This Appendix covers procedures related to Uses and Disclosures of PHI.

**Disclosures to Law Enforcement**

The reason for the request needs to be determined: The ability to disclose PHI to a law enforcement agent depends on the circumstances of the situation and the reason for the request. It is important to determine the reason for the request as well as the type of PHI the agent is requesting.

1. **Required by law:** HIPAA permits disclosure of PHI without authorization of the individual when federal or state law requires it. If required by law, the person receiving the request should inquire under what law the officer is requesting the disclosure. The identity of the officer should be verified as well as the law he/she is citing before making the disclosure.

2. **Disclosure should be limited to the minimum necessary:** If disclosure is made it must be limited to the extent necessary to satisfy the request. Only information that is specifically requested may be disclosed.

3. **Subject to search warrant, court order or grand-jury subpoena:** PHI may be released to a law enforcement agent if the agent presents a court order, search warrant or in some circumstances a grand-jury subpoena. Disclosure must be limited to that specifically requested in the document. The Privacy Officer and UC General Counsel’s office should be notified immediately if a warrant, court order or grand-jury subpoena for PHI is received.

4. **Subject to a subpoena:** If an agent presents a subpoena that is signed by the Clerk of Court the Privacy Officer and UC General Counsel’s should be notified office immediately.

5. **Subpoena, summons, or investigative demand from an administrative court or tribunal.** The Privacy Officer and UC General Counsel’s office should be notified immediately upon receipt of an administrative subpoena, summons or investigative demand either in person or by mail delivery.

6. **Disclosure with individual authorization:** PHI may be released if an officer presents an Authorization for Release of PHI signed by the individual or legal representative with the subpoena.
7. Disclosures when there is suspected child abuse: Disclosure of PHI relating to alleged child abuse, neglect or exploitation is permitted as required by state law. In Ohio physicians and other health care providers are required to report any suspected case of child abuse to law enforcement by Ohio law (O.R.C. § 2921.22).

8. Other disclosures required by law:
   A. Ohio law requires physicians and other health care providers to report to law enforcement any gunshot or stab wound that the provider observed or any other serious physical harm that the provider reasonably believes resulted from a violent offense (O.R.C. § 2921.22). Law enforcement agents may obtain copies of records related to any drug or alcohol test administered to a person to determine the presence of alcohol or drugs in the person’s system at any time relevant to a criminal offense in question (O.R.C. § 2317.022). Officials must use the specific form provided in the Ohio Revised Code to request these test results (O.R.C § 2317.022).

9. Victim of a crime: UC is permitted to disclose PHI in response to a law enforcement official’s request for information about an individual who is suspected to be a victim of a crime. A signed authorization should be obtained unless the individual is unable to agree due to incapacitation or other emergency circumstance, provided that the law enforcement official represents that the information is needed to determine whether a violation of the law has occurred by a person other than the victim and the information will not be used against the victim; the investigation would be adversely affected by waiting for the individual to agree; and the disclosure is in the best interest of the individual as determined by the Privacy Officer and UC General Counsel’s Office.

10. To alert law enforcement of a death: UC may disclose PHI to law enforcement officials to alert them to a death that UC suspects may have resulted from criminal conduct.

11. To locate or identify a suspect: If a law enforcement agent requests information to locate or identify a suspect or fugitive or material witness or missing person, limited disclosure may occur. This information includes: individual’s name, address, date and place of birth, Social Security number, 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 characteristics. No disclosure of PHI concerning individual’s genetic information, DNA analysis, dental records, typing or samples or analysis of body fluids or tissue may occur.

12. Disclosure when a crime has been committed on the premises: Disclosure is permitted if the information relates to a crime committed on UC premises. The information may be released to the law enforcement agent if UC employee believes in good faith that the PHI is evidence of criminal conduct that occurred
on UC premises. This includes possessions of drugs, other controlled substances and illegal weapons.

13. To prevent serious or imminent harm: PHI may be disclosed to a law enforcement agent if the individual believes in good faith that the disclosure is necessary to prevent or lessen the threat of serious and immediate harm occurring to someone else.

