

POLICY AND REGULATIONS MANUAL

TITLE: PERMITTED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION WITHOUT A PATIENT'S AUTHORIZATION

PURPOSE: To provide guidelines for the use and disclosure of Protected Health Information without an Authorization.

POLICY STATEMENT:

Harris Health System (Harris Health) will only use or disclose a patient's Protected Health Information (PHI) without an Authorization in strict accordance with state and federal laws and regulations.

POLICY ELABORATIONS:

I. DEFINITIONS:

- A. **AUTHORIZATION:** Permission acquired by execution of Harris Health System Form Number 280342 Authorization for Use, Request, and Disclosure of Protected Health Information.
- B. **DE-IDENTIFIED INFORMATION:** Health information for which there is no reasonable basis to believe that the information can be used to identify a patient and does not contain any of the following direct identifiers:
1. Names;
 2. All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code and their equivalent geocodes, except for the initial three digits of a zip code if, according to current publicly available data from the Bureau of the Census:
 - a. The geographic unit formed by combining all zip codes with the same three initial digits contains more than twenty thousand (20,000) people; and
 - b. The initial three (3) digits of a zip code for all such geographic units containing twenty thousand (20,000) or fewer people is changed to 000.

POLICY AND REGULATIONS MANUAL

3. All elements of dates (except year) for dates directed related to an individual, including birth date, admission date, discharge date, date of death; and all ages over eighty-nine (89) and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age ninety (90) or older;
 4. Telephone numbers;
 5. Fax numbers;
 6. Electronic mail addresses;
 7. Social Security numbers;
 8. Medical record numbers;
 9. Health plan beneficiary numbers;
 10. Account numbers;
 11. Certificate/license numbers;
 12. Vehicle identifiers and serial numbers, including license plate numbers;
 13. Device identifiers and serial numbers;
 14. Web Universal Resource Locators (URLs);
 15. Internet Protocol (IP) address numbers;
 16. Biometric identifiers, including finger and voice prints;
 17. Full face photographic images and any comparable images; and
 18. Any other unique identifying number, characteristic, or code, except as permitted for re-identification purposes.
- C. **DISCLOSURE:** The release, transfer, provision of, access to, or divulging in any manner protected health information outside of Harris Health.
- D. **INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION (IIHI):** Information that is a subset of health information, including demographic information collected from the individual, and:
1. Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
 2. Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual;
 - a. Identifies the individual; or

POLICY AND REGULATIONS MANUAL

b. There is a reasonable basis to believe the information can be used to identify the individual.

E. **LAW ENFORCEMENT OFFICIAL:** An officer or employee of any agency or authority of the United States, as a state, territory, a political subdivision of a state or territory, or an Indian tribe, who is empowered by law to:

1. Investigate or conduct an official inquiry into a potential violation of law; or
2. Prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.

F. **LIMITED DATA SET:** PHI that excludes the following direct identifiers of the individual or of relatives, employers, or household members of the individual:

1. Names;
2. Postal address information, other than town or city, State, and zip code;
3. Telephone numbers;
4. Fax numbers;
5. Electronic mail addresses;
6. Social security numbers;
7. Medical records numbers;
8. Health plan beneficiary numbers;
9. Account numbers;
10. Certificate/license numbers;
11. Vehicle identifiers and serial numbers, including license plate numbers);
12. Device identifiers and serial numbers;
13. Web Universal Resource Locators (URLs);
14. Internet Protocol (IP) address numbers;
15. Biometric identifiers, including finger and voice prints; and
16. Full face photographic images and any comparable images.

