Health Care Cost Containment Council, JCAHO and other accrediting agencies and contracted entities;
- F. pursuant to federal, state or local mandatory reporting requirements;
- G. to internal University provider entities which are affiliated covered entities or the University.

4. Copies of Authorization

A copy of the signed Authorization shall be provided by the University to the patient.

V. PATIENT ACCESS

A patient or their designee (including their legal representative) has the right to access the information contained in their medical record in accordance with the guidelines stated in the University policy entitled "Patient Access to Protected Health Information." If a patient is denied access to all or part of their medical record, this fact and the basis for the denial shall be noted in the patient's record. Refer to VII(2)(b) for additional information regarding access to behavioral health records.

VI. RELEASE OF INFORMATION REQUESTS

Refer to attached "Guidelines for Release of PHI" table for summary of these information requests identified in this Section VI.

1. INSURANCE COMPANIES FOR NON-PAYMENT PURPOSES

Without a valid authorization, only non-confidential information (as defined herein in the "Definitions" section) will be released to insurance companies to verify treatment or visit dates. Under no circumstances will any diagnostic information be released without a valid authorization. NOTE: All Behavioral Health, Drug and Alcohol and HIV treatment records are confidential and therefore require a valid authorization in order to be released.

2. REGULATORY AGENCIES

Such agencies include, but are not limited to, the Joint Commission, American Osteopathic Association, the Pennsylvania Department of Health, Centers for Medicare/Medicaid Services and World Health Organization. Refer to Section IV(3)(e) of this policy and the attached "Guidelines for Release of PHI" table for PHI disclosure guidelines.

3. THIRD PARTY PAYERS/FISCAL INTERMEDIARIES

The reviews of Medicare and Medical Assistance admissions are initiated by federal and state organizations and do not require an authorization.

Authorizations for release of information to third party payers for the purpose of reimbursement are signed at the time of admission. These authorizations are valid for all confidential information.

4. EMPLOYERS

All PHI released to employers will require a valid authorization except in the case of Workers' Compensation.

5. EMPLOYEES

All employees of the University must submit a request to access their own PHI. No information is to be released without a valid authorization.

6. WORKERS' COMPENSATION

The Pennsylvania Workers' Compensation Law permits the employer to be furnished with, or have made available to it, the parts of the medical record of the employee who has received medical, surgical or hospitalization services under the Workers' Compensation statute. This does not require an authorization.

7. SCHOOLS

Only non-confidential information, as defined herein in the "Definitions" section, will be released. All other information will require a valid authorization.

8. GOVERNMENT AGENCIES/PUBLIC HEALTH

Government agencies are not entitled to confidential information unless specifically authorized by laws such as in the case of those regulations governing, but not limited to, those identified below. Reporting is performed by the department indicated in parentheses. All other requests for information will require a valid authorization.

- A. communicable disease (Infection Control);
- B. registries reporting laws require reporting to the government agencies (i.e., Tumor Registry);
- C. criminally inflicted injuries require reporting to local police departments (Emergency Department and Medical Staff);
- D. child and elder protective service laws require reporting to the state agency (Emergency Department and Medical Staff) – refer to "Sensitive Requests Section" of this policy;
- E. questionable cases should always be referred to the University Privacy Officer, General Counsel or Risk Management, if appropriate;
- F. sudden, violent and suspicious deaths where cause cannot be identified are to be reported to the local coroner.

9. RESEARCH

Please refer to University Policy entitled "Use and Disclosure of Protected Health Information for Research Purposes Pursuant to the HIPAA Privacy Rules."

10. ATTORNEYS

Except for legal activities undertaken by the University and those noted below in Section 12, requests for PHI will require a valid authorization.

11. LAW ENFORCEMENT OFFICIALS

Confidential information will not be released to any law enforcement official unless a valid authorization is present or a court order or search warrant has been obtained.

EXCEPTIONS:

The rules pursuant to Act 2, 75 PA CS §15471C1 found at members@aol.com/StatutesPA/75.html, which deals with *blood alcohol evaluations. It is required that the "Certification of Request for Blood or Urine Testing Under the Pennsylvania Vehicle Code" form be completed before releasing PHI. This form may be obtained at the time of request from the law enforcement officer.

