



<p>Pennsylvania Hospital & Surgery Center</p> <p>ADMINISTRATIVE POLICY MANUAL</p>	<p>Page 1</p> <p>Effective: 0408</p>
<p>SUBJECT: DISCLOSURES WHERE NO FORM OF PATIENT PERMISSION IS REQUIRED</p> <p>POLICY NUMBER: HIP8</p>	

Issued:

Committee Approval:
HIPAA

Administrative Policy
Review Committee:
April 2003
April 2004
April 2005
April 2006
April 2007
April 2008

Attachment(s):

Related Policies:
[HIP21 Verification](#)

[IM5 Confidentiality of
HIV-Related
Information](#)

[RE1 Abuse and/or
Neglect Protective
Services](#)

[CC3 Body Release
to Funeral Home](#)

[CC2 Anatomical
Donations](#)

[HIP17 HIPAA Policy
and Procedure for
Research](#)

[HIP2 Patient's Right
to Request an
Accounting of
Disclosures of PHI](#)

POLICY

For purposes of this policy, Pennsylvania Hospital includes all off campus licensed facilities, including but not limited to the Surgery Center of Pennsylvania Hospital.

It is the policy of Pennsylvania Hospital that protected health information (PHI) will be used and disclosed in a manner that respects a patient's right to privacy, in accordance with the HIPAA privacy regulations and applicable laws.

SCOPE

This policy applies to certain disclosures of PHI.

IMPLEMENTATION

This policy will be implemented by the Privacy Office and by those who disclose PHI.

DEFINITIONS

Protected health information (PHI) is information that is created or received by UPHS and the School of Medicine; and relates to the past, present, or future physical or mental health or condition of a patient; the provision of health care to a patient; or the past, present, or future payment for the provision of health care to a patient; and that identifies the patient or for which there is a reasonable basis to believe the information can be used to identify the patient. PHI includes information of persons living or deceased. The following components of a patient's information also are considered PHI: a) names; b) street address, city, county, precinct, zip code; c) dates directly related to a patient, including birth date, admission date, discharge date, and date of death; d) telephone numbers, fax numbers, and electronic mail addresses; e) Social Security numbers; f) medical record numbers; g) health plan beneficiary numbers; h) account numbers; i) certificate/license numbers; j) vehicle identifiers and serial numbers, including license plate numbers; k) device identifiers and serial numbers; l) Web Universal Resource Locators (URLs); m) biometric identifiers, including finger and voice prints; n) full face photographic images and any comparable images; and o) any other unique identifying number, characteristic, or code.

Use means, with respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within UPHS and the School of Medicine.

Disclosure means the release, transfer, provisions of access to, divulging in any other manner of information outside UPHS and the School of Medicine.

PROCEDURE

I. General Requirements

Pennsylvania Hospital & Surgery Center ADMINISTRATIVE POLICY MANUAL	Page 2 Effective: 0408
SUBJECT: DISCLOSURES WHERE NO FORM OF PATIENT PERMISSION IS REQUIRED POLICY NUMBER: HIP8	

Requests for disclosure of PHI must be made in accordance with the verification policy. (See Verification Policy # HIP21)

Disclosures of mental health, substance abuse, or HIV-related information are subject to special restrictions, and must be made in accordance with applicable state law. HIV-related disclosures are also subject to Pennsylvania Hospital policy IM 5.

II. Permitted Disclosures by All Pennsylvania Hospital Work Force Members

In the following situations, Pennsylvania Hospital may use or disclose PHI without patient permission. In other words, there is no requirement to obtain the patient's authorization, consent, or to provide the opportunity to object.

A. Emergency Circumstances - Avert a Serious Threat to Health or Safety

1. Pennsylvania Hospital may release PHI if Pennsylvania Hospital 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 is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat.
2. Such use and/or disclosure may also be made when necessary for law enforcement authorities to identify or apprehend an individual:
 - a) Because of a statement by a patient admitting participation in a violent crime that Pennsylvania Hospital reasonably believes may have caused serious physical harm to the victim, provided that the information released is limited to the statement and the patient's name and address; date and place of birth; social security numbers; ABO 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 physical characteristics (e.g., height, weight, gender or race); or
 - b) When the circumstances promote the belief that the individual has escaped from lawful custody or from a correctional facility.
3. If, in the course of seeking treatment, seeking a referral for treatment, or undergoing treatment for a condition that leads to criminal behavior, the patient admits to a past crime, Pennsylvania Hospital is specifically prohibited from using and/or disclosing PHI. This prohibition, however, does not apply; where Pennsylvania law or other law imposes a duty to warn identified target(s) if a patient has threatened to commit a crime against such target(s).