14. To report injury or death: UC must follow the state law which deal with reporting injuries or deaths, as well as to produce any information to law enforcement as required by such laws.

15. Disclosure for national-security activities: In limited circumstances HIPAA permits providers to release PHI to authorized federal officials for the conduct of lawful intelligence, counterintelligence, and other national-security activities authorized by National Security Act and implementing authority.

16. Disclosure of information regarding alcohol or drug abuse: Disclosure of information related to treatment for drug or alcohol abuse is subject to federal regulation 42 C.F.R. Part 2 and may occur only under certain circumstances. Refer any request for drug or alcohol treatment information to the Privacy Officer for review.

17. Disclosure of minimum necessary information to law enforcement agents over the phone: May be made with proper identification of law enforcement officer in accordance with the Policy on Verification of Identity.

Authorization for Use and Disclosure

1. The Authorization for Release of PHI form (see Related Links) must be used as appropriate:
   A. When an authorized requestor requests PHI be used or disclosed for purposes other than treatment, payment or other health care operations. For example, in the event an individual would like a copy of their medical record for personal or legal purposes or a copy of psychotherapy notes.
   B. The department that maintains the PHI must obtain a signed Authorization for Release of PHI form and maintain it in the individual’s record.
   C. When a use or disclosure of an individual’s PHI is requested for UC’s purposes, for example for marketing or fundraising.
   D. When a use or disclosure of an individual’s PHI is for research for a study that requires the informed consent of the individual.

2. The Authorization for Release of PHI may not be combined with any other consent or authorization form with the exception of authorization for research that includes treatment, which may be combined with the informed consent for the research study.
3. UC may not condition the provision of treatment or payment on the provision by the individual of any authorization except that research related treatment may be conditioned on authorization for research related uses and disclosure of the PHI. Treatment may also be conditioned when the treatment is solely for the purpose of creating PHI for disclosure to a third party on the provision of an authorization.

4. All uses and disclosures made pursuant to a signed authorization must be consistent with the terms and conditions of the authorization.

5. Verify the identity of the authorized requestor in accordance with the Verification of Identity Policy when the legal representative signs the Authorization for Release of PHI.

6. Revocation of Authorization for Release of PHI; the authorized requestor retains the right to revoke an Authorization for Release of PHI except to the extent that action has been taken on it. The revocation must be made in writing to the UC Privacy Officer at the address on the authorization form.

7. Expiration of Authorization for Release of PHI: The authorized requestor must indicate on the Authorization for Release of PHI form the intended length of time for use. If no time is specified the authorization will expire 60 days after it is signed.

**Related Documents**

*Authorization for Release of PHI Form*

**Minimum Necessary**

1. Disclosures and Uses of PHI which are not limited to minimum necessary

   There are some uses and disclosures that are not limited to the minimum necessary requirements. The following types of disclosures are not limited to the minimum necessary:

   A. Disclosures to or requests to a health care provider for treatment purposes;
   B. Uses, requests, or disclosures made pursuant to an authorization signed by an authorized requestor, for example a medical records request;
   C. Uses and disclosures to researchers when there has been an Institutional Review Board waiver of authorization or when the researcher has signed representation that the PHI will be used only for research protocol development or is research on decedents;
   D. Disclosures made to the Secretary of the Department of Health and Human Services, Office for Civil Rights for compliance and enforcement of the privacy regulations; and
   E. Uses to prepare PHI for and disclosures that are required by law, for example disclosures made about victims of abuse, neglect or domestic
violence; and a disclosure made to comply with workers’ compensation laws.

2. Disclosures and Uses of PHI that are limited to the minimum necessary. Disclosures and uses of PHI must be limited to the minimum amount that is reasonably necessary to accomplish the purpose of the disclosure or use. This applies to the PHI used and disclosed for UC payment and health care operations. For example, when disclosing PHI to a commercial insurance company for reimbursement on a medical claim only the minimum necessary information may be disclosed. For UC’s internal accounting or risk management functions only the minimum necessary amount of PHI may be utilized.

3. Routine Uses of PHI: Routine or recurring disclosures, disclosures that are made on a regular basis such as to a health plan for payment purposes or to an internal UC department for health care operations should be limited to the minimum necessary.

