PRIVACY 19.0  PATIENT REQUESTS TO ACCESS PHI

Scope: All workforce members (employees and non-employees), including employed medical staff, management, and others who have direct or indirect access to patient protected health information (PHI) created, held or maintained by any subsidiaries of Universal Health Services, Inc., including facilities and UHS of Delaware Inc. (collectively, “UHS”), including UHS covered entities (“Facilities”).

Purpose: Identifies and establishes guidelines for when a patient (or authorized personal representative, as applicable) has the right to access his or her PHI that is maintained as medical records and billing records used, in whole or in part, by or for a Facility to make decisions about patients, known as the “designated record set.”

Definitions:
Terms not defined in this Policy or the HIPAA Terms and Definitions maintained by the UHS Compliance Office (available through hyperlinks in the HIPAA policies, online, and from the UHS Compliance Office) will have the meaning as defined in any related State or Federal privacy law including the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”) and regulations promulgated thereunder by the U.S. Department of Health and Human Services (“HHS”) at 45 CFR Part 160 and 164, Subparts A and E (“Privacy Regulations” or “Privacy Rule”) and Subparts A and C (“Security Regulations” or “Security Rule”), the Health Information Technology for Economic and Clinical Health Act (“HITECH”) privacy and security provisions of the American Recovery and Reinvestment Act (Stimulus Act) for Long Term Care, Public Law 111-5, the American Recovery and Reinvestment Act of 2009 (“ARRA”), Title XIII and related regulations.

Policy:
It is UHS policy to recognize the right of a patient (or their authorized personal representative, as applicable) (“individual”) to access their PHI contained in Facility medical and billing records (known as the “designated record set”), subject to the exceptions described in this Policy, in accordance with the requirements of HIPAA and state law.

Procedure:
As described in the Notice of Privacy Practice, an individual may request in writing access to their PHI in the medical and/or billing records. The individual’s request for access to the will be processed as follows:

Written Requests
Requests for access to PHI will be in writing.
• The request for access to the individual’s PHI will identify the particular PHI for which access is sought.
• The request for access to the individual’s PHI will identify the manner in which the individual is requesting access to the PHI (i.e. a paper copy, an in-person review, or an electronic copy of the medical