SPECIAL NOTE:

*Blood alcohol levels requested by law enforcement officials with the proper certification mentioned above will be released upon request without the written authorization of the patient.

*Blood alcohol levels requested by the physician for medical purposes may be released to law enforcement agents upon receipt of the patient's signed authorization or search warrant.

Criminally inflicted injuries require reporting to local police departments and do not require valid authorization.

12. COURT ORDER, SUBPOENA/SUBPOENA DUCES TECUM, and SEARCH WARRANT

NOTE: Releasing information pursuant to this section shall be in accordance with Act 145 (see 42 P.S.A. Section 6152, Subchapter E found at members@aol.com/StatutesPA/Index.html).

A. Court Order: Court Order presented for the release of information is a certified, legal document and must include the following:

- Case Name and Docket Number
- Date Issued
- Specific items to be released
- Time frame in which items are to be produced
- Issuing Court identification
- Signature of issuing judge
- Where a copy of the court order is provided, the original seal must be affixed and documentation of such observation must be noted.

Authorization is not required; all requested information must be released regardless of whether it contains "sensitive" information or not. A copy of the original subpoena must be placed in the Medical Record for tracking purposes.

B. Subpoena/Subpoena Duces Tecum: A valid subpoena will contain at least the following information:

- The name of the individual or organization to whom the subpoena is issued
- The location, including when/where the witness is to appear, if required
- Specific items to be produced/released
- Date of issuance of the subpoena
- The signature of a judge or coroner
- The seal of the court
- When a copy of the subpoena is served, the server must present the original subpoena with raised seal for verification
- The case name and docket number

A valid subpoena does not require an authorization. However, in cases of behavioral health, whenever a patient's records are subpoenaed in a court proceeding and the patient has not authorized the release of such records, an

additional court order shall be obtained prior to releasing any such records.

Out-of-state subpoenas will not be honored without a valid patient authorization.

Subpoenas may be issued by Pennsylvania governmental agencies empowered by the Administrative Code of 1929 (Act of April 29, 1929, P.L. 177 - 71 P.S. Section 51 et seq) and found at members@aol.com/StatutesP1/71.Cp.2.html. An example includes a Coroner's Subpoena.

EXCEPTION: This rule does not apply to a Subpoena Duces Tecum.

For subpoenas presented by local law enforcement officials for the purpose of obtaining blood alcohol levels, refer to Section VI(11) of this policy (Law Enforcement Officials).

- C. Search Warrant: A search warrant is served personally by a law enforcement officer.
- The official's identity must be verified with a badge and drivers license before information may be released.
 - The law enforcement official must state who they are, what authority they have under the warrant, and show proof of the warrant in order to receive information.
 - Consult with University General Counsel for processing all search warrants.

Authorization is not required to comply with a valid search warrant.

13. MEDIA

No disclosure of PHI shall be made to the media. If the media requests such information or disclosure of PHI, they shall be directed to the University's General Counsel.

14. SUBPOENA, DISCOVERY REQUESTS & LAWFUL PROCESSES

PHI can be disclosed in response to subpoenas, discovery requests or other lawful processes that are not accompanied by a court order if the University receives satisfactory assurance from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the PHI has been given notice of the request.

15. CORONERS, MEDICAL EXAMINERS & FUNERAL DIRECTORS

PHI can be released to a coroner or medical examiner, if, for example, to identify a deceased person or to determine a cause of death. PHI may also be released to funeral directors, as necessary, so they can carry out their duties.

16. THREATS TO HEALTH OR SAFETY

PHI can be used and disclosed when necessary to prevent a serious threat to the health or safety of a person or to the public. However, the PHI disclosed shall only be disclosed to someone able to help prevent the threat.

17. MILITARY & VETERANS

PHI of members of the armed forces can be released as military authorities require. PHI can also be released about foreign military personnel to foreign military authority.

18. ORGAN AND TISSUE DONATION

PHI may be released to organizations that procure organs or tissue, handle organ or tissue transplants or bank organs or tissues. This is done as necessary to help

people who are awaiting organ or tissue transplants.

19. NATIONAL SECURITY & INTELLIGENCE

PHI may be released to authorized federal officials for intelligence, counter-intelligence and other national security activities authorized by law.