B. Uses and disclosures for disaster relief purposes

Pennsylvania Hospital may use or disclose PHI to a public or private entity authorized by law or by its charter to assist in disaster relief efforts, for the purposes of coordinating with such entities the uses and disclosures permitted above. The requirements specified above apply to

Pennsylvania Hospital & Surgery Center ADMINISTRATIVE POLICY MANUAL	Page 3 Effective: 0408
SUBJECT: DISCLOSURES WHERE NO FORM OF PATIENT PERMISSION IS REQUIRED POLICY NUMBER: HIP8	

such uses and disclosures to the extent that Pennsylvania Hospital, in the exercise of professional judgment, determines that the requirements do not interfere with the ability to respond to the emergency circumstances.

C. Victims of abuse, neglect, or domestic violence

See Policy Abuse and/or Neglect Protective Services RE1

D. Coroners and Medical Examiners, Funeral Directors, and Organ Donation

Pennsylvania Hospital is required to report certain deaths to the Medical Examiner's Office and may disclose PHI for purposes of identifying a deceased person, determining a cause of death, or other duties as authorized by law. In addition, Pennsylvania Hospital is permitted to disclose PHI to funeral directors as necessary to carry out their duties.

See policy Body Release to Funeral Home CC3

Pennsylvania Hospital is required to contact the organ procurement agency, Gift of Life, when a patient dies or is near death and may be permitted to disclose PHI to that organization or other entities engaged in the procurement, banking, or transplantation of cadaveric organs or tissue.

See Policy Anatomical Donations CC2

E. Public Health Purposes

Pennsylvania Hospital may disclose PHI for public health activities to:

1. A public health authority that is authorized by law to collect or receive such information for the purposes 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.
2. A public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect;
3. A person subject to the jurisdiction of the Food and Drug Administration 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:
 - i. To collect or report adverse events (or similar activities with respect to food or dietary supplements), product defects or problems (including problems with the use or labeling of a product), or biological product deviations,
 - ii. To track FDA-regulated products;

Pennsylvania Hospital & Surgery Center ADMINISTRATIVE POLICY MANUAL	Page 4 Effective: 0408
SUBJECT: DISCLOSURES WHERE NO FORM OF PATIENT PERMISSION IS REQUIRED POLICY NUMBER: HIP8	

- iii. To enable product recalls, repairs, replacement, or lookback (including locating and notifying patients who have received products that have been recalled, withdrawn, or are the subject of lookback;
- iv. To conduct post marketing surveillance.

4. A person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition, if Pennsylvania Hospital or a public health authority is authorized by law to notify such person as necessary in the conduct of a public health intervention or investigation.

5. An employer, about an individual who is a member of the Pennsylvania Hospital's workforce, if

i. Pennsylvania Hospital is providing healthcare to a patient at the request of Pennsylvania Hospital's management to:

- conduct an evaluation relating to medical surveillance of the workplace or
- evaluate whether the individual has a work-related illness or injury
- ii. the PHI that is disclosed consists of findings concerning a work-related illness or a workplace-related medical surveillance
- iii. Pennsylvania Hospital management needs such findings in order to comply with its obligations, to record such illness or injury or to carry out responsibilities for workplace medical surveillance; and
- iv. Pennsylvania Hospital provides written notice to the individual that PHI relating to the medical surveillance of the workplace and work-related illnesses and injuries is disclosed to Pennsylvania Hospital management
 - by giving a copy of the notice to the patient at the time the healthcare is provided, or
 - if the healthcare is provided on the work site of the employer, by posting the notice in a prominent place at the location where the healthcare is provided

F. Uses and Disclosures for Research Purposes

Refer to the Research Privacy Policy, HIP17.

G. Pennsylvania Motor Vehicle Insurance Law permits motor vehicle insurance carriers to have access to information in the medical record of any patient in connection with medical care for which a claim is being made under Medicare; specific patient authorization is not required.

