

## UNIVERSITY OF PITTSBURGH POLICY 07-02-02

**CATEGORY:** PERSONNEL  
**SECTION:** Confidentiality of Medical Information  
**SUBJECT:** Release of Protected Health Information  
**EFFECTIVE DATE:** Revised September 23, 2013  
**PAGE(S):** 20

### 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/individual's (Individual's) express written consent.

### II. PURPOSE

To ensure that PHI is released as appropriate to or on behalf of patients/individuals (Individuals).

### 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](http://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.

This information has been disclosed to you from records whose confidentiality is protected by State statute. State regulations limit your right to make any further disclosure of this information without prior written consent of the person to whom it pertains. This information has been disclosed to you from records that may be protected by Federal confidentiality rules (42 CFR part 2). The Federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient. This information has been disclosed to you from records protected by Pennsylvania law. Pennsylvania law prohibits you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or is authorized by the Confidentiality of HIV- Related Information Act. A general authorization for the release of medical or other information is not sufficient for this purpose.

2. 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](http://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.

3. 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.
4. 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. For example, PHI of an individual used in administering a University Group Health Plan is component of the University's PHI.
5. 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.
6. Individuals have the right to request an amendment to 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".
7. Any suspected privacy violation or related complaints shall be handled in accordance with policy entitled "Complaint Management Process Pursuant to the HIPAA Privacy Rules."
8. All disclosures of PHI shall be limited to the amount reasonably necessary to achieve the purpose of the disclosure (the "Minimum Necessary"). This Minimum Necessary requirement does not apply to:
  - i. Disclosures or requests by a health care provider for treatment purposes;
  - ii. Uses or disclosures made to an individual, as permitted by 45 CFR 164.502(a)(1)(i) or as required by 45 CFR 164.502(a)(2)(i) related to patient access and accounting of disclosure rights;

- iii. A covered entity, which includes health plans and health care providers may not use or disclose protected health information without a valid authorization in accordance with 45 CFR164.508;
- iv. Disclosures made to the Secretary of Health and Human Services in accordance with 45 CFR 160 subpart c related to compliance and enforcement efforts;
- v. Uses or disclosures that are required by law, as described by 45 CFR §164.512(a); and
- vi. Uses or disclosures that are required for complying with HIPAA.

The University may rely (if reasonable under the circumstances) on a requested disclosure as the minimum necessary when:

- (a) making permitted disclosures to public officials when such official indicates that the information being requested is the minimum necessary;
  - (b) the information is requested by another "Covered Entity", meaning (1) a health plan, (2) a health care clearinghouse or (3) a health care provider who transmits any health information in electronic form for applicable transactions;
  - (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) providing information for research purposes.
9. Completed authorizations should be maintained in the medical record. The date completed and name of person completing the request shall be documented on the request.
10. The University is permitted to charge for copies of PHI for certain non-treatment related requests. The University will charge based on Federal and State guidelines.
11. PHI should be transmitted via facsimile (fax) only when 1) urgently needed for patient care, or 2) required by a third-party payer for ongoing certification of payment for a hospitalized patient. The information transmitted should be limited to that necessary to meet the requester's needs. Routine disclosure of information to health care providers, insurance companies attorneys, or other requesters should be made through regular mail or messenger service, except where autofax processes are developed pursuant to appropriate guidelines. All PHI transmitted via facsimile should be accompanied by a cover page that includes a confidentiality notice and is completed in its entirety which includes contact information of the sender. Notice should include the following:

***"THIS INFORMATION HAS BEEN DISCLOSED TO YOU FROM RECORDS PROTECTED BY PENNSYLVANIA LAW AND FOR DRUG AND/OR ALCOHOL INFORMATION, IS ALSO PROTECTED BY 4 PA. CODE '255.5(b) 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 CONSENT 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.***

**THE FEDERAL RULES RESTRICT ANY USE OF DRUG AND/OR ALCOHOL INFORMATION TO CRIMINALLY INVESTIGATE OR PROSECUTE ANY ALCOHOL OR DRUG ABUSE. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISCLOSURE, COPYING, DISTRIBUTION, OR ACTION TAKEN IN RELIANCE ON THE CONTENTS OF THESE DOCUMENTS IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS TELECOPY IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY TO ARRANGE FOR RETURN OF THESE DOCUMENTS."**

#### IV. AUTHORIZATIONS

1. Components of a Valid Authorization. A valid authorization must include at a minimum:
  - A. the Individual'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 or the records requested;
  - 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. Deceased Individuals

If an Authorization for Release of Protected Health Information form is received regarding an Individual who is deceased, it must be signed by one of the following (in this order of sequence if available):

    - 1) The administrator or executor of the decedent's estate. A copy of the court order appointing the administrator or executor must also accompany the form or letter.
    - 2) The patient's appropriate next of kin.

