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<tr>
<th><strong>Responsible Officer:</strong></th>
<th>Compliance Officer</th>
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<td><strong>Responsible Office:</strong></td>
<td>Compliance Office</td>
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<tr>
<td><strong>Origination Date:</strong></td>
<td>06/2013</td>
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<tr>
<td><strong>Date of Revision:</strong></td>
<td>N/A</td>
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<td><strong>Scope:</strong></td>
<td>To identify the requirements and permissions needed for access, use and disclosure of protected health information.</td>
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I. **Policy Summary**

The Privacy Rule (45 CFR Part 160 and Subparts A and E of Part 164), of the Health Information Portability and Accountability Act (HIPAA) provides federal protection for the privacy of health information. The Confidentiality of Medical Information Act, state law in California, also provides patient privacy protection. Federal HIPAA regulations require providers to conform to whichever federal or state law provides patients with greater protection or provides the patient with more rights over their information.

The decision as to whether PHI can be used or disclosed relies on the purpose for the use and disclosure. This is a summary policy that provides guidelines for when and how PHI can be used and disclosed, and provides direction on uses and disclosures of protected Health Information that:

- Are permitted by law but do not require patient authorization for use or disclosure
- Are required by law
- Must be authorized by the patient or the patient's representative

II. **Definitions:**

**Operations** - Certain administrative, financial, legal and quality improvement activities that are necessary to run business and to support the core functions of treatment and payment; includes case management and care coordination, evaluating provider performance, training health care and non-health care professionals, accreditation or licensing activities, medical review, legal and auditing services, business planning, customer service, and fundraising for the benefit of the covered entity.

**Payment** - Encompasses the various activities of health care providers to obtain payment or be reimbursed for their services; includes, but is not limited to: determining eligibility or coverage under a plan and adjudicating claims, risk adjustments, billing and collection activities, medical necessity/coverage determination, utilization review activities.
Protected Health Information (PHI)- An individual’s health information, maintained in any form or medium, that relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to the individual, or the past, present or future payment for the provision of health care to the individual; identifies the individual or is reasonably believed could identify the individual.

Treatment - The provision, coordination, or management of health care and related services among health care providers or by a health care provider with a third party, consultation between health care providers regarding a patient, or the referral of a patient from one health care provider to another.

III. Policy:
The requirements and permissions needed for access, use and disclosure of PHI vary depending on the purpose for the disclosure as follows:

- Access and disclosure is required to the patient and to the Secretary of Health and Human Services to ensure compliance with the Privacy Rule.

- Access, use and disclosure is permitted for purposes of treatment, payment and healthcare operations without patient authorization when a Notice of Privacy Practice has been given to the patient.

  Use and disclosure for payment and healthcare operations is limited to the minimum necessary for the purpose of the use or disclosure.

- Some disclosures are mandated or required under federal and state law, but the amount of patient information disclosed must be limited to the amount required by law.

- Staff must consult with the Compliance and Privacy Officer before releasing information to outside entities when there is no written patient authorization or for purposes other than treatment, payment and healthcare operations.

- All other accesses, uses and disclosures require the patient’s written authorization. Some disclosures have specific requirements for the patient’s authorization. Please refer to the UCR Health Policy “Authorization for Disclosure of Protected Health Information (PHI)” for the requirements of a valid authorization form.

- It is the responsibility of each employee, medical staff member, and house staff to understand the requirements for accessing, using and disclosing PHI.

A. Permitted Uses and Disclosures
The following are permitted uses and disclosures of PHI that do not require the patient’s authorization and must be listed in the Notice of Privacy Practices.

The patient must have been given the UCR Health Notice of Privacy Practices, and UCR Health must have made a good faith effort to obtain the individual’s signed acknowledgement that they received the Notice.

1. To the individual patient or their personal representative (please refer to UCR Health policy “Patient Access to Protected Health Information”).

2. To the Secretary of the Department of Health and Human Services to investigate compliance with the Privacy Rule, without limitation.

3. For treatment, payment and healthcare operations within the University of California Healthcare system.

4. For treatment purposes to any healthcare provider, including those not covered by the Privacy Rule and those outside of the University of California system.

5. To another covered entity or a healthcare provider for the payment activities of the entity or the provider that receives the PHI.