III. Permitted Disclosures by Designated Pennsylvania Hospital Work Force Members

In the following situations, designated work force members – named specifically below – at Pennsylvania Hospital may use or disclose PHI without patient permission. In other words, there

Pennsylvania Hospital & Surgery Center ADMINISTRATIVE POLICY MANUAL	Page 5 Effective: 0408
SUBJECT: DISCLOSURES WHERE NO FORM OF PATIENT PERMISSION IS REQUIRED POLICY NUMBER: HIP8	

is no requirement to obtain the patient's authorization, consent, or to provide the opportunity to object.

Workers Compensation

Under Pennsylvania and Federal Law, the patient's authorization is not required for release of PHI to Worker's Compensation Carriers in compensation actions. Such disclosures may be made by Pennsylvania Hospital's Departments of Medical Records, Human Resources, Occupational Medicine, Radiology, and billing offices as appropriate. All information will be sent through the Worker's Compensation Office.

Health Oversight Purposes

Pennsylvania Hospital may disclose PHI to a health oversight agency for oversight activities authorized by law, including audits; civil, administrative or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight of the healthcare system. Such disclosures may be made by Pennsylvania Hospital's Executive Director or designee.

Pennsylvania Hospital may not disclose PHI without authorization to a health oversight agency if the patient is the subject of the investigation or other activity and the investigation or other activity does not arise out of and is not directly related to: the receipt of healthcare, a claim for public benefits related to health, or qualification for, or receipt of, public benefits or services when a patient's health is integral to the claim for public benefits or services

Requests in connection with judicial and administrative proceedings

The custodian of records may disclose PHI in the course of any judicial or administrative proceeding as follows:

- In response to an order of a court or administrative tribunal, provided that Pennsylvania Hospital discloses only the PHI expressly authorized by such order.
- In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
 - Pennsylvania Hospital receives satisfactory assurance, as described below, from the party seeking the information that reasonable efforts have been made by such party to ensure that the subject of the requested PHI has been given notice of the request, or
 - Pennsylvania Hospital receives satisfactory assurance from the party seeking the information that reasonable efforts have been made by such party to secure a qualified protective order as described below.

Pennsylvania Hospital & Surgery Center ADMINISTRATIVE POLICY MANUAL	Page 6 Effective: 0408
SUBJECT: DISCLOSURES WHERE NO FORM OF PATIENT PERMISSION IS REQUIRED POLICY NUMBER: HIP8	

Satisfactory Assurances

Pennsylvania Hospital will have received satisfactory assurances from the party seeking PHI if Pennsylvania Hospital receives from such party a written statement and accompanying documentation demonstrating that:

- The party requesting such information has made a good faith attempt to provide written notice to the patient (or, if the patient's location is unknown, to mail a notice to the patient's last known address);
- The notice included sufficient information about the litigation or proceeding in which the PHI is requested to permit the patient to raise an objection to the court or administrative tribunal; and
- The time for the patient to raise objections to the court or administrative tribunal has elapsed and:
 - no objections were filed, or
 - all objections filed by the patient have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

Alternatively, Pennsylvania Hospital will be considered to have received satisfactory assurances from a party seeking PHI, if Pennsylvania Hospital receives from such party a written statement and accompanying documentation demonstrating that:

- 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
- The party seeking the PHI has requested a qualified protective order from such court or administrative tribunal.

Qualified Protective Order

A qualified protective order means, with respect to PHI requested from Pennsylvania Hospital, an order of a court or of an administrative tribunal or a stipulation by the parties to the litigation or administrative proceeding that:

- Prohibits the parties from using and/or disclosing the PHI for any purpose other than the litigation or proceeding for which such information was requested, and
- Requires the return to Pennsylvania Hospital or destruction of the PHI (including all copies made) at the end of the litigation or proceeding.

Exceptions / Reasonable Efforts

Notwithstanding the above, Pennsylvania Hospital may disclose PHI in response to lawful process without receiving satisfactory assurances if Pennsylvania Hospital makes reasonable efforts to provide notice to the patient or to seek a qualified protective order.

Pennsylvania Hospital & Surgery Center ADMINISTRATIVE POLICY MANUAL	Page 7 Effective: 0408
SUBJECT: DISCLOSURES WHERE NO FORM OF PATIENT PERMISSION IS REQUIRED POLICY NUMBER: HIP8	

Requests by law enforcement officials

The Director of Security or his/her designee may disclose PHI under any of the following subsections:

1. Required by Law. As required by law including laws that require the reporting of certain types of wounds or other physical injuries.
2. Pursuant to Process. In compliance with and as limited by the relevant requirements of:
 - a court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer,
 - a grand jury subpoena, or
 - an administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that:
 - the information sought is relevant and material to a legitimate law enforcement inquiry;
 - 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
 - de-identified information could not reasonably be used.