**NOTE:** Next of kin does not apply to the release of mental health or drug and alcohol treatment records. Consult the Office of General Counsel for additional guidance if needed.

B. Incapacitated Individuals

If an Authorization for Release of Protected Health Information form 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 court appointed guardian. A copy of the court order or other documentation must accompany the form. In the event of any question, consult the Office of General Counsel.

C. Minors

If a signed Authorization for Release of PHI form is received from an Individual who is not an emancipated minor, it should be signed by their parent or legal guardian who is serving as their legal representative.

There are certain instances in which a minor can consent for the release of his/her records. Pennsylvania law permits a minor to effectively authorize the release of their records as follows:

- 1) Any minor who is 18 years of age or older in full possession of his/her mental faculties or has graduated from high school or has been married, or has been pregnant may give effective authorization to release the records for himself/herself and the authorization of no other is required.
- 2) A minor who meets any one of the above criteria is considered emancipated and may legally authorize record release on his or her behalf.
- 3) A minor may also consent to the treatment of a pregnancy, venereal disease or any other reportable disease. The minor in these cases may provide effective authorization for release of their records for these specific episodes of treatment. Parental authorization is not required. These records shall not be released to the minor's parents or legally authorized representative without the minor's authorization. This rule applies only for the treatment of the pregnancy, venereal disease or other reportable disease. All other records pertaining to the minor (if not emancipated) still require parental authorization. Consult the Office of General Counsel for further clarification.

Either parent, whether divorced or never married, may be provided access to the PHI unless otherwise restricted by court order, applicable law or this policy. The Office of General 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.

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

- 4) Drug and Alcohol/Mental Health/HIV Authorizations. All drug and alcohol, mental health, and HIV related records may have additional requirements for release of information. For additional information, refer to [Section VII](#) of this policy (titled "Sensitive Information Requests").

- 5) Oral Authorization - may be accepted in emergent situations only for the release of "medical" information. Mental Health, Drug and Alcohol, and HIV require signed authorization. Patient demographic information should be verified (date of birth, social security number, etc.) prior to release and witnessed by another party.

3. Release of PHI without an Authorization

Information may be released by UPMC without an authorization in the following circumstances:

- A. True health care emergencies in which the need to know clearly outweighs confidentiality considerations. **All drug and alcohol, mental health, and HIV related records may have additional requirements for release of information. For additional information, refer to [Section VII](#) of this policy (titled "Sensitive Information Requests").**
- B. Unusual, rare circumstances where serving the common good outweighs confidentiality considerations. Such requests may not be processed without the permission of the Office of General Counsel.
- C. For the purpose of conducting University treatment, payment and healthcare operations. **Records containing mental health and drug and alcohol information require patient authorization.**
- D. Direct transfer of a patient to a hospital or treatment facility.  
  
**All drug and alcohol, mental 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").**
- 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 and other accrediting or regulatory agencies and, if appropriate, contracted entities.
- F. Pursuant to federal, state or local mandatory reporting requirements.

4. Copies of Authorization

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

**V. INDIVIDUAL ACCESS**

An Individual or their designee has the right to access, inspect and obtain a copy of the information contained in their medical record. An Individual has the right to obtain a copy of the information either in physical or electronic form. The University of Pittsburgh Authorization for Release of Protected Health Information should be utilized for Individual access requests. Refer to VII (2)(b) for additional information regarding access to Mental Health records.

If any Individual's request for access directs the University to transmit PHI directly to another person as designated, then the PHI requested must be provided to that designee. In such instances, the designee's identity and location to where the PHI is to be sent should be clearly stated on the University's Authorization for Release of Protected Health Information form.

NOTE: Access to the medical record is defined as follows; please apply this definition in consideration of Section A, # 1 through #9 where the term "access" is used.