6. To another covered entity for certain healthcare operations of the entity that receives the information when:

   a. Each entity has or had a relationship with the individual who is the subject of the information and the information pertains to the relationship; and

   b. The disclosure is for those health care operations activities that include: quality assessment and improvement activities; population-based activities relating to improving health or reducing health care costs; case management and care coordination; certification; conducting training programs; accreditation; certification-related health care operations, teaching activities or for purpose of health care fraud and abuse detection or compliance.

7. In a Limited Data Set with a Data Use Agreement, or when the data is de-identified (Refer to UCR Health Policy “Limited Data Sets”).

8. For psychotherapy treatment by the originator of the psychotherapy notes.

9. For certain functions related to government or public health activities.
B. Disclosures Required by Law
The following are examples of required disclosures of protected health information that do not require patient authorization, but are required or mandatory under either state or federal law.

The amount of information disclosed is limited to that information that is specifically required by law to be disclosed.

Please refer to the UCR Health Policy "Mandatory and Required Disclosures of Patient Information" for more details on these disclosures. Examples of required disclosures include:

1. Cases of abuse, neglect or domestic violence.
2. For public health activities as required by regulatory requirements.
3. For workplace medical surveillance or to report a work-related illness or injury.
4. To a Health Oversight Agency for health oversight activities.
5. For law enforcement purposes to a law enforcement official, when required by law.
6. To coroners, medical examiners and funeral directors for the purpose of identifying a deceased person, determining the cause of death or as otherwise required by law.
7. To organ procurement organizations or other entities engaged in the procurement, banking or transplantation of cadaveric organs, eyes or tissue for the purpose of facilitating organ, eye or tissue donation and transplantation.
8. To persons reasonably able to prevent or lessen the serious threat to public health or safety.
9. For specialized government functions, including military personnel, veterans foreign military personnel and national security activities.

C. Disclosures Requiring Patient Authorization
For all other disclosures that are not permitted or required under the Privacy Rule, the uses and disclosures of protected health information, a written and specific authorization signed by the patient or the patient's legal representative is required.

Please refer to the UCR Health Policy "HIPAA. Authorizations for Disclosure"
of Protected Health Information” for the requirements of a valid Authorization or Release of Information form.

In all cases when a workforce member is not certain whether the access or use is permitted, or whether an Authorization is required for disclosures of PHI, he/she must consult with the Compliance and Privacy Officer prior to using or disclosing that information or requesting that the patient sign an Authorization.

As a general rule, any requests for release of protected health information should be referred to the Compliance and Privacy Officer.

The following types of disclosures require patient authorization:

1. Any PHI provided to a third party for which there is no permitted or required purpose for the disclosure

2. Psychotherapy notes

3. For marketing communications for which UCR receives direct or indirect payment

4. Institutional Review Board (IRB) approved research protocol that requires informed consent and the patient’s authorization for release of PHI for research

5. Disclosure to the patient’s employer (including those situations when the patient is a UC employee and the disclosure is to UC) except;
   a. When the use and disclosure is for public health activities
   b. To conduct an evaluation relating to medical surveillance of the workplace; or
   c. To evaluate whether the individual has a work-related illness or injury

6. Creating a list of patients for fundraising activities using disease or treatment information that clearly identifies the patient and his/her specific disease or treatment

7. Use and disclosure of PHI to the media or through other forms of external communications

8. Creation of disease or treatment specific databases (that are not de-identified or limited data sets)
9. To another covered entity for purposes of resolution of internal grievances, customer service, and medical review or auditing activities.

In all circumstances in which an authorization is required, disclosure of the following must specifically be authorized by the patient: HIV/AIDS test results, psychiatric information, genetic test results and alcohol/drug treatment information.

D. Disclosures to Family
If the patient is present and has the capacity to make healthcare decisions, information may be provided to the present family member(s), friends or others involved in the patient’s care if:

1. The patient agrees to the disclosure of the information; or

2. The patient has an opportunity to object and does not object.

When the patient is not present or is verbally unable to consent, no information will be provided to family members unless the patient has provided written authorization, Advanced Directive, medical power of attorney, or there is a documentation in the medical record identifying that the family member is involved in the care of the patient or the family member is designated as the emergency contact.