4. Non-Routine Disclosures of PHI: Non-routine disclosures of PHI must be reviewed by the UC Department HIPAA Coordinator on an individual basis to assure that only the minimum necessary amount of PHI will be disclosed.

Notice of Privacy Practices

1. Timing of Provision: The Notice of Privacy Practices (NPP) must be made available, distributed, and posted in accordance with this policy.

2. Availability to the Public: A copy of the NPP must be made available to any person who requests it in each different building or area where patients receive treatment.

3. Distribution to Patients: All patients must be provided a copy of the UC NPP before or at the time of the first treatment encounter. This may occur either by giving the patient a paper copy of the NPP or by electronic delivery. If UC revises its NPP a revised copy must be offered to the patient the next time the patient receives services. It is the responsibility of the staff to give the patient a copy of the NPP. In the event the patient requires emergency treatment the NPP must be provided after stabilization.
   A. Posting the Notice: Copies of the NPP must be posted in each separate location where patients receive treatment. The NPP must be posted in a clear and prominent location where it is reasonable to expect patients to be able to see and read it.
   B. Website Posting: A copy of the most current NPP must be posted prominently on the UC website.
   C. Revisions to the Notice: When the NPP is revised it must be made available upon request on or after the effective date of the revision. The revised NPP must be distributed, promptly posted at the treatment sites,
and posted on the website. All patients arriving for treatment after the effective date of a revised NPP must be offered the new version.

Acknowledgement of Receipt of Notice of Privacy Practices

1. Provision of Copy of Notice at Admission: At the time of the first encounter with the individual, the UC employee that is registering the individual will provide them with a copy of the Notice and obtain the individual’s or their legal representatives acknowledgement of receipt by having the individual or their legal representative sign the appropriate line on the Acknowledgement of Receipt of Notice Privacy Practices (Acknowledgement) (see Related Links).

2. Individual Previously Received Copy of Notice of Privacy Practices: If the individual or their legal representative has previously received a copy of the Notice and there have been no revisions to the Notice, the individual or their legal representative may sign the appropriate line on the Acknowledgement.

3. Individual Refusal to Accept Notice of Privacy Practices: If the individual or his/her legal representative refuses to accept the Notice of Privacy Practices the employee attempting delivery of Notice should request the individual or their legal representative to sign on the appropriate line.

4. When the Individual is Being Treated for an Emergency Medical Condition: If the individual is being treated for an emergency medical condition the Notice must be given to the individual or legal representative as soon as possible after stabilization.

5. Documentation of Reasonable Efforts to Deliver Notice: If the UC employee is unable to deliver the Notice the employee must sign the Acknowledgement and note what reasonable efforts were made to deliver the Notice. This does not remove the obligation to deliver the Notice as soon as possible.

Related Documents
Notice of Privacy Practices
Acknowledgement of Notice of Privacy Practices

Use and Disclosure of Protected Health Information for Research

1. Research Protocol Development: Reviews preparatory to research. UC may use or disclose PHI for researcher review prior to the development of a research protocol without patient authorization or a waiver granted by an IRB if research is conducted in which the researcher will record only de-identified PHI (see de-identified information list in HIPAA Definitions (Appendix A) and the PHI is not removed from the premises of the covered entity. The primary research investigator must provide a statement to UC that use and disclosure of PHI being sought is necessary to prepare a research study or protocol or similar purposes
preparatory to research, no PHI will be removed from the covered entity by the researcher in the course of the review and the PHI for which access is sought is necessary for research purposes. The researcher must fill out Researcher Representation for Research Protocol Development form (see Related Links).

2. Research with Patient Authorization: Patient authorization is required before PHI may be used or disclosed for research, unless there has been an IRB waiver of authorization, or unless it meets one of the exceptions of this section. Authorization will be documented on the Authorization for Uses and Disclosures of PHI form (see Related Links). The Authorization Form must specify an expiration date. The statement “the end of the research study” is sufficient. The authorization for research may be combined with the informed consent for research document.