Paper Medical Record – the requestor shall be provided with a copy of the medical record or physical access to the medical record at a location designated by the University.

Electronic Medical Record – the requestor will receive a copy of the specified medical record information on CD Rom or other electronic medium as requested by the patient/individual, so long as the medium requested is readily available. If the medium requested is not readily available, then an acceptable medium must be agreed to by both the University and the individual. Such agreements should be confirmed in writing and included with the Authorization for Release of Protected Health Information.

1. Individuals have the right to inspect and obtain a copy of their PHI. Requests for access must be submitted to the facility where services were provided or the PHI is retained.
  - A. For all retrospective reviews, the University must act on a request for access within 30 days from the receipt of the request (60 days if records are stored off-site). The University may extend the time to act on a request by no more than thirty days in accordance with HIPAA.
  - B. An individual has the right of access to inspect and obtain a copy of their own PHI contained in the designated record set, except for:
    - Psychotherapy notes;
    - Information compiled in reasonable anticipation of, or for use in a civil, criminal or administrative action or proceeding.
  - C. The University may deny an individual access in the following circumstances:
    - The University is acting under the direction of a correctional institution and therefore, may deny, in whole or in part, an inmate's request to obtain a copy of PHI, if obtaining such copy would jeopardize the health, safety, security, custody or rehabilitation of the individual or of other inmates, or the safety of any officer, employee or other person at the correctional institution or responsible for the transporting of the inmate.
    - An individual's access to PHI created or obtained by the University in the course of research that includes treatment may be temporarily suspended for as long as the research is in progress, provided that the individual has agreed to the denial of access when consenting to participate in the research study that includes treatment and that the University has informed the individual that the right to access will be reinstated upon completion of the research study.
    - An individual's access to PHI that is contained in the records that are subject to the Privacy Act, 5 U.S.C. 552a (found at <http://www.justice.gov/opcl/privacyact1974.htm>), may be denied.
    - An individual's access may be denied if the PHI was obtained from someone other than a health care provider under a promise of confidentiality and the access requested would be likely to reveal the source of the information.

Individuals do not have the right to have denials based on these circumstances reviewed.

- D. If the University denies an individual access, the individual will be given the right to have such denials reviewed in the following circumstances:
- A licensed health care professional involved in the treatment of the patient, has determined that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person; or
  - The PHI makes reference to another person (unless such other person is a health care provider) and the appropriate licensed health care provider has determined that the access requested is reasonably likely to cause substantial harm to such other person; or
  - The request for access is made by the individual's personal representative and the licensed health care provider has determined that the provision of access to such personal representative is reasonably likely to cause substantial harm to the individual or another person.

The individual's request for a review of the denied access will be facilitated in accordance with the procedures established by that School, Department or Unit. The University will provide, after exclusion of the PHI that is denied, all other PHI contained in the designated record set.

- E. The University will provide a timely, written denial to the individual explaining the basis for denial and a description of additional rights the individual may have.
- F. When access is granted, the University will provide the individual with access to the PHI in readable hard copy form or such other format as agreed upon by the individual and the University. The University may impose the designated fee to cover the reasonable costs of copying and postage, in accordance with the established annual rate set forth by the Pennsylvania Secretary of Health. If records are reviewed, the University may impose a designated fee for time reimbursement for the professional staff that will be available during the review.
- G. The University will provide the patient with a summary or explanation of PHI when agreed to by the individual and the licensed health care provider. The University may impose an appropriate fee to cover the costs of preparation of the summary or explanation.
- H. Requests for individual access shall be maintained in the legal health record. The request will denote the designated record sets accessed by the patient, the entity representatives involved in the review/release and the date reviewed.

## **VI. RELEASE OF INFORMATION REQUESTS**

### **1. INSURANCE COMPANIES FOR PAYMENT PURPOSES/THIRD PARTY PAYERS/FISCAL INTERMEDIARIES**

Before responding to a request for protected health information from an insurance company for payment or healthcare operations purposes, the entity must determine if the individual has requested a restriction on the disclosure of PHI, as permitted under the American Recovery and Reinvestment Act. When an individual is designated as "self-pay" for a service/encounter AND has requested that the PHI related to the service/encounter be restricted and not disclosed to the insurance company for payment or healthcare operations purposes, the entity must comply with the requested restriction. Each School, department or unit must establish operational procedures to be followed by all persons and departments authorized to disclose PHI.