20. PROTECTIVE SERVICES FOR PRESIDENT AND OTHERS

PHI may be disclosed to authorized federal officials in order to protect the President of the U.S., other authorized persons, foreign heads of state or to conduct special investigations.

21. INMATES

PHI may be released about an inmate of a correctional institution or under the custody of a law enforcement official to such institution or official: (1) for the institution to provide the individual with health care; (2) to protect the individual's or another individual's health and safety; or (3) for the safety and security of the correctional institution.

VII. SENSITIVE INFORMATION REQUESTS

1. DRUG AND ALCOHOL ABUSE INFORMATION

- A. All information pertinent to drug and alcohol abuse will be treated as highly confidential and shall not be disclosed without a valid authorization.
- B. With a valid authorization, this information shall only be released to medical personnel for treatment and diagnosis purposes of the patient or to government or other officials exclusively for the purposes of obtaining benefits for the patient.
- C. PHI may be released without the patient's authorization in extreme emergency situations, to proper medical authorities solely for the purpose of providing medical treatment to the patient and pursuant to a court order upon a showing of good cause. If the patient's life is in immediate jeopardy, information pertaining to the treatment of the patient may be released to the treating physician. In any such instance, the University Privacy Officer or General Counsel must be consulted before the release is made.
- D. Pennsylvania state law authorizes a minor patient, acting alone, to consent to medical treatment for conditions relating to drug and alcohol use. They also control the release of their medical information.

2. BEHAVIORAL HEALTH (also known as or referred to as "Mental Health") INFORMATION

- A. All information pertinent to Behavioral Health will be treated as highly confidential.
- B. A patient treated or being treated has the right to access his or her treatment records through the unit, department or School, through the physician or mental health professional unless:
 - (i) Upon substantial documentation by the treatment team, it is determined that disclosure of the documents concerning treatment will constitute a substantial detriment to the patient.
 - (ii) Disclosure of the documents will reveal the identity of persons or breach the trust or confidentiality of persons who have provided information on an agreement to remain anonymous.
 - (iii) The patient who is less than 14 years of age or has been adjudicated legally

incompetent. In such cases, control of the release shall be exercised by a parent or legal guardian. A minor patient, 14 years of age or older, who understands the nature and purpose of the information being released will control the release of his/her records. A Behavioral Health Patient, age 14 or older, may authorize the release of records.

- C. The records of individuals engaged in treatment may be released without authorization for the following reasons (see 55 Pa Code 5100, found at www.pacode.com).
- (i) The release is necessary to provide continuity of care and treatment.
 - (ii) The county administrator requires the record pursuant to the PA Mental Health Procedures Act. (See 50 P.S. 7101-7502 found at members@aol.com/statutesPA/Index.)
 - (iii) For commitment hearing proceedings.
 - (iv) Licensure, certification, and re-credentialing of the Behavioral Health program.
 - (v) The Department of Public Welfare requires the records.
 - (vi) In response to an emergency medical situation or when required by parents or guardians to prevent serious bodily harm.
 - (vii) Legal defense (attorneys) at the client's commitment hearing.
 - (viii) Third party reimbursement only to the extent authorized in the regulation.
 - (ix) To the court in the course of legal proceedings for involuntary treatment or evaluation.
 - (x) Pursuant to federal rules where treatment is undertaken in a federal agency.
 - (xi) For mandatory reporting of child/patient abuse, neglect or violence.
 - (xii) To those participating in utilization reviews.
 - (xiii) To defense counsel for staff sued for malpractice by patients.
 - (xiv) In response to a court order, when production of the documents is ordered by a court.
 - (xv) To parents or guardians and others when necessary to obtain authorization to medical treatment.

These excepted disclosures shall be limited to that information which is relevant and necessary for the purposes for which the information is sought.

3. HIV INFORMATION

- A. HIV-related information will be defined as any information concerning whether an individual has been the subject of an HIV-related test, or has HIV, HIV-related illness or AIDS; or any information which identifies or reasonably could identify an individual as having one of these conditions, including information pertaining to the individual's contacts.
- B. A valid authorization will be required for the release of all HIV-related information except the following (see 35 Pa. C.S. Chapter 45 found at members@aol.com/StatutesP1/35.Cp.45).

