

# PERMISSIBLE DISCLOSURES OF PROTECTED HEALTH INFORMATION (“PHI”) TO THE MEDIA AND THE PUBLIC

## PURPOSE

The purpose of this policy is to establish guidelines for the release of Protected Health Information (“PHI”) to the media and/or the general public that ensures the privacy of patients as required by the federal Health Insurance and Portability And Accountability Act of 1996 (the “Privacy Rule”) and California law.

This policy applies to the UCLA Health System and David Geffen School of Medicine at UCLA (hereafter referred to as “UCLA Health”).

## DEFINITIONS

**“Protected Health Information” or “PHI”** is any individually identifiable health information, in any format, including verbal communications, regarding a patient created as a consequence of the provision of health care. “Individually identifiable” means that the health or medical information includes or contains any element of personal identifying information sufficient to allow identification of the individual, such as the patient’s name, address, electronic mail address, telephone number, or social security number, or other information that, alone or in combination with other publicly available information, reveals the individual’s identity. PHI includes patient billing and health insurance information and applies to a patient’s past, current or future physical or mental health or treatment.

**“Electronic Protected Health Information” or “ePHI”** is PHI that is transmitted by electronic media or is maintained in electronic media. For example, ePHI includes all data that may be transmitted over the Internet, or stored on a computer, a CD, a disk, magnetic tape or other media.

**“Personal Information (PI)”** as used in this policy is an individual’s first name or first initial and last name combined with any one of the following:

- (1) social security number,
- (2) driver’s license number or California identification card number,
- (3) account number, credit, or debit card number, in combination with any required security code, access code, or password that would permit access to an individual’s financial account,
- (4) medical information, or
- (5) health insurance information.

**“Medical information”** means any information, in either electronic or physical form, regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional, and which may be in the possession of or derived from a health care provider, health care service plan, pharmaceutical company or contractor. “Health insurance information” means an individual's health insurance policy number or subscriber identification number, any unique identifier used by a health insurer to identify the individual, or any information in an individual's application and claims history, including any appeals records. Medical information and health insurance information for patients are also considered to be PHI.

**“Restricted Information”** (as defined by UC Policy IS-3, Electronic Information Security) describes any confidential or Personal Information that is protected by law or policy and that requires the highest level of access control and security protection, whether in storage or in transit. This includes Personal Information, PHI and ePHI as defined in this section but could also include other types of information such as research data.

**“Workforce”** means employees, volunteers, and other persons whose conduct, in the performance of their work for UCLA Health, is under the direct control of UCLA Health or the Regents of the University of California, whether or not UCLA Health pays them. The Workforce includes employees, medical staff, and other health care professionals, agency, temporary and registry personnel, and trainees, house staff, students and interns, regardless of whether they are UCLA trainees or rotating through UCLA Health facilities from another institution.

## **POLICY**

UCLA Health System shall not disclose PHI to the media and/or the general public except as permitted by HIPAA and California law.

No information will be provided to the public or the media on patients admitted to a designated psychiatric hospital or unit.

All requests from the media will be referred to the UCLA Health System Media Relations Department.

## PROCEDURE

### I. Media and Other Public Inquiries

Both California law and the Privacy Rule restrict the amount of information that may be provided to the media or the general public without the patient's prior written authorization.<sup>1</sup> In general, if the patient has not requested that information be withheld, UCLA Health System may release the general condition (see Section IA below) and location of an inpatient or emergency patient, but only if the inquiry specifically contains the patient's name.

**No information can be given if a request does not include the patient's name, if the patient has requested that information be withheld or if the patient has been admitted to a designated psychiatric hospital or unit.**

#### A. Permissible Descriptions of a Patient's Condition.

A patient's condition may only be described in general terms that does not communicate specific medical information about the individual. For example, "undetermined," "good," "fair," "serious," "critical," or "deceased."

#### B. The Facility (Hospital) Directory.

- i. As set forth in the UCLA Health System Notice of Privacy Practices, if patients are hospitalized, the hospital may include certain limited information about the patient in the facility directory. The directory information may include the patient's name, location in the hospital, the patient's general condition (as defined above) and the patient's religious affiliation, if any.
- ii. With the exception of the patient's religious affiliation, the directory information may be released to persons who ask for the patient by name. The patient's religious affiliation may be given to members of the clergy, such as ministers or rabbis, even if they don't ask for the patient by name.
- iii. UCLA Health System must inform patients of their right to restrict or prohibit their PHI from being included in the facility directory, and being disclosed to third parties – including members of the clergy. Patients may restrict or prohibit the use or disclosure of directory information by notifying the Director of Patient Access Services.
- iv. If an individual (e.g., a VIP) has not been given an opportunity to limit or restrict the information in the facility directory because the care is being provided in an emergency situation, the provider must make a professional judgment as to whether the individual would

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<sup>1</sup> Media authorization forms are available from the UCLA Health System Media Relations Department and on the Forms Portal (see: Form #316041, "*Media & Community Relations Authorization.*")

otherwise permit the provider to disclose any information to an outside caller. After the emergency situation has been addressed, UCLA Health System must provide the patient with any opportunity to limit or restrict his/her PHI from being listed in the facility directory.