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 or designated agencies for the purpose of reimbursement shall be signed at the time of service. These authorizations are valid for confidential information, except Drug and Alcohol treatment records, which have additional requirements. See [Section VII](#) for details.

Caution should be taken so that only PHI created in response to treatment rendered for the dates billed and requested is released without authorization.

## 2. INSURANCE COMPANIES FOR NON-PAYMENT PURPOSES

Without a valid authorization, the only information that should be released to insurance companies or designated agents is the verification of admit or discharge dates. Under no circumstance will any diagnostic or treatment information be released without a valid authorization.

NOTE: All Mental Health, Drug and Alcohol and HIV treatment records are highly confidential and therefore require a valid authorization in order to be released. Additional restrictions apply to the release of Drug and Alcohol treatment records, see [Section VII](#) for details.

## 3. REGULATORY AGENCIES CONDUCTING ON SITE ACCREDITATION AND INVESTIGATION

Such agencies include, but are not limited to, the Pennsylvania Department of Health, County Health Departments, Children and Youth Services Agencies and Centers for Medicare/Medicaid Services.

All requests from regulatory agencies are to be referred to the appropriate administrative department and the Office of General Counsel, which will provide oversight in the processing of such requests.

## 4. EMPLOYERS

All PHI released to employers will require a valid authorization except in the case of Worker's Compensation. Caution should be taken so that only PHI related to the injury is released for worker's compensation purposes. Additional restrictions apply to the release of Mental Health, Drug and Alcohol treatment records, see [Section VII](#) for details.

## 5. UNIVERSITY 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.

Employees and non-University employees shall not access the medical records and PHI of their spouse, children, relatives and others. Requests for release of PHI must be processed in accordance with this policy and with Policy 07-02-07, "Use & Disclosure of Protected Health Information."

## 6. WORKERS' COMPENSATION

The Pennsylvania Workers' Compensation Law permits the employer or designated Workers' Compensation administrator 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. Caution should be taken so that only PHI related to the work injury is released.

**NOTE:** A valid authorization is required to release Mental Health and Drug and Alcohol information. Additional restrictions apply to the release of Drug and Alcohol treatment records, see [Section VII](#) for details.

## 7. SCHOOLS

### A. Proof of Immunizations

Requests received from a school asking for proof of a student's immunization information requires either an oral or written authorization by a student's parent or legal guardian. If the student is an emancipated minor or an adult, then the student can agree to the release of their information. For immunization information only, the agreement does not need to meet the core components of a valid HIPAA authorization for the release of PHI (as detailed in Section IV of this policy). If agreement is obtained orally, the standard procedure for obtaining oral consent should be followed (including, but not limited to, the presence of a witness and documenting the agreement in the individual's medical record).

Minimum requirements for content of the authorization: "Release proof of immunization from [INSERT NAME OF STUDENT/PATIENT] to [INSERT NAME OF SCHOOL]."

### B. Non-Immunization Information

All other school requests for PHI, not relating to immunizations, require a valid written HIPAA compliant authorization prior to release of the information.

## 8. GOVERNMENT AGENCIES/PUBLIC HEALTH

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

### A. Communicable diseases

### B. Registry reporting laws require reporting to the appropriate government agency

### C. Criminally inflicted injuries require reporting to local police departments.

### D. Child and Adult Protective Service laws require reporting to the appropriate state agency – Refer to "[Sensitive Requests Section](#)" of this policy.

### E. Sudden, violent and suspicious deaths where cause cannot be identified are to be reported to the local coroner.

NOTE: Questionable cases should always be referred to the Office of General Counsel.

## 9. RESEARCH

Researchers are obligated to comply with the HIPAA Privacy Rule when they access, use, disclose, and/or create PHI from any Covered Component of the University.

Ordinarily, researchers must obtain the patient's written authorization or permission to access their PHI, but there are several circumstances where a waiver or an alteration of the authorization requirement can be granted by the University of Pittsburgh Institutional Review Board (IRB) (for University facilities), which is the designated Privacy Board for the University under HIPAA. To access or use a person's PHI, researchers must first obtain that person's signed authorization in a form that meets the requirements of HIPAA or must receive a 'waiver of authorization' from the IRB. The required elements of the authorization may be incorporated into the research consent form. Please refer to University IRB Guidance entitled, "HIPAA Privacy Rule Guidance for Researchers at the University of Pittsburgh and UPMC," available on the IRB website.