- (i) The attending physician or his/her designee.
- (ii) Health care providers when knowledge of the condition is necessary to provide emergency care or treatment.
- (iii) An agent, employee or medical staff member involved in the care of the patient.
- (iv) The Funeral Director
- (v) Approved accrediting, licensure and peer review agencies or organizations.
- (vi) Third party payers, to the extent necessary for reimbursement.
- (vii) The Department of Health for purpose of vital statistics processing.
- (viii) The Department of Health as required for reportable diseases and conditions.
- (ix) Any individual in possession of a court order or search warrant.
- (x) To the patient.
- (xi) To AIDS reporting.
- (xii) To residential placement of children.
- (xiii) To emergency personnel.
- (xiv) To known contacts.

4. ADOPTION INFORMATION

- A. A valid authorization will be required for the release of confidential information.
- B. Requests by adoptees for records relating to the identity of biological parents will be referred to the State's Division of Vital Statistics.
- C. The medical history and other material relevant to the adoptee's health care may be provided to the adopting parents. This type of request will have the specific authorization of the attending physician, who will be requested to share the information with the adopting parents.
- D. All data that could identify the adoptee's natural parents will be deleted. The information to be released will be prepared by University personnel and checked by the attending physician as a safeguard of the protection of this potentially identifiable information.

5. CHILD OR ELDER ABUSE INFORMATION

A. Child Abuse Cases

- (i) In cases where the parents request access to or information from a minor's record and the case involves known or suspected child abuse, University personnel will refer the matter to General Counsel. The General Counsel will make a determination about access and/or release of information.
- (ii) Information pertaining to child abuse reporting and treatment is considered confidential and can be released in limited circumstances, including: (a) to the physician examining or treating the patient; (b) to such persons specifically designated within an institution; or (c) as required due to reporting requirements. To protect children from abuse, the reporting requirements take precedence over professional responsibilities and any other client

confidentiality, ethical principles or professional standards that might otherwise apply.

B. Older Adults Abuse Cases

In cases where the adult, children, or guardian request access to or information from a record and the case involves known or suspected older adult abuse, University personnel will refer the matter to the General Counsel. The General Counsel will make a determination about access and/or release of information.

C. Informing the Individual

For any disclosures made by the University in connection with this section on abuse, the University shall promptly inform the individual that such a report has been or will be made, except if: (a) University believes informing the individual would place the individual at risk of serious harm; or (2) University would be informing a personal representative and University reasonably believes such representative is responsible for the abuse and that informing such person would not be in the best interest of the individual as determined by the University.

D. OB/GYN SERVICES

Any minor can give consent to their treatment and/or authorization to release of information for detection and treatment of pregnancy, venereal disease, or any other reportable condition.

VIII. SANCTIONS

An employee's failure to abide by this policy may result in disciplinary action up to and including termination.

IX. DEFINITIONS

Protected Health Information (PHI) – PHI is the documentation of the healthcare services provided to an individual in any aspect of health care delivery by a healthcare provider. The PHI is individually identifiable data, in any medium, collected and directly used in and/or documenting healthcare or health status. The PHI includes records of care in any University unit/department or School while providing patient care services, reviewing patient data, or documenting observations, actions or instructions.

Non-confidential PHI – Patient name, verification that patient was or is treated at a University facility, patient's admission or discharge dates (cannot release both), name of patient's attending physician.

Emancipated Minor – The determination of whether a minor is emancipated is based on local guidelines that each unit/department or School must follow. Such criteria common throughout the Commonwealth of Pennsylvania include:

- The minor has been adjudicated/emancipated by a governmental agency or through a judicial proceeding.
- The minor is/has been married.
- The minor is/has been pregnant.
- The minor is actively serving in the military.

Any minor can give authorization to treatment and/or release of information for detection and treatment of pregnancy, venereal disease or any other reportable condition.

Subpoena – A subpoena is a legal document issued under the authority of the court, which directs the attendance of a witness at a trial to give testimony.

Subpoena Duces Tecum – A subpoena that required specific records or documents be

provided to the court.

X. REFERENCES

[Attachment A - Guidelines for Release of PHI](#)

[Attachment B - Authorization for Release of Protected Health Information](#)