3. Research with Privacy Board or IRB Waiver of Authorization: UC may use or disclose PHI for research purposes without patient authorization with documentation of a waiver of authorization from an IRB. The UC IRB will review the researcher application for the waiver of authorization and determine if it will grant the waiver. UC may disclose the PI when it has obtained documentation of the following:
   A. The date the alteration or waiver of authorization was approved;
   B. A statement that the IRB has determined that the alteration or waiver of alteration in whole or in part satisfies the three criteria of the rule;
   C. A brief description of the PHI for which use or access has been determined to be necessary by the IRB;
   D. A statement that the alteration or waiver of authorization has been reviewed and approved under either normal or expedited review procedures; and
   E. The signature of the chair or other designee of the IRB.

4. Research on Decedents: UC may use or disclose PHI of deceased persons for research without the authorization of the legal representative or waiver of authorization by an IRB with a statement from the primary research investigator that the use or disclosure sought is only for research on the PHI of the decedent and the PHI being sought is necessary for research purposes. UC may request that the researcher provide documentation of the death of the individuals about whom PHI is requested. The researcher must fill out Researcher Representation for Research on Decedent form (see Related Links).

5. Accounting for Research Disclosures: Individuals have the right to receive an accounting of certain research disclosures of PHI made by UC. This accounting must include disclosures of PHI that occurred during the six years prior to the request and must include specified information on each disclosure. A more general accounting is permitted for subsequent multiple disclosures to the same
person or entity for a single purpose. Certain disclosures are exempt from the accounting requirement: research disclosures made with an authorization; or disclosures of the limited data set to researchers with a Data Set Agreement (see Related Links).

**Related Documents**
Researcher Representation for Research Protocol Development form
Authorization for Uses and Disclosures of PHI form
Researcher Representation for Research on Decedent form
Data Set Agreement

**Limited Data Set**

1. Identification of the Use of the Limited Data Set: When asked for information in a LDS, the UC Department compiling and delivering the data must obtain a signed Data Set Agreement (see Related Links) with the individual requesting the data. The UC Department that receives the request must make a determination whether the stated use of the LDS conforms to the uses allowed by HIPAA which are research, health care operations of another covered entity or public health studies. Examples of health care operations uses include providing the information for another covered entity to use for quality improvement and market share data. An example of use for research includes the creation of a research study or protocol and an example for public health purposes is use by a private disease registry or public health agency for studies in the private or public sector.

2. PHI Permitted in Limited Data Set: A LDS is PHI that excludes the following direct identifiers of the individual or of relatives, employers, or household members of the individual:

   A. Names;
   B. Postal address information, other than town or city, State and ZIP code;
   C. telephone numbers;
   D. fax numbers;
   E. email addresses;
   F. Social Security numbers;
   G. medical record numbers;
   H. health plan beneficiary numbers;
   I. account numbers;
   J. certificate/license numbers;
   K. vehicle identifiers and serial numbers, including license plate numbers;
   L. device indicators and serial numbers;
   M. Web Universal Resource Locators (URLs);
   N. Internet Protocol (IP) address numbers;
   O. biometric identifiers; including finger and voice prints; and
   P. full face photographic images and any comparable images.
A LDS may include city, state, ZIP code and age. Birth date may be included if researcher and entity agree that it is necessary for the purpose of the research.

3. Responding to DSA Violations: If UC becomes aware of an activity or practice that constitutes a violation of a DSA by the recipient of the information it is required to notify the UC Privacy Officer. If the violation cannot be cured UC will discontinue disclosure of information to the individual or covered entity.

**Related Documents**

*Data Set Agreement*

**Use and Disclosure of Protected Health Information for Fundraising**

1. Uses of PHI: In preparing fundraising materials and mailing lists for UC fundraising it is permitted to use only the following information collected on current or past individuals:
   - Demographic information about the individual, including name, address and other contact information, age, gender and insurance status.
   - Dates of service of health care provided to the individual and department of treatment.
   - General outcome information which includes non-optimal treatment or services.