#### 10. ATTORNEYS

Requests for PHI require a valid authorization, except for legal activities undertaken by the University and its representatives and/or agents for University business.

NOTE: For Subpoenas and court orders, please see the appropriate section below.

#### 11. LAW ENFORCEMENT OFFICIALS

Release of PHI requires an authorization except in the following situations:

- As required by law, including laws that require the reporting of certain types of wounds or other physical injuries.
- A court order, court-ordered (search) warrant, subpoena, or summons, issued by a judicial officer.
- A grand jury subpoena.
- An administrative request (such as an administrative subpoena or investigative demand or other written request from a law enforcement official provided that the information includes or is accompanied by a written statement that the information requested is relevant and material, specific and limited in scope and de-identified information cannot be used.
- To identify or locate a suspect, fugitive, material witness or missing person, provided that (a) UPMC only discloses name and address, date and place of birth, SS#, ABO blood type and rh factor, type of injury, date and time of treatment, date and time of death (if applicable) and a description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair, scars and tattoos and (b) except as provided above, UPMC shall not disclose any PHI related to the individual's DNA or DNA analysis, dental records, typing, samples or analysis of body fluids or tissue.
- About an individual who is or is suspected to be a victim of a crime, other than disclosures for public health activities or victims of abuse, neglect or domestic violence, if (a) the individual agrees to the disclosure or (b) if the University cannot obtain the individual's agreement because of incapacity or emergency circumstance and (1) the law enforcement official represents that the information is needed to determine if a violation of law has occurred and that the information is not intended to be used against the victim, (2) the law enforcement official represents that immediate law enforcement activity depends on the disclosure and (3) the disclosure is in the best interests of the individual as determined by the University.
- About a deceased individual if the University has a suspicion that the death may have resulted from criminal conduct.
- If the University believes, in good faith, that the PHI constitutes evidence of criminal conduct that occurred on its premises.

- In response to an off-site medical emergency (unless as a result of abuse, neglect or domestic violence) if such disclosure is necessary to alert law enforcement to (a) the commission and nature of a crime, (b) the location or victim(s) of such crime and (c) the identity, description and location of the perpetrator of the crime.
- When consistent with applicable law and ethical standards (1) to a law enforcement official reasonably able to prevent or lessen a serious and imminent threat to the health or safety of an individual or the public or (2) to identify or apprehend an individual who appears to have escaped from lawful custody.

NOTE: Restrictions may apply to the release of Mental Health and Drug and Alcohol treatment records, see [Section VII](#) for details.

A. BLOOD ALCOHOL RELEASES:

The rule dealing with blood alcohol evaluations requires 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.

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.

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).

A. Court Order: A 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
- Timeframe in which items are to be produced (if designated)
- Issuing Court identification
- Signature of issuing judge

All Court Orders shall be provided to the Office of General Counsel for review and approval prior to releasing any information. A copy of the original Court Order 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 the issuing authority
- The case name and docket number
- Name, address and telephone number of the person issuing the subpoena

PHI can be disclosed in response to Pennsylvania subpoenas, discovery requests or other lawful process without a valid authorization (**see note below**) if the University (1) 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 and an opportunity to raise an objection to the court or administrative tribunal (for example, copy of the patient authorization) or (2) receives satisfactory assurances that the party seeking such information has made reasonable efforts to secure a protective order that will guard the confidentiality of the information. These requirements do not apply to disclosures of PHI made in connection with a subpoena from a judicial officer (court) or administrative request as described in the Section of this policy titled "[Law Enforcement Officials](#)".

All subpoenas shall be forwarded to the Office of General Counsel for review.

NOTE: A valid authorization or Court Order is required to release Mental Health, HIV and Drug and Alcohol information.

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

- C. Search Warrant: A search warrant is served personally by a law enforcement officer.
- The official's identity must be verified with a badge 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 the Office of 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 Office of General Counsel.

### 14. 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.

### 15. 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.

16. MILITARY & VETERANS

PHI of members of the armed forces may be released under Health Information Management supervision, as military authorities require. PHI can also be released about foreign military personnel to foreign military authority.

