

POLICY TITLE: Disclosure of Protected Health Information (PHI) with Patient Authorization
Former Policy Title: Uses and Disclosures of the Medical Record

POLICY PURPOSE:

The purpose of this policy is to ensure that where certain disclosures of protected health information (PHI) are not made without patient authorization.

POLICY STATEMENT:

It is the policy of the Lancaster General Health (LG Health) that PHI will be used and disclosed in a manner that respects a patient's right to privacy, and in accordance with HIPAA privacy regulations and applicable laws.

APPLICABILITY/SCOPE/EXCLUSION:

This policy applies to all components and entities of LG Health and to all disclosures of PHI with patient authorization.

DEFINITIONS:

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

Protected Health Information (PHI) is information that is created or received by LG Health 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.

Psychotherapy Notes means notes recorded (in any medium) by a health care provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling

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session or a group, joint, or family counseling session and that are separated from the rest of the individual's medical records. Psychotherapy notes excludes medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

Use means, with respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within LG Health.

PROCEDURE:

REQUIRED FORMS

The HIPAA privacy regulations create standards for how authorizations must be written and the information they must contain. The Authorization Form that an individual signs must be written in plain English and contain certain required elements. The Authorization for Release of Patient Health Information ("Authorization Form") (see attachment) contains those required elements, and may not be altered without the approval of Health Information Management and/or the LG Health Privacy Office.

An authorization form originating outside LG Health may be accepted provided it contains every item of information listed on the attached Authorization Form.

OBTAINING AUTHORIZATION

A patient's authorization must be obtained prior to using or disclosing PHI unless the PHI is being used or disclosed for:

- Treatment, payment, or healthcare operations (see policy entitled "Uses and Disclosures for Treatment, Payment, or Health Care Operations")
- Purposes not requiring patient permission (see policy entitled "Disclosures Where No Form of Patient Permission is Required")

AUTHORIZATION REQUIRED FOR MENTAL HEALTH, SUBSTANCE ABUSE, AND HIV-RELATED RECORDS

Patients who wish to authorize the release of their mental health, substance abuse or HIV-related records must specifically authorize the release of these classes of information on the Authorization Form. These classes of information are subject to special Disclosure requirements under state law. Such information may also be disclosed pursuant to a court order explicitly authorizing release of information or as otherwise permitted under applicable law. A statement warning against re-Disclosure must accompany the record copy.

SALE OF PHI

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All Disclosures of PHI where LG Health directly or indirectly receives remuneration from or on behalf of the recipient of the PHI, in exchange for the PHI, requires patient authorization. (See policy entitled “Prohibition on the Sale of PHI”)

MARKETING

All uses and Disclosures of patient's PHI for all communications that are marketing require patient authorization. If the marketing involves direct or indirect remuneration to UPHS from a third party, the authorization must state that such remuneration was received. (See policy entitled “Marketing and Other Related Healthcare Activities”)

SPECIAL PROVISIONS FOR PSYCHOTHERAPY NOTES

Further, patient authorization is required for any use or Disclosure of psychotherapy notes, except to carry out the following treatment, payment, or healthcare operations:

- Use by the originator of the notes for treatment;
- Use or Disclosure by LG Health in training programs in which students, trainees or practitioners in mental health learn under supervision to practice or improve their skills in counseling;
- Use or Disclosure by LG Health to defend a legal action or other proceeding brought by the patient;
- Uses or Disclosures to the subject of the psychotherapy notes;
- Uses or Disclosures required by law;
- Uses or Disclosures for health oversight activities with respect to the originator of the notes;
- Uses or Disclosures about decedents to coroners and medical examiners; and
- Uses or Disclosures to avert a serious threat to health or safety.

A standard subpoena is generally insufficient to authorize release of this information.

PROHIBITION ON REQUIRING AN AUTHORIZATION IN ORDER TO PROVIDE TREATMENT

LG Health may not condition treatment on the provision of an authorization, with the exception of treatment that is also research requiring the patient’s informed consent.

REVOCATION OF AUTHORIZATION AND CONSENT TO RELEASE

An individual may revoke in writing, an authorization or consent to release, at any time, except to the extent that LG Health has taken action in reliance on the authorization or consent to release.

STATE LAW

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If the laws of the state have more stringent requirements than those set forth in this policy, LG Health will comply with the most restrictive applicable law, statute, or regulation.

ROLES/RESPONSIBILITIES:

This policy will be implemented by the Privacy Office, Health Information Management, and by those who disclose PHI with patient authorization.

APPENDICES: N/A

FORMS:

Disclosure of Protected Health Information – Form - Authorization for Release

REFERENCES:

- REGULATORY REFERENCES:
 - 45 CFR Part 164, Subpart E, Standards for Privacy of Individually Identifiable Health Information
 - Department of Health, Medical Record Services, Chapter 115
 - Pennsylvania Mental Health Procedures Act, 50 P.S. Section 7101 et seq.
 - Pennsylvania Mental Health Manual, Chapter 5100, under legal base of 50 P.S. Section 7101 et seq.
 - Pennsylvania Drug and Alcohol Abuse Control Act, 71 P.S. Section 1690
 - Pennsylvania Confidentiality of HIV-Related Information Act, 45 P.S. Section 7601 et seq.
- Uses and Disclosures for Treatment, Payment, or Health Care Operations (UPHS Intranet)
- Disclosures Where No Form of Patient Permission is Required (UPHS Intranet)
- Prohibition on the Sale of PHI (UPHS Intranet)
- Marketing and Other Healthcare Related Activities (UPHS Intranet)