3. Disclosures of Limited Information for Identification and Location Purposes

Except for disclosures required by law, Pennsylvania Hospital may disclose PHI in response to a law enforcement official's request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that:

Pennsylvania Hospital only discloses the following information:

- name and address,
- date and place of birth,
- social security number,
- ABO 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 physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars and tattoos.

Pennsylvania Hospital may not disclose for the purposes of identification or location any PHI related to the patient's DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissue.

Pennsylvania Hospital & Surgery Center ADMINISTRATIVE POLICY MANUAL	Page 8 Effective: 0408
SUBJECT: DISCLOSURES WHERE NO FORM OF PATIENT PERMISSION IS REQUIRED POLICY NUMBER: HIP8	

4. Disclosures to Victims of a Crime

Except for disclosures required by law, Pennsylvania Hospital may disclose PHI in response to a law enforcement official's request for such information about an individual who is or is suspected to be a victim of a crime, other than disclosures for public health activities and disclosures about victims of abuse, neglect, or domestic violence, if:

- the patient agrees to the disclosure, or
- Pennsylvania Hospital is unable to obtain the patient's agreement because of incapacity or other emergency circumstance, provided that:
 - the law enforcement official represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred, and such information is not intended to be used against the victim;
 - the law enforcement official represents that immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the patient is able to agree to the disclosure; and
 - the disclosure is in the best interests of the patient as determined by Pennsylvania Hospital, in the exercise of Pennsylvania Hospital's professional judgment.

5. Disclosures About Decedents

Pennsylvania Hospital may disclose PHI about a patient who has died to a law enforcement official for the purpose of alerting law enforcement of the death of the patient, if Pennsylvania Hospital has a suspicion that such death may have resulted from criminal conduct.

6. Disclosures to Report Crime on Premises

Pennsylvania Hospital may disclose to a law enforcement official PHI that Pennsylvania Hospital believes in good faith constitutes evidence of criminal conduct that occurred on the premises of Pennsylvania Hospital.

7. Disclosures to Report Crime in Emergencies

If Pennsylvania Hospital is providing emergency healthcare in response to a medical emergency, other than such emergency on the premises of Pennsylvania Hospital, it may disclose PHI to a law enforcement official if such disclosure appears necessary to alert law enforcement to:

- The commission and nature of a crime
- The location of such crime or of the victim(s) of such crime
- The identity, description and location of the perpetrator of such crime.

Pennsylvania Hospital & Surgery Center ADMINISTRATIVE POLICY MANUAL	Page 9 Effective: 0408
SUBJECT: DISCLOSURES WHERE NO FORM OF PATIENT PERMISSION IS REQUIRED POLICY NUMBER: HIP8	

IV. Disclosures Processed by UPHS Privacy Office

Requests for protected health information in the following categories, except as allowed above, shall be referred in all instances to the UPHS Privacy Office:

- A. Requests in connection with specialized government functions, including national security and intelligence activities, purposes related to military and veteran functions, protective services to the President of the United States and others, for medical suitability purposes regarding the Department of State, and to a correctional institution or law enforcement official regarding inmates.
- B. Disclosures required by other laws.

V. Requests from the Press

All requests for information relating to patients from the media should be referred to the Director of Public Affairs or his/her designee.

VI. Reporting to the Privacy Office

Pennsylvania Hospital is required to account for many disclosures described above. See Policy HIP2, "Patient's Right to Request an Accounting of Disclosures of Protected Health Information"

/s/Kathleen Kinslow
 Kathleen Kinslow, CRNA, EdD, MBA
 Executive Director

05/05/08
 Date

Disclaimer: Any printed copy of this policy is only as current as of the date it was printed; it may not reflect subsequent revisions. Refer to the on-line version for most current policy.

Use of this document is limited to University of Pennsylvania Health System workforce only. It is not to be copied or distributed outside the institution without administrative permission.

Pennsylvania Hospital
& Surgery Center

ADMINISTRATIVE POLICY MANUAL

Page 10

Effective: 0408

SUBJECT: **DISCLOSURES WHERE NO FORM OF
PATIENT PERMISSION IS REQUIRED**

POLICY NUMBER: **HIP8**