NOTE: A valid authorization is required to release Mental Health or Drug and Alcohol information.

17. ORGAN AND TISSUE DONATION

PHI may be released without authorization to organizations that procure organs or tissue, handle organ or tissue transplants or bank organs or tissue.

18. NATIONAL SECURITY & INTELLIGENCE

PHI may be released without authorization to authorized federal officials for intelligence, counter-intelligence and other national security activities authorized by law.

NOTE: A valid authorization or Court Order is required to release Mental Health and Drug and Alcohol information.

19. PROTECTIVE SERVICES FOR PRESIDENT AND OTHERS

PHI may be disclosed without authorization 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.

NOTE: A valid authorization or Court Order is required to release Mental Health and Drug and Alcohol information.

20. 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.

NOTE: A valid authorization or Court Order is required to release Mental Health and Drug and Alcohol information.

21. DIVORCED PARENTS

Except when a court order prohibits release of medical information to a parent, each parent is entitled to access all medical information concerning his or her child unless said information is protected under the emancipated minor provision. This applies even if one parent is awarded sole custody of the child and the request is made by the non-custodial parent. Requests of this type should be referred to Health Information Management or appropriate legal counsel for review.

22. AMBULANCE COMPANIES

Information regarding insurance/payer information and patient demographics may be released to an ambulance company once it has been confirmed that there is documentation to support the patient's arrival by said company.

23. PHYSICIAN BOARD CERTIFICATION

Physicians and Dentists shall not release patient identifiers when providing patient listings for board certification.

24. INTERNAL UNIVERSITY REQUESTS

Information may be shared within the University units for purposes of treatment, payment or healthcare operations without patient authorization.

NOTE: Records containing Mental Health, Drug and Alcohol, or HIV information will not be released without specific patient authorization. An "Authorization for the Release of PHI" form must be completed and signed by the patient in order to release records of a sensitive nature.

25. MEANINGFUL USE

Upon request from the patient/individual, the University will provide an electronic copy of their health information, including: diagnostic test results, problem list, medication list, medication allergies, discharge summary and procedure notes. The University will complete patient requests of the inpatient and emergency services who request an electronic copy within 3 business days.

26. FAMILY MEMBER/AUTHORIZED PATIENT REPRESENTATIVE REQUESTS

Patients/Individuals may wish to appoint a personal representative to act on their behalf in the following situations: 1) making appointments for health care services; 2) discussions with health care providers about routine tests and treatments (do not require informed consent); and 3) access to the information or results contained in the medical record, as necessary, to have discussions with health care providers in relation to the care or treatment provided to the patient.

NOTE: Refer to the definition of "Access" under Section V. Patient Access in this policy.

To appoint a personal representative, the Personal Representative Designation Form may be used for this purpose. This form is from the individual University Schools, Departments and Units. The Personal Representative Designation Form cannot be used when PHI is being disclosed in situations requiring a HIPAA authorization. In these situations, a valid HIPAA authorization must be signed by the patient/individual or legal representative.

27. GENETIC INFORMATION

University Health Insurance Plans are prohibited from requesting, requiring or purchasing genetic information with respect to any individual prior to such individual's enrollment in a health plan, and from using genetic information for underwriting purposes

**VII. SENSITIVE INFORMATION REQUESTS**

**"ALL SENSITIVE INFORMATION REQUESTS AS DEFINED SHALL BE REFERRED TO THE OFFICE OF GENERAL COUNSEL FOR GUIDANCE."**

1. DRUG AND ALCOHOL ABUSE INFORMATION

A. All information related to drug and alcohol abuse treatment 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/individual or to government or other officials exclusively for the purposes of obtaining benefits for the patient.

With or without the authorization of the patient/individual, which will herein be referred to as "client", information released shall be limited to that provided for in 4 Pa. Code 255.5 (b). Drug & Alcohol treatment information to be released to judges, probation or parole officers, insurance company, health or hospital plan or governmental officials shall be restricted to the following:

- 1) Whether the client is or is not in treatment
- 2) The prognosis of the client
- 3) The nature of the program
- 4) A brief description of the progress of the client
- 5) A short statement as to whether the client has relapsed into drug or alcohol abuse and the frequency of such relapse.