- v. If the President of the United States declares an emergency or disaster *and* the Secretary of the Department of Health and Human Services declares a public health emergency involving the UCLA Health System service area, the Secretary may waive sanctions and penalties for not complying with the HIPAA Privacy Rule requirement to honor a patient's request to opt out of the facility directory

If the Secretary issues such a waiver, it only applies:

- a. In the emergency area and for the emergency period identified in the public health emergency declaration.
- b. To UCLA Health System if it institutes a disaster protocol. The waiver would apply to all patients at such hospitals.
- c. For up to 72 hours from the time UCLA Health System implements its disaster protocol.

When the Presidential or Secretarial declaration terminates, UCLA Health System must then comply with all the requirements of the Privacy Rule for any patient still under its care, even if 72 hours has not elapsed since implementation of its disaster protocol.

C. Disclosing a Patient's Location in the Hospital.

The Privacy Rule permits the disclosure of information concerning the patient's location in the hospital to persons who inquire concerning the patient by name. However, the release of such information is primarily to facilitate visits by family and friends or delivery of gifts or flowers.

All requests for information regarding a patient's location or condition, or general questions about the UCLA Health System from the media must be directed to the UCLA Health System Media Relations Department.

D. Disclosing a Patient Death.

Care should be taken to first notify the patient's next of kin before the fact of death is made public. No additional information about a patient's death, including the cause, date, or time of death, may be made without the written authorization from a legal representative of the deceased patient

(even if this information may be disclosed to other entities such as the coroner or registrar of births of death).

E. Other Special Considerations.

- i. Special care should be taken prior to the release of information about public figures, celebrities, minors and incapacitated patients. No information should be released about mental health patients, or substance abuse patients (including their presence in the facility), or about HIV test results.
- ii. Unidentified Patients. In cases where UCLA Health System is trying to identify an unidentified patient, and the unidentified patient is determined to be incapacitated, UCLA Health System may disclose to the media and the public only the minimum amount of information that is directly relevant to locating the patient's next of kin (e.g., a photograph of the unidentified patient), if doing so is in the best interest of the patient. Under no circumstances, however, may a patient's mental health, developmental disability, HIV, or substance abuse information be released.

Any questions regarding the disclosure of patient information to the media or the public should be referred to the Privacy Office.

F. Approaching a Patient to Authorize His/Her Story to be told to the Media.

If the media or Health Sciences Media Relations staff desire to contact a UCLA Health System patient regarding the use of the individual's PHI for a media story or other external relation communication, the patient's health care provider or provider team should make the initial contact with the patient and seek the patient's permission to be contacted by staff.

Prior to any disclosure to outside entities or contact of the patient by outside entities, the patient must sign an authorization. UCLA Health System must retain a copy of the signed authorization for 6 years. The Media Relations Department will forward a copy of the patient's signed authorization to the Health Information Management Services Department for scanning and inclusion in the patient's electronic medical record.

**II. Inquiries from the Public Regarding Outpatients**

A patient's family member, friend or other individual may call requesting information on a patient who is receiving outpatient services from UCLA Health System.

Information cannot be provided to callers unless there is a written patient authorization on file authorizing the disclosure of their information to a family member or other individual for purposes of coordination of care, or other reasons as specified by the patient.

- A. Verify that the patient has provided an authorization to disclose PHI to the individual who is calling and that the patient has not placed any limitations or restrictions on disclosure of their PHI.
- B. The authorization form must be either filed in the patient's medical record or included in the online electronic medical record.
- C. If no authorization can be verified, no information shall be provided to the caller.
- D. If a valid authorization is confirmed, verify the identity of the caller by confirming patient demographic information with the caller such as the patient's home phone number, last four digits of social security number, or verification of the caller's contact information.
- E. As an added precaution, a call back procedure should be utilized to call the telephone number identified on the patient's signed authorization or in the patient's contact information as identified in the ADT system.
- F. Only the minimum amount of information shall be provided in accordance with the patient's authorization and to accomplish the purpose that the patient has authorized.

## REFERENCES

Health Insurance Portability and Accountability Act, 45 CFR 160-164  
California Medical Information Act, California Civil Code Section 56 *et seq.*  
Information Practices Act of 1977, California Civil Code Sections 1798.29 and 1798.82  
California Health and Safety Code Sections 1280.15 and 130203  
California Lanterman-Petris Short Act ("LPS Act"),

## CONTACT

Chief Privacy Officer, Compliance Office  
Chief Information Security Officer, Compliance Office

**REVISION HISTORY**

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**APPROVAL**

Health Sciences Enterprise Compliance Oversight Board  
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