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**Owner:** *Maria Caban Alizondo: Dir*  
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## Disclosure of Protected Health Information ("PHI") to Third Parties Policy, HS 6422

### PURPOSE

This policy describes the circumstances and conditions by which UCLA Health System may disclose or release Protected Health Information ("PHI") to third parties.

In addition to the requirements regarding disclosure contained in the Privacy Rule, California has a great number of privacy-related laws. As such, this policy is only able to cover those disclosure requests that are most frequently received by UCLA Health System. All questions regarding the appropriateness of a disclosure to a third party, whether or not it is described in this policy, should always be directed to the Health Information Management Services Department, or the Office of Compliance and Privacy.

### DEFINITIONS

**"Health Care Operations"** covers a broad range of activities such as quality assessment, patient education and training, student training, contracting for health care services, medical review, legal services, auditing functions, compliance, business planning and development, licensing and accreditation, business management and general administrative activities.

**"Individually-identifiable health information"** is any information that is created or received by a health care provider, that relates to (a) the past, present, or future physical or mental health or condition of an individual; (b) the provision of health care to an individual; or (c) the past, present or future payment for the provision of health care to an individual; and that identifies the individual or, with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

**"Payment"** can be defined as activities related to being paid for services rendered. These include eligibility determinations, billing, claims management, utilization review, etc. It also includes using debt collection and location agencies.

**"Protected health information" or "PHI"** is any individually identifiable health information collected or created as a consequence of the provision of health care by a covered entity, in any form (including verbal communications).

**"Treatment"** means providing, coordinating, or managing a patient's care, and includes consultations between providers and referrals.

# POLICY

UCLA Health System shall maintain the confidentiality and security of PHI.

In general, UCLA Health System may use or disclose PHI for purposes of Treatment, Payment or Health Care Operations without the patient's consent.

UCLA Health System, cannot however, use or disclose PHI without the patient's prior written authorization for any other purpose except as permitted or required by law (e.g., pursuant to a court order, to meet abuse reporting or public health reporting requirements, etc.). (See: Policy No. 9412, "*Authorization to Disclose Protected Health Information.*")

## I. Disclosure of PHI for Treatment, Payment and Health Care Operations

UCLA Health System may disclose PHI without patient authorization in order to carry out Treatment, Payment and Health Care Operations.<sup>1</sup> This means that UCLA Health System may share information with other providers, transfer patients to another facility, coordinate continuing care, submit PHI to third party payors for the purposes of obtaining payment.

## II. Mandated Reporting

UCLA Health System and its providers are required by law to make certain reports to various government agencies for a variety of purposes (e.g., reporting child abuse, reporting of communicable diseases) that are described below.

### A. Public Health Reporting.

UCLA Health System physicians and administrators are required to report certain PHI to local, state and federal health offices. For example, UCLA Health System must report diseases to local health officers to prevent the spread the public against the spread of communicable diseases. (These diseases include communicable, non-communicable and sexually-transmitted diseases, reportable outbreaks and unusual diseases.) UCLA Health System may also disclose PHI for other public health purposes such as reporting vital events such as births and deaths.

The requirements applicable to UCLA Health System are described further in Compliance Policy No. 9010, "*Mandatory Reporting Requirements*" and in California and federal laws.

While subject to these mandatory reporting requirements, UCLA Health System is still bound by laws governing the confidentiality of medical, psychiatric, or substance abuse patient information and records. Under these laws, providers may disclose such information only to the extent necessary to comply with the law.

### B. FDA Reporting.

UCLA Health System may disclose PHI to the U.S. Food and Drug Administration provided the disclosure is to: (1) report adverse events, product defects or problems or biological product deviations; (2) track products; (3) enable product recalls, repairs or replacement; and (4) conduct post-marketing surveillance as required by the FDA.

Questions regarding FDA reporting should be referred to the Department of Risk Management at (310) 794-3500.

### C. **Assault and Abuse.**

California law requires health practitioners to make reports to a local law enforcement agency when they treat persons with specified injuries (i.e., to report victims of abuse, neglect or domestic violence).

For further information regarding these reporting obligations, please refer to: Compliance Policy No. 9010, "*Mandatory Reporting*," and other applicable UCLA Health System hospital and clinic policies. Questions regarding assault and abuse reporting requirements should be referred to the Risk Management Department.