- C. PHI may be released without the patient's/individual's authorization in extreme emergency situations where the life of the patient/individual is in immediate jeopardy, to proper medical authorities solely for the purpose of providing medical treatment to the patient/individual. Only the information necessary to treat the emergency may be released to the treating physician. Other non- emergency situations require authorization or a court order. In any such instance, the Office of General Counsel or other person designated by the entity must be consulted before the release is made.

- D. Pennsylvania state law authorizes a minor patient to consent to medical treatment for conditions relating to drug and alcohol use. The minor also controls the release of their related information.

## 2. MENTAL HEALTH INFORMATION

- A. All information related to Mental Health will be treated as highly confidential.
- B. An individual has the right to access his or her treatment records through the facility, through the physician or mental health professional unless:
  - 1) 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.
  - 2) 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.
  - 3) The patient is less than 14 years of age or has been adjudicated legally incapacitated. 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 inpatient records.



- C. The records of individuals engaged in treatment may be released without authorization for the following reasons (refer to [55 PA Code 5100](#) for the specifics, found at [www.pacode.com](http://www.pacode.com)):
- 1) The release is necessary to provide continuity of care and treatment.
  - 2) The county administrator requires the record pursuant to the PA Mental Health Procedures Act. (see 50 P.S. 7101 et seq.).
  - 3) For commitment hearing proceedings.
  - 4) Licensure, certification, and re-credentialing of the Behavioral Health program.
  - 5) The Department of Public Welfare requires the records.
  - 6) In response to an emergency medical situation or when required by parents or guardians to prevent serious bodily harm.
  - 7) Legal defense (attorneys) at the client's commitment hearing
  - 8) Third party reimbursement only to the extent authorized in the regulation.
  - 9) To the court in the course of legal proceedings for involuntary treatment or evaluation.
  - 10) Pursuant to federal rules where treatment is undertaken in a federal agency.
  - 11) For mandatory reporting of child/patient abuse.
  - 12) To those participating in utilization reviews.
  - 13) To defense counsel for facility/staff sued for malpractice by patients.
  - 14) In response to a court order, when production of the documents is ordered by a court.
  - 15) 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 purpose 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 individual's contacts.

B. A valid authorization will be required for the release of all HIV related information except to the following (see 35 Pa. C.S. Chapter 45 found at [members.aol.com/StatutesP1/35.Cp.45](http://members.aol.com/StatutesP1/35.Cp.45)):

- 1) The attending physician or his/her designee.
- 2) Health care providers when knowledge of the condition is necessary to provide emergency care or treatment.
- 3) An agent, employee or medical staff member involved in the care of the patient.
- 4) The Funeral Director
- 5) Approved accrediting, licensure and peer review agencies or organizations.
- 6) Third party payers, to the extent necessary for reimbursement
- 7) The Department of Health for the purpose of vital statistics processing.
- 8) The Department of Health as required for reportable diseases and conditions.
- 9) Any individual in possession of a court order or search warrant.
- 10) To the patient
- 11) To AIDS reporting
- 12) To residential placement of children
- 13) To emergency personnel
- 14) To known contacts

#### 4. ADOPTION INFORMATION

- A. A valid authorization will be required for the release of confidential information. Proof of adoption may need verified by reviewing the official adoption decree.
- 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 family will be deleted.

The information to be released will be prepared by University personnel and verified by University management or designee as a safeguard of the protection of this potentially identifiable information.

## 5. CHILD OR OLDER ADULT ABUSE INFORMATION

### A. Child Abuse Cases

- 1) In cases where the parents request access to or information from a minor's record and the case involves known or suspected child abuse, the School, Department or Unit personnel will refer the matter to the Office of General Counsel. The Office of General Counsel or designee will make a determination about access and/or release of information.
- 2) Information pertaining to child abuse reporting and treatment is considered highly 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 guardians request access to or information from a record and the case involves known or suspected older adult abuse, the School, Department or Unit personnel will refer the matter to the Office of General Counsel. The Office of 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 (1) the University believes informing the individual would place the individual at risk of serious harm or (2) the University would be informing a personal representative and the University reasonably believes such representative is responsible for the abuse and that informing such person would not be in the best interests of the individual as determined by the University.

## VIII. SANCTIONS

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

## 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 – Authorization for Release of Protected Health Information