2. It is not permitted to use any PHI about the individual's illness or treatment.

3. UC may use a business associate to assist with fundraising. The business associate must sign a Business Associate Agreement (see Related Links) prior to UC disclosure of patient information. The business associate may only have access to the same information that UC may access as described above.

4. Opt-out Provision: All fundraising material sent to an individual must include information on how to opt-out of receiving future fundraising material by mail, email or telephone. The Notice of Privacy Practices includes information on where to send a written request to opt-out. When an opt-out request is received, future fundraising materials or communications may not be sent to that individual.

5. Other Uses and Disclosures for Fundraising: Any other uses and disclosures for fundraising on behalf of UC or a third party not described in this policy must be expressly authorized by the individual whose PHI is used or disclosed. The Authorization for Uses and Disclosures of PHI form (see Related Links) must be utilized.

**Related Documents**

*Business Associate Agreement*

*Authorization for Uses and Disclosures of PHI form*
Use and Disclosure of Protected Health Information for Marketing

1. Marketing Authorization Required
   A. Communication about a non-UC facility’s services that is not for the purpose of promoting treatment: A signed Authorization for Release of PHI form (see Related Links) must be obtained before communications are sent to a patient or individual that is for the purpose of promoting a non-UC product or service that is not for treatment.
   B. Disclosures to third parties: A signed Authorization for the Release of PHI form (see Related Links) must be obtained before PHI may be disclosed to any third party, including a business associate, in exchange for any direct or indirect remuneration, for any communication that constitutes marketing of the third party’s product or service. For example, UC may not sell or give PHI or patient lists to a third party or business associate for the third party’s own purposes.

2. Marketing Authorization Not Required
   A. During face-to-face encounter: A UC health care provider may discuss products or services of UC or a third party in a face-to-face encounter with an individual. For example, it is permitted for a health care provider to recommend a particular service or place to obtain treatment when speaking with the patient.
   B. Promotional gift of nominal value: It is permitted to give a patient or individual a promotional gift of nominal value such as a pen, magnet or calendar.
   C. Communications about UC’s products and services: It is permitted to send communications to patient or individual using PHI about products or services provided by UC. A communication about a UC product or service is not marketing under the privacy regulations. For example, it is not marketing to send information to patients to advise them of a new program offered by the UC.
   D. Communications that do not involve PHI: If the communication does not involve the use of PHI, it is permissible. For example, it is permitted to send a communication to everyone in a specific ZIP code. A communication about UC services sent to a specific population base is not marketing under the privacy regulations.
   E. Communications for case management or care coordination: It is permitted to make communications to recommend alternative treatments, therapies or health care providers or settings of care to the patient. Case management information and care coordination are not marketing under the privacy regulations.
   F. Communications about treatment: It is permitted to communicate directly with a patient about treatment tailored to the needs of the patient. A communication about treatment is not marketing under the privacy regulations.
G. Population-based communications about treatment alternatives: It is permitted to communicate with individuals about wellness and preventive medicine programs. The population may be tailored, for example, to women or a certain demographic group. A communication about a treatment alternative is not marketing under the privacy regulations.

Related Documents
Authorization for the Release of PHI form

Benefits Plan Use and Disclosure of Protected Health Information

1. The Benefits Plan may use and disclose PHI for the following purposes:
   A. Treatment: The Benefits Plan may disclose PHI for treatment purposes. Treatment disclosures may be made to healthcare providers that provide care to the plan members.
   B. Payment: The Benefits Plan may disclose PHI for payment purposes. Payment activities include determination of eligibility or coverage, claims processing, billing, obtaining and payment of premium, utilization review, medical necessity determinations and pre-certifications.
   C. Healthcare Operations: The Benefits Plan may disclose PHI for healthcare operations purposes.
   D. To the Plan Sponsor: The Benefits Plan may disclose summary health information to UC as the plan sponsor in order to obtain bids for health insurance coverage.
   E. Avert a Serious Threat to Health or Safety: The Benefits Plan may disclose PHI about a member when necessary to prevent or lessen a serious threat to the members' health and safety or the health and safety of the public or another person.
   F. Military and Veterans: The Benefits Plan may disclose PHI about a member who is or was a member of the armed forces to military command authorities as authorized or required by law.
   G. Research: The Benefits Plan may use and disclose PHI for research purposes. Any disclosures for research are subject to authorization or IRB waiver of authorization requirements.
   H. Workers' Compensation: The Benefits Plan may release PHI about a member for workers' compensation for benefits determination.
   I. As Required by Law: The Benefits Plan may release PHI for any purpose required by law.
   J. Subject to Legal or Administrative Proceedings: The Benefits Plan may release PHI if required to do so by a court or administrative ordered subpoena or discovery request.
   K. To the Employer: The Benefits Plan may release PHI to a member's employer if it provided healthcare at the employer's request.
2. The Benefits Plan must deliver a Notice of Privacy Practices (NPP) to its members when benefits begin, upon request and every three years thereafter. The NPP must be prominently displayed on the Benefits Plan website.