Disclosures regarding particularly confidential information such as HIV status, mental health information or other sensitive information should only be made to family members with the patient’s explicit authorization.

The physician or healthcare provider may use professional judgment and experience to decide if it is in the patient’s best interest to allow someone to pick up filled prescriptions, medical supplies, X-rays, or other similar forms of health information for the patient.

E. Disclosures under Subpoena

Subpoenas, Court Orders and other Legal Requests

The disclosure of Protected Health Information (PHI) in response to a subpoena or court order varies depending on the type of subpoena and the court or legal authority who issued the subpoena. Please contact the Compliance and Privacy Officer and Campus Counsel regarding disclosures that must be made in response to a subpoena.

IV. Responsibilities: N/A
V. Procedures:
A. Verification Procedures

1. Prior to disclosing any information, UCR Health staff must verify the identity of the person requesting the protected health information and the authority of such person to have access to the PHI, if the identity or authority of the person is not already known. Valid forms of identification include:

   - California Driver’s License
   - Driver’s license from another state or other country provided the license contains a photograph or information such as name, date of birth, gender, height, eye color and address;
   - State identification card with picture;
   - Public, government or private employment identification card;
   - Social Security card (original) with photo ID;
   - Firearm owner identification card with photo ID;
   - Passport: U.S. (expired or unexpired) or unexpired foreign passport;
   - U.S. Citizen Card (Form I-197);
   - Permanent resident card or Alien Registration receipt card (Form I-155);
   - Unexpired employment identification card that contains a photograph (form I-766; I-668A or I-688B);
   - School ID card with a photograph (current);

In the absence of a photo ID document, other identification verification can include information to verify identity: medical record number, date of birth, SSN number, mother’s maiden name, home address, telephone number, name of guarantor, name of emergency contact; the name of the primary care physician.

2. Obtain from the person requesting the PHI any documentation, statement or representations that are a condition of the disclosure (e.g. an administrative subpoena or summons).

3. Where disclosure is to a public official or someone acting on behalf of the public official, the following are acceptable means of verification of authority:

   - A written statement of the legal authority for the request (or, in impracticable, an oral statement).

   - A warrant, subpoena, order or other legal process issued by a grand jury or judicial or administrative tribunal

4. Where disclosure is to a public official or someone acting on behalf of the public official, the following are acceptable means of verification of
identification:

- An agency identification badge or other official credentials or proof of government status (if request is in person).

- A written statement on government letterhead that the person is acting under the government’s authority (if the disclosure is to a person acting on behalf of a public official).

- Other evidence or documentation of agency that establishes that the person is acting on behalf of the public official.

**B. Disclosure Procedures**

1. Receive the request for disclosure of PHI.

2. Verify whether the disclosure is permitted or required, or whether patient authorization is needed in order to release the information.

3. If the disclosure can be made, request documentation from the requestor to verify the identity and authority that the individual or entity requesting the information is permitted or required by law to receive the PHI.

4. Follow normal procedure for processing request but include a cover letter with the information being released to serve as a reminder to the recipient that the PHI is of a sensitive nature and must be returned or destroyed when no longer needed.

5. Document the disclosure in the medical record.

6. For disclosures requiring written patient authorization, please refer to UCR Health Policy “HIPAA. Authorization for Disclosure of Protected Health Information.”

**VI. Forms/Instructions: N/A**

**VII. Contacts:**

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<tr>
<th>Unit</th>
<th>Title</th>
<th>Phone</th>
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<tr>
<td>Compliance</td>
<td>Compliance Officer</td>
<td>(951) 827-4672</td>
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<tr>
<td>Compliance</td>
<td>Privacy Analyst</td>
<td>(951) 827-7672</td>
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VIII. Related Information
Federal Register 45 CFR, Part 164
California Medical Information Act Civil Code §56 et sequelae

Related UCR Health Policies:

Authorization for Disclosures of Protected Health Information (PHI)
Mandatory Disclosures of Protected Health Information (PHI)
Use and Disclosure of Protected Health Information (PHI) For Research

IX. Frequently Asked Questions: N/A

X. Revision History: N/A

Approval(s)

[Signature]

James R. Herron
Compliance and Privacy Officer
School of Medicine