### III. **Court Orders, Subpoenas and Other Legal Demands**

UCLA Health System may disclose PHI pursuant to a: (1) court order or; (2) subpoena, discovery request, or other lawful request that is not accompanied by a court or administrative order, in the course of any judicial or administrative proceeding provided the requirements set forth in Policy No. 9011, "*Legal Processes – Summon and Complaints, Subpoenas*," are satisfied.

Questions regarding the release of PHI pursuant to a subpoena or other legal process should be referred to the appropriate UCLA Custodian of Records as identified in Policy No. 9011..

### IV. **Disclosure to Law Enforcement**

#### A. **Disclosure Without Authorization.**

The disclosure of PHI to law enforcement without a patient authorization is permitted only in the following circumstances:

1. To comply with specific judicial or administrative actions such as a subpoena, court order, or warrant.
2. To provide information required by state and federal mandated reporting requirements such as abuse, neglect, violence or firearms reporting.
3. To provide the patient's address, age, sex, general condition, and nature of the patient's injury if the patient is identified by name.
4. To provide information about a patient who is an inmate of a correctional institution if the inmate is in the custody of law enforcement.
5. To provide information about a patient who presents a serious danger of violence to a reasonably foreseeable victim.
6. To provide testing information if a patient is in the custody of law enforcement and is brought into the hospital by law enforcement to be tested for alcohol or drug content.

In all circumstances, the law enforcement's authority to receive the PHI should be documented. The disclosures to law enforcement described in this policy must be documented and tracked.

#### B. **Disclosure to Law Enforcement if the Patient is identified by Name.**

A disclosure to law enforcement of information in response to a specific patient, in the absence of a subpoena, court order, or warrant, is limited to the following non-medical information:

1. Patient name;
2. Location in the hospital; and
3. A general description of patient's condition (i.e., fair, stable, critical), treatment and the general nature of the injury or condition.

**C. Disclosures to Correctional Institution.**

PHI may be disclosed to a correctional institution or law enforcement official having lawful custody of the inmate if the correctional institution/law enforcement official represents that the PHI is necessary for:

1. The provision of health care to such individual; and
2. The health and safety of such individual, other inmates, or others at the correctional institution (e.g., officers, employees, persons responsible for transporting/transferring inmates).

**D. Disclosures About Patients Who Present a Serious Threat of Physical Violence.**

UCLA Health System may disclose a patient's PHI to law enforcement if the health care provider reasonably believes that the patient poses a serious threat of physical violence against a reasonably identifiable victim. UCLA Health System may only disclose the following information:

1. Name and address;
2. Date and place of birth;
3. Social Security number;
4. ABO blood type and rh factor;
5. Type of injury;
6. Date and time of treatment;
7. Date and time of death, if applicable; and
8. 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.

**E. Testing for Drug or Alcohol Content.**

Law enforcement may obtain drug or alcohol testing information about a patient only if the patient is in the custody of law enforcement and law enforcement requests the test(s).

**F. Judicial and Administrative Proceeding.**

Law enforcement may obtain PHI that is requested pursuant to a valid subpoena, court order or search warrant (see: Compliance Policy No. 9011, "*Legal Processes – Summon and Complaints, Subpoenas*"). Questions relating to the request for PHI through legal documents, processes should be directed to the appropriate UCLA Custodian of Records as identified in Compliance Policy No. 9011..

**G. State and Federal Mandated Reporting Requirements.**

Law enforcement is authorized to receive a patient's PHI if such information is required under state and federal mandated reporting requirements. Examples of those mandated reporting requirements

include assaultive or abusive conduct, neglect, and specific wounds and physical injuries sustained by means of a firearm or weapon.

#### **V. Disclosure to Organ Procurement Agencies**

UCLA Health System may use or disclose PHI without patient authorization to an organ procurement agency or other entities engaged in the procurement, banking, or transplantation of organs, eyes or tissues for the purposes of facilitating or aiding organ, eye, or tissue transplantation.

#### **VI. Licensing and Accreditation**

##### **A. Licensing.**

UCLA Health System may disclose PHI to any private or public body responsible for licensing a UCLA Health System facility/clinic without patient authorization or an opportunity to object.<sup>2</sup> However, no medical information is to be removed from UCLA Health System premises except as expressly permitted or required elsewhere by law, nor may the recipient further disclose the PHI.