G. **MINIMUM NECESSARY:** The minimum protected health information required to accomplish the intended purpose of the request, use, and Disclosure of protected health information when:

1. A Workforce member uses protected health information for a job specific function;

POLICY AND REGULATIONS MANUAL

2. Harris Health Discloses protected health information to an outside person or entity; or
 3. Harris Health requests protected health information from an outside person or entity.
- H. **PERSONAL REPRESENTATIVE:** A person with authority under the law to act on behalf of the patient.
- I. **PROTECTED HEALTH INFORMATION (PHI):** PHI that is created, received, transmitted or maintained by Harris Health System in any form or medium that relates to the patient's health care condition, provision of health care, or payment for the provision of health care, as further defined in the Health Insurance Portability and Accountability Act (HIPAA) regulations. PHI includes, but is not limited to, the following identifiers:
1. Name;
 2. All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code if, according to the current publicly available data from the Bureau of the Census:
 - a. The geographic unit formed by combining all zip codes with the same three (3) initial digits contains more than twenty thousand (20,000) people; and
 - b. The initial three digits of a zip code for all such geographic units containing twenty thousand (20,000) or fewer people is changed to 000.
 3. All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over eighty-nine (89) and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age ninety (90) or older;
 4. Telephone numbers;
 5. Fax numbers;
 6. Electronic mail addresses;
 7. Social security numbers;
 8. Medical record numbers;

POLICY AND REGULATIONS MANUAL

9. Health plan beneficiary numbers;
10. Account numbers;
11. Certificate/license numbers;
12. Vehicle identifiers and serial numbers, including license plate numbers;
13. Device identifiers and serial numbers;
14. Web Universal Resource Locators (URLs);
15. Internet Protocol (IP) address numbers;
16. Biometric identifiers, including finger and voice prints;
17. Full face photographic images and comparable images; and
18. Any other unique identifying number, characteristic, or code, except as permitted for re-identification purposes.

J. **PUBLIC HEALTH AUTHORITY:** An agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate.

K. **USE:** Regarding PHI, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

L. **WORKFORCE:** Harris Health System Board of Trustees, employees, Medical Staff, trainees, contractors, volunteers, and vendors.

II. USES AND DISCLOSURES OF PHI AS REQUIRED BY LAW:

A. In General:

1. If a Use or Disclosure of PHI is required by law, Harris Health must Use or Disclose the PHI so long as the Use or Disclosure complies with the law and is limited to the relevant requirements of the law.¹
2. The Minimum Necessary Standard, described in Harris Health's Minimum Necessary Standard for the Use and Disclosure of PHI policy, does not apply to Uses or Disclosures of PHI that are required by law.²

¹ 164.512(a)(1)

POLICY AND REGULATIONS MANUAL

B. Disclosures about Adult Victims of Abuse, Neglect, or Domestic Violence:³

1. Harris Health may Disclose PHI of an adult patient whom Harris Health reasonably believes is a victim of abuse, neglect or domestic violence to a governmental authority authorized by law to receive reports of abuse, neglect or domestic violence if:
 - a. The Disclosure of PHI is: (1) required by law; (2) the Disclosure complies with the law; (3) and the Disclosure is limited to the relevant requirements of the law;
 - b. The patient agrees to the Disclosure; or
 - c. The Disclosure is expressly authorized by a statute or regulation, and:
 - i. Harris Health, in the exercise of professional judgment, believes the Disclosure is necessary to prevent serious harm to the patient or other potential victims; or
 - ii. The patient is incapacitated and is unable to agree and the authorized recipient of the PHI confirms that the PHI is not intended to be used against the patient, and that an immediate enforcement activity, which depends on the Disclosure, would be materially and adversely affected by waiting until the patient is able to agree to the Disclosure.
2. If Harris Health makes or intends to make a Disclosure as described above, Harris Health must promptly inform the patient of the Disclosure, unless:
 - a. Harris Health, in the exercise of professional judgment, believes that informing the patient would place the patient at risk of serious harm; or

² 164.502(b)(2)(v)

³ 164.512(c)

POLICY AND REGULATIONS MANUAL

- b. Harris Health would be informing a Personal Representative of the patient and Harris Health reasonably believes that the Personal Representative is responsible for the abuse, neglect, or other injury, and Harris Health determines, in the exercise of professional judgment, that informing the Personal Representative would not be in the patient's best interests.

C. **Disclosures about Child Abuse or Neglect:**⁴

Harris Health may disclose a PHI to a public health authority or other appropriate governmental authority authorized by law to receive reports of child abuse or neglect.