3. Benefits Plan employees must keep separate the Benefit Plan functions from other functions not associated with the Benefits Plan such as human resources. HIPAA prohibits the use of Benefits Plan information for employment related purposes.

4. Minimum Necessary: Benefit Plan uses and disclosures are subject to the minimum necessary standard. The uses and disclosures must use the minimum amount of PHI necessary to accomplish the purpose. See Minimum Necessary Policy Statement.

Related Documents
UC Benefits Plan Notice of Privacy Practices

Disclosures to Family and Friends

1. At Time of Registration: At the time of registration for services and at other times as necessary during treatment, inform the individual that it may be necessary to share their PHI with relatives, friends, or others involved in their care or payment for care. Written notice of the practice is provided in the Notice of Privacy Practices distributed to each individual when they register for the first time in a UC health service area. The individual’s approval of this practice must be obtained unless one of the exceptions applies which allow notification for emergency or notification purposes (see numbers 3 and 4 below). Persons to whom PHI may be disclosed include a family member, other relative, or a close personal friend or any other person identified by the individual.

2. Individual is present prior to making disclosure and capable of making decisions: In this instance, obtain the individuals agreement prior to making the disclosure of PHI. If the individual has not asked the family member or friend to stay while the healthcare worker is present prior to disclosing PHI the individual should be asked for permission before disclosing PHI or ask the visitor to step out of the room.

3. Disclosure of sensitive protected health information: Federal and state law give heightened protection to certain PHI. Individual consent should not be inferred before disclosing HIV, substance abuse or mental health PHI. Before making a disclosure of sensitive PHI the individual must be asked if medical information medical information may be discussed with the family or visitor present. Alternatively the family or visitor should be asked to step out of the room. The individual should be given the opportunity to respond affirmatively before proceeding with disclosure.
4. Individual is not present, or does not have the opportunity to agree or object to the disclosure due to incapacity or emergency: A decision should be based on professional judgment as to whether the disclosure of PHI is in the best interest of the individual. If so, only the amount of information relevant to the person’s involvement with the individual’s health care should be disclosed.

5. Use and disclosure of PHI for notification purposes: UC may use or disclose PHI to notify a family member, legal representative, or another individual involved in the individual’s care of the individual’s location, general condition, or death.

6. Documentation of Disclosures to Family and Friends: UC is not required to document such disclosures or list them in an accounting requested by the individual.

7. PHI Disclosures Limited by Applicable State Law or Other Federal Law: Federal law or state statute more protective of PHI or that grants the individual greater rights of access to their PHI pre-empts HIPAA.
   A. Federal law or state statute may prohibit the disclosure of certain PHI without the individual’s written authorization. Ohio statute, O.R.C. § 3701.243 (A) and (B) limit disclosure of HIV and AIDS related information. A signed authorization is required except for disclosures required by law.
   B. Mental health information is subject to Ohio statute, O.R.C. § 5122.31 (A) and requires individual authorization except for disclosures required by law.
   C. Federal statute 42 C.F.R. Part 2 and O.R.C. § 3719.13(B) limits disclosure of substance abuse records to third parties only with written individual authorization.
   D. Psychotherapy Notes: Information involving psychotherapy notes will not be released or disclosed to family members or friends under this policy without specific authorization by the individual.