##### **B. Accreditation.**

UCLA Health System may disclose PHI to any private or public body responsible for accrediting UCLA Health System for accreditation purposes without a patient authorization. However, no PHI may be removed from the premises for these purposes except as expressly permitted or required elsewhere by law, nor may the recipient further disclose the PHI.

#### **VII. Health Care Oversight – Government Benefit Programs**

UCLA Health System may disclose PHI without patient authorization to a health oversight agency for authorized oversight or review purposes. "Authorized oversight activities" include: audits; civil, administrative or criminal investigations; inspections, licensure or disciplinary actions, or other activities that are necessary for the appropriate oversight of (1) the health care system; (2) government benefit programs for which health information is relevant to beneficiary eligibility such as Medi-Cal; (3) entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards, or (4) entities subject to civil rights laws (e.g., Americans with Disabilities Act, etc.) for which health information is necessary for determining compliance.

Health oversight activities do not include investigations or other activities in which an individual is the subject of the investigation or activity and such investigation or activity is not directly related to the individual's (1) receipt of health care, (2) claim for public benefits related to health, or (3) qualification for or receipt of public benefits or services, unless the claim is conducted in conjunction with a health oversight activity.

#### **VIII. Peer Review Purposes**

UCLA Health System may disclose PHI to organized committees and agents of professional societies; hospital medical staffs, health care service plans (HMO's) licensed pursuant to the California Knox-Keene Act; professional standards review organizations; independent medical review organizations if these entities are engaged in reviewing the competence or qualifications of licensed health care professionals or in reviewing health care services with respect to medical necessity, level or care, quality of care or justification of charges.

#### **IX. National Security and Intelligence Activities**

UCLA Health System may disclose PHI to authorized federal officials, without patient authorization, to: (1) conduct intelligence, counter-intelligence and other national security activities; and (2) provide protective services to the President of the United States, foreign heads of state or to conduct investigations authorized by federal law (e.g., regarding threat against the President, former Presidents and other persons). The Privacy Rule also requires contains a limited security clearance exemption for the Department of State.

All requests for PHI received from federal officials for national security and intelligence purposes must be referred to the Privacy Officer for handling.

#### **X. Disclosure for Military Purposes**

UCLA Health System may use and disclose the PHI of Armed Forces personnel to assure the proper execution of a military mission (as deemed necessary by appropriate military command authorities), without patient authorization or an opportunity to object, if the appropriate military authority has placed a notice in the Federal Register identifying the appropriate military command authorities and the purposes for which PHI may be disclosed.

All requests for PHI received from the military must be referred to the Health Information Management Services Department for handling.

#### **XI. Disaster Relief Disclosures**

UCLA Health System may disclose PHI to a public or private entity authorized by law or by its charter to assist in disaster relief efforts, for the purpose of coordinating with such entities the notification of family or other persons responsible for the care of the individual of the individual's location, general condition or death. Such disclosures are required to be limited to basic information, including the patient's name, city of residence, age, sex, and general condition.

#### **XII. Workers' Compensation; Disclosures to Employers**

##### **A. Workers' Compensation.**

UCLA Health System may disclose PHI without patient authorization as authorized by, and to the extent necessary to comply with workers' compensation laws.

##### **B. Disclosure to Employers.**

UCLA Health System may disclose PHI to an employer provided the PHI was created by UCLA Health System about the employee as the result of employment-related health care services rendered to the employee conducted at the specific, prior written request of the employer that part of the PHI that: (1) is relevant in a lawsuit, arbitration, grievance or other claim to which the employer and the employee are parties and in which the patient has placed in issue his or her medical history, condition or treatment, provided that the information may be used or disclosed only in that proceeding; and (2) the disclosure describes the functional limitations of the patient that may entitle the patient to medical leave or describe limitations on a patient's fitness to perform a particular job (but may not state any medical cause).

#### **XIII. Requests Related to Decedents**

##### **A. Coroner's Requests.**

UCLA Health System is required to disclose PHI to a coroner when requested in the course of an investigation for the purpose of identifying the decedent or locating next of kin, or when authorized by the decedent's representative. In addition, PHI may be disclosed to a county coroner upon request for other purposes, if the disclosure is made in the course of an investigation by that office.

**B. Funeral Directors.**

UCLA Health System is required to disclose PHI to the funeral director removing the body if a deceased patient died of a reportable disease.