D. **Disclosures for Judicial and Administrative Proceedings:**⁵

Harris Health may Disclose PHI in the course of a judicial or administrative proceeding as follows:

1. Court Order or Administrative Tribunal Order:

Upon receipt of a court or administrative tribunal order, Harris Health may Disclose PHI expressly authorized in the court or administrative tribunal order.

2. Subpoena, Discovery Request or other Lawful Process Without Accompanying Court Order or Order of Administrative Tribunal:

Upon receipt of a subpoena, discovery request, or other lawful process without an accompanying court order or order of an administrative tribunal, Harris Health may Disclose the PHI requested in the subpoena, discovery request, or other lawful process only if it receives the required satisfactory assurances (See Attachment A) from the party seeking the PHI.

⁴ 164.512(b)(ii)

⁵ 164.512(e)

POLICY AND REGULATIONS MANUAL

III. DISCLOSURES OF PHI FOR LAW ENFORCEMENT PURPOSES:

A. Required by Law:

Harris Health may Disclose PHI as required by law, including laws that require the reporting of certain types of wounds or other physical injuries, except for laws requiring the reporting of child abuse or neglect or adult abuse, neglect, or domestic violence.⁶

B. Court Order or Court-Ordered Warrant:

Harris Health may Disclose PHI pursuant to a court order or a court-ordered warrant, provided that Harris Health only discloses the PHI required by the court order or court-ordered warrant.

⁶ 164.512(f)(1)(i)

POLICY AND REGULATIONS MANUAL

C. Subpoena or Summons Issued by a Judicial Officer:

Harris Health may Disclose PHI pursuant to a subpoena or summons issued by a judicial officer **for law enforcement purposes** provided that Harris Health only discloses the PHI required by the subpoena or summons issued by the judicial officer.⁷

D. Grand Jury Subpoena:

Harris Health may Disclose PHI pursuant to a grand jury subpoena provided that Harris Health only discloses the PHI required by the grand jury subpoena.⁸

E. Administrative Request (including Administrative Subpoena or Summons) or a Civil or Authorized Investigative Demand:⁹

1. Harris Health may disclose PHI for law enforcement purposes in response to an administrative request, including an administrative subpoena or summons, or a civil or authorized investigative demand, provided that only discloses the PHI required by the request or demand and provided that:

- a. The information sought is relevant and material to a legitimate law enforcement inquiry;
- b. The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and
- c. De-identified information could not reasonably be used.

Note: Harris Health may Disclose PHI to law enforcement with a valid written Authorization or may allow law enforcement officials to speak with a patient if the patient agrees and if it is not disruptive to the delivery of patient care.

F. Disclosures of Limited Information for Identification and Location Purposes:¹⁰

⁷ 164.512(f)(1)(ii)(A)

⁸ 164.512(f)(1)(ii)(B)

⁹ 164.512(f)(1)(ii)(C)

¹⁰ 164.512(f)(2)

POLICY AND REGULATIONS MANUAL

1. Harris Health may Disclose PHI to a law enforcement official in response to an official's request for PHI for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that Harris Health only Discloses the following PHI:
 - a. Name and address;
 - b. Date and place of birth;
 - c. Social security number;
 - d. ABO blood type and rh factor;
 - e. Type of injury;
 - f. Date and time of treatment;
 - g. Date and time of death, if applicable; and
 - h. A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.
2. Harris Health may not Disclose any PHI related to a person's deoxyribonucleic acid (DNA) or DNA analysis, dental records, typing, or samples or analysis of body fluids or tissue to a law enforcement official for purposes of identifying or locating a suspect, fugitive, material witness, or missing person.