**XIV. Fundraising and Marketing**

UCLA Health System may not disclose PHI (other than contact information such as name, address and phone number and the dates the patient received treatment or services at UCLA Health System) without the patient's authorization. (See: Policy No. 9470, "*Use of Protected Health Information ("PHI") for Marketing Purposes*" and No. 9471, "*Use of Protected Health Information ("PHI") for Fundraising Purposes*".)

**XV. Research**

UCLA Health System may use and disclose PHI to a researcher for research purposes without patient authorization or opportunity for the patient to object, **only if UCLA Health System receives the following:**

- A. An Institutional Review Board (IRB) or Privacy Board has approved and certified a Waiver of Authorization; or
- B. An IRB has approved a research protocol using a Limited Data Set and a Data Use Agreement has been entered into between UCLA Health System and the researcher; or
- C. The IRB or Privacy Board has approved a protocol using de-identified data.

The specific requirements relating to the disclosure of PHI for research purposes are described in Privacy Policy No. 9440, "*Privacy Requirements Relating to Research*."

**XVI. Disclosures to "Business Associates" (Consultants/Contractors)**

UCLA Health System may disclose PHI to a "business associate" (See: Policy and Procedure No. 9430, "*Business Associates*") and may allow a business associate to create or receive PHI on its behalf if UCLA Health System has entered into a business associate agreement/amendment with the business associate. Business Associates typically include persons or entities that provide billing, claims management, medical data processing, or other administrative services for UCLA Health System. However, no information shall be further disclosed by the recipient in any way except as permitted by the agreement or required by law.

**XVII. Other Disclosures Required by Law**

UCLA Health System may disclose PHI as required by federal or state law. Questions regarding disclosures required by law should be referred to the Risk Management Department or University legal counsel.

# PROCEDURE

In light of the Privacy Rule requirement that all disclosures for purposes **other** than for Treatment, Payment or Health Care Operations must be tracked and logged by UCLA Health System (so that it may be able to provide an accounting of such disclosures to patients upon request), all requests for disclosures to third parties must be referred to the Health Information Management Services Department for handling, except as otherwise provided in this policy.

Certain individuals or departments within UCLA Health System may, however, be permitted to disclose PHI to third parties directly provided they:

1. have been authorized by the Privacy Officer to do so by completing a specialized privacy training program; or
2. have an individual legal obligation to report and make the report pursuant to such legal authority in accordance with UCLA Health System policies and procedures; and
3. the individual with the legal obligation to report must notify the Health Information Management Services Department of the report so that the disclosure can be included in the tracking system.

# REFERENCES

Health Insurance Portability and Accountability Act, 45 CFR 160-164  
California Medical Information Act, California Civil Code Section 56 *et seq.*

<sup>1</sup> Additional requirements must be met before UCLA Health System may use or disclose AIDS or HIV test information, mental health, alcohol or substance abuse records. The Lanterman-Petris-Short Act ("LPS Act") is a law providing confidentiality for information and records pertaining to treatment for mental health and developmental disabilities. Under the LPS Act, written consent is in some cases required for the disclosure of information that, under the Privacy Rule, would not require authorization. In those cases, written consent must meet the LPS Act standards.

<sup>2</sup> In addition, the California Department of Health Services has the power to enter and to inspect facilities in order to secure compliance with licensing requirements and to conduct periodic inspections. This power of inspection includes the authority to examine the records of individual patients.

All revision dates:

03/2020, 02/2016, 01/2008

## Attachments

No Attachments

## Approval Signatures

Step Description	Approver	Date
Administration Approval- President and CEO, UCLA Health	Johnese Spisso: Ceo Med Ctr [FD]	03/2020
Ronald Reagan Medical Staff Executive	Carlos Lerner: Assoc Prof Of Clin-Hcomp [FD]	03/2020

<b>Step Description</b>	<b>Approver</b>	<b>Date</b>
Committee- Chief of Staff		
Santa Monica Medical Staff Executive Committee- Chief of Staff	Roger Lee: Hs Clin Prof-Hcomp [FD]	03/2020
Resnick Neuropsychiatric Medical Staff Executive Committee- Chief of Staff	Aaron Kaufman: Hs Assoc Clin Prof-Hcomp [FD]	03/2020
Hospital System Policy Committee Chair	Fiona Dunne: Adm Crd Ofcr [KK]	03/2020
Hospital System Policy Committee Chair	Jeffrey Bergen: Mgr [KK]	03/2020
Policy Owner	Maria Caban Alizondo: Dir	02/2020

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