G. **Victims of Crime:**¹¹

Harris Health may Disclose a patient's PHI to a law enforcement official in response to an official's request for the PHI when the patient is or is suspected to be a victim of crime, excluding a victim of child abuse or neglect or adult abuse, neglect or domestic violence, if:

1. The victim of crime or suspected victim of crime agrees to the Disclosure;
or
2. If Harris Health is not able to obtain the victim or suspected victim's agreement because of he or she is incapacitated or because of another emergency circumstances, Harris Health may Disclose the PHI if:
 - a. The law enforcement represents that such information is needed to determine whether a violation of law by a person other than the

¹¹ 164.512(f)(3)

POLICY AND REGULATIONS MANUAL

victim has occurred, and such information is not intended to be used against the victim

- b. The law enforcement official represents that an immediate law enforcement activity that depends on the Disclosure would be materially and adversely affected by waiting until the victim or suspected victim is able to agree to the Disclosure; and
- c. The Disclosure is in the best interest of the victim or suspected victim as determined by Harris Health in the exercise of professional judgment.

H. Decedents:

Harris Health may Disclose PHI about a patient who has died to a law enforcement official for the purpose of alerting the law enforcement official of the patient's death if Harris Health suspects that the patient's death resulted from criminal conduct.¹²

I. Crime on Premises:

Harris Health may Disclose PHI to a law enforcement official when Harris Health believes, in good faith, that the PHI constitutes evidence of criminal conduct that occurred on Harris Health's premises.

IV. USE AND DISCLOSURE OF PHI FOR PUBLIC HEALTH ACTIVITIES:¹³

- A. Harris Health may Disclose PHI to a Public Health Authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury or disability, including but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions.¹⁴

¹² 164.512(f)(4)

¹³ 164.512(b)

¹⁴ 164.512(b)(i)

POLICY AND REGULATIONS MANUAL

- B. Harris Health may Disclose PHI to a person subject to the jurisdiction of the Food and Drug Administration (FDA) with respect to an FDA-regulated product or activity for which that person has responsibility, for the purpose of activities related to the quality, safety, or effectiveness of such FDA-regulated product or activity. Such purposes include:¹⁵
1. To collect or report adverse events (or similar activities with respect to food and dietary supplements), product defects and problems (including problems with the use or labeling of a product), or biological product deviations;
 2. To track FDA-regulated products;
 3. To enable product recalls, repairs, or replacement, or look back (included locating and notifying individuals who have received products that have been recalled, withdrawn, or the subject of look back); or
 4. To conduct post marketing surveillance (e.g., pacemakers, orthotics, etc.).
- C. Harris Health may Disclose PHI to a person who may have been exposed to or is at risk of spreading or contacting a communicable disease or condition, if Harris Health or the Public Health Authority is authorized by law to notify such person as necessary in the conduct of a public health intervention or investigation.¹⁶
- D. Harris Health may Disclose PHI to the patient's employer if:¹⁷
1. At the employer's request, Harris Health provides health care services to the patient to conduct an evaluation relating to medical surveillance of the workplace or to evaluate the patient for a work-related illness or injury;
 2. The PHI Disclosed is limited to the findings of a workplace-related medical surveillance or a work-related illness or injury;
 3. The employer needs such information to comply with its obligations under federal or state laws requiring the employer to record illness or injuries or to carry out responsibilities for workplace medical surveillance; and

¹⁵ 164.512(b)(iii)

¹⁶ 164.512(b)(iv)

¹⁷ 164.512(b)(v)

POLICY AND REGULATIONS MANUAL

4. Harris Health provides written notice to the patient that the PHI relating to medical surveillance of the workplace or work-related illness or injury is being Disclosed to the employer by:
 - a. Giving a copy of the notice to the patient at the time the health care services are provided; or
 - b. Posting a notice in a prominent location where the health care services are provided, if the health care services are provided on the employer's work site.
- E. Harris Health may Disclose PHI to a school about a patient, who is a student or a prospective student of the school, if:¹⁸
 1. The PHI that is Disclosed is limited to proof of immunization(s);
 2. The school is required by State or other law to have such proof of immunization(s) prior to admitting the patient as a student; and
 3. Harris Health obtains and documents the agreement to the Disclosure from either:
 - a. A parent, guardian, or other person acting in loco parentis of the patient, if the patient is an un-emancipated minor; or
 - b. The patient, if the patient is an adult or an emancipated minor.

V. DISCLOSURE OF PHI FOR HEALTH OVERSIGHT ACTIVITIES:¹⁹

- A. Harris Health may Disclose PHI to a health oversight agency for health oversight activities authorized by law, including audits, investigations, inspections, licensure, disciplinary actions, legal proceedings, or other activities necessary for the appropriate oversight of:
 1. The health care system;
 2. Government benefit programs for which health information is relevant to beneficiary eligibility; or
 3. Entities subject to government regulatory programs or civil rights laws for which health information is necessary for determining compliance.

¹⁸ 164.512(b)(vi)

¹⁹ 164.512(d)

POLICY AND REGULATIONS MANUAL

- B. For the purpose of the disclosures permitted by paragraph (A) above, a health oversight activity does not include an investigation or other activity in which the patient is the subject of the investigation or activity and such investigation or other activity does not arise out of and is not directly related to:
1. The receipt of health care;
 2. A claim for public benefits related to health (*unless* it is conducted in conjunction with a health oversight activity or investigation, in which case a Disclosure is permitted); or
 3. Qualification for, or receipt of, public benefits or services, when the patient's health is integral to the claim for public benefits or services.

VI. USE AND DISCLOSURE OF PHI ABOUT DECEDENTS:

A. Coroners & Medical Examiners:

Harris Health may Disclose PHI to a coroner or medical examiner for the purpose of:²⁰

1. Identifying a deceased patient;
2. Determining a cause of death; or
3. Performing other duties as authorized by law.

B. Funeral Directors:²¹

Harris Health may Disclose PHI to funeral directors, consistent with applicable law and that as is necessary for a funeral director to carry out his or her duties with respect to the decedent. If required for funeral directors to carry out his or her duties, Harris Health may disclose PHI prior to and in reasonable anticipation of the patient's death.

C. Individuals Involved in Decedent's Health Care or Payment for Health Care:

²⁰ 164.512(g)(1)

²¹ 164.512(g)(2)



Policy No: 3.11.306
Page Number: 15 of 25
Effective Date: 04/14/2003
Board Motion No:

POLICY AND REGULATIONS MANUAL

Harris Health may Disclose to a decedent's family member, other relative, close personal friend, or any other person identified by the decedent who were involved in the decedent's health care or payment for health care prior to death, PHI relevant to such person's involvement, unless doing so is inconsistent with any prior expressed preference of the decedent that is known to Harris Health.

POLICY AND REGULATIONS MANUAL

VII. USE AND DISCLOSURE OF PHI FOR CADAVERIC ORGAN, EYE, OR TISSUE DONATION:

Harris Health may Use or Disclose PHI to organ procurement or other entities engaged in the procurement, banking, or transplantation of cadaveric organs, eyes; or tissues in order to facilitate organ, eye, and tissue donation and transplantation.²²

VIII. USE AND DISCLOSURE OF PHI FOR RESEARCH:²³

Harris Health may Use and Disclose PHI for research purposes without obtaining a patient's Authorization, in accordance with the procedures described in Harris Health Policy and Procedure 3.05, Research.

IX. USES AND DISCLOSURES TO AVERT A SERIOUS THREAT TO HEALTH OR SAFETY:²⁴

- A. Harris Health may Use or Disclose PHI if Harris Health believes in good faith that the Use or Disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public and the Disclosure is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat; or
- B. Harris Health may Use or Disclose PHI if Harris Health believes in good faith that the Use or Disclosure is necessary for law enforcement authorities to identify or apprehend an individual when:
 - 1. A statement is made by an individual admitting participation in a violent crime that Harris Health reasonably believes may have caused serious physical harm to the victim; or

Exception: Harris Health may not Use or Disclose PHI based on a statement from an individual admitting participation in a violent crime when the information/statement is learned/made:

²² 164.512(h)

²³ 164.512(i)

²⁴ 164.512(j)

POLICY AND REGULATIONS MANUAL

- a. In the course of counseling, therapy, or treatment to affect the propensity to commit the criminal conduct that is the basis for the Disclosure; or
- b. Through a request by the individual to initiate or to be referred for treatment, counseling, or therapy described above.

Note: A Disclosure of PHI made pursuant to an individual's statement will only contain the statement and the following PHI:

- i.* Name and address;
 - ii.* Date and place of birth;
 - iii.* Social Security number;
 - iv.* ABO blood type and rh factor;
 - v.* Type of injury;
 - vi.* Date and time of treatment;
 - vii.* Date and time of death, if applicable;
 - viii.* A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.
2. It appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody.

POLICY AND REGULATIONS MANUAL

X. USE AND DISCLOSURE OF PHI FOR SPECIALIZED GOVERNMENT FUNCTIONS:²⁵

A. Disclosures for Military and Veteran Activities:

1. Armed Forces Personnel:

Harris Health may Use or Disclose PHI of patients who are Armed Forces personnel for activities deemed necessary by appropriate military command authorities to assure the proper execution of the military mission, if the appropriate military authority has published by notice in FEDERAL REGISTER the following information:

- a. Appropriate military command authorities; and
- b. Purposes for which the PHI may be Used or Disclosed.

2. Foreign Military Personnel:

Harris Health may Use and Disclose PHI of patients who are foreign military personnel to their appropriate foreign military authority for the same purposes for which Uses and Disclosures are permitted for Armed Forces personnel under the notice published in the FEDERAL REGISTER.

B. Disclosures for National Security and Intelligence Activities:

Harris Health may Disclose PHI to authorized federal officials for the conduct of lawful intelligence, counter-intelligence, and other national security activities authorized by the National Security Act and its implementing authority.

C. Disclosures for Protective Services for the President and Others:

Harris Health may Disclose PHI to authorized federal officials for:

1. The provision of protective services to the President or other persons authorized by law to receive such services; or
2. The conduct of investigations related to threats against the President; a former President or their immediate family members; the Vice President; a former Vice President or their immediate family members; a major

²⁵ 164.512(k)

POLICY AND REGULATIONS MANUAL

candidate for the Presidential or Vice Presidential Office or their immediate family members; or a person protected by the United States Secret Service.

D. Disclosure to Correctional Institution:

1. Harris Health may Disclose to a correctional institution or a law enforcement official having custody of a patient the PHI of the patient, who is also an inmate, if the correctional institution or law enforcement official represents that the PHI is necessary for:
 - a. The provision of health care to the patient;
 - b. The health and safety of the patient or other inmates;
 - c. The health and safety of the officers, employees of, or others at the correctional institution;
 - (1) The health and safety of such individuals and officers or other persons responsible for the transporting of inmates or their transfer from one institution, facility, or setting to another.
 - d. Law enforcement on the premises of the correctional institution; or
 - e. The administration and maintenance of safety, security, and good order of the correctional institution.
2. An individual is not considered to be “detained” if he or she is on parole, probation, supervised release, or is otherwise no longer in lawful custody.

XI. DISCLOSURE FOR WORKER’S COMPENSATION:²⁶

Harris Health may Disclose PHI as authorized and to the extent necessary to comply with laws related to worker’s compensation or similar programs, established by law to provide benefits for work-related injuries or illnesses without regard to fault.

²⁶ 164.512(l)

POLICY AND REGULATIONS MANUAL

XII. RETENTION OF REQUESTS AND TRACKING OF DISCLOSURES OF PHI:

Uses and Disclosures of PHI will be documented in the patient's medical record and tracked to enable Harris Health to respond to patient's requests for an Accounting of Disclosures.



POLICY AND REGULATIONS MANUAL

Policy No: 3.11.306
Page Number: 21 of 25
Effective Date: 04/14/2003
Board Motion No:

REFERENCES/BIBLIOGRAPHY:

45 C.F.R. §164.512

OFFICE OF PRIMARY RESPONSIBILITY:

Harris Health System Office of Corporate Compliance

REVIEW/REVISION HISTORY:

Effective Date	Version # (If Applicable)	Review/ Revision Date (Indicate Reviewed or Revised)	Approved by:
04/14/03	V1.0		HCHD President/CEO
10/09/09	2.0	Approved 10/6/09	HCHD Policy Review Committee
10/09/09	2.0	Approved 10/9/09	HCHD President/CEO
	3.0	Revised/Approved 8/13/2013	Operations Policy Committee
		Approved 09/23/2013	Harris Health System Board of Managers
	4.0	Revised/Approved 7/27/2017	Structure and Organizational Standards

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POLICY AND REGULATIONS MANUAL

ATTACHMENT A REQUIREMENTS FOR SATISFACTORY ASSURANCES

- I. Required Satisfactory Assurances Required Upon Receipt of a Subpoena or Discovery Request or Other Lawful Process Without a Court Order or Order of Administrative Tribunal²⁷:
- a. Harris Health may disclose PHI Upon receipt of a subpoena, discovery request, or other lawful process only if Harris Health receives one of the items listed below in paragraphs (i) through (iii).
 - i. The party seeking PHI completes Harris Health Form No. 282081 (see Attachment B); or
 - ii. The party seeking the PHI provides a written statement and accompanying documentation showing that:
 - 1. The party requesting the PHI has made a good faith attempt to provide written notice to the individual who is the subject of the PHI;
 - 2. The notice included sufficient information about the litigation or proceeding in which the PHI is requested to permit the individual who is the subject of the PHI to raise an objection to the court or administrative tribunal;
 - 3. The time for the individual who is the subject of the PHI to raise an objection to the court or administrative tribunal has passed; and
 - a. No objections were filed; or
 - b. All objections filed by the individual who is the subject of the PHI have been resolved and the disclosures being sought are consistent with the resolution; or
 - iii. The party seeking the PHI provides a written statement and accompanying documentation showing that:

²⁷ 164.512(e)(ii)

1. The parties to the dispute giving rise to the request for PHI have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute; or
 2. The party seeking the PHI has requested a qualified protective order from such court or administrative tribunal.
- b. If satisfactory assurances described above in Section a cannot be obtained by Harris Health, then Harris Health must contact the Harris County Attorney's Office prior to releasing PHI pursuant to the subpoena, discovery request, or other lawful process without an accompanying court order or order of an administrative tribunal.²⁸

²⁸ 164.512(e)(iv).



Policy No: 3.11.306
Page Number: 24 of 25
Effective Date: 04/14/2003
Board Motion No:

POLICY AND REGULATIONS MANUAL

**ATTACHMENT B
PROTECTED HEALTH INFORMATION (PHI):**

INSTRUCTIONS: Please complete this form to request the disclosure of Protected Health Information (PHI) pursuant to a subpoena that is not accompanied by a court order or an authorization signed by the patient (or his/her representative). *Please note your request may be denied if you submit an incomplete form and/or provide insufficient supporting documentation.*

Cause Number and Style of Suit: _____

Patient's Information:

Name: _____

Address: _____

Date of Birth: _____

Social Security Number: _____ Medical Record Number: _____

I hereby certify, as the attorney subpoenaing for the above identified patient, that the following requirements under 45 CFR §164.512(e)(1)(ii-vi) have been met. In addition, I understand that I must attach documentation to this statement demonstrating the following:

1. I have made a good faith effort to provide written notice to the above identified patient (or that patient's attorney), and
2. The notice included sufficient information about the litigation or proceeding in which the PHI is requested to permit the individual to raise an objection in court or administrative tribunal; and
3. The time for the individual to raise objections to the court or administrative tribunal has elapsed and: (please circle either a. or b.)
 - a. No objections were filed; or
 - b. All objections filed by the individual have been resolved by the court or tribunal and the disclosures sought by this subpoena are consistent with such resolution.

OR (please circle either 4. or 5.)

4. The parties to the dispute giving rise to the request for information have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute: or
5. The party seeking the PHI has requested a qualified protective order from such court or administrative tribunal.

I also hereby certify that the PHI requested is related to a judicial proceeding in which the patient is a party (See TEX. HEALTH & SAFETY CODE § 241.153(20)).

Name of Attorney: _____

Signature: _____

Date: _____ State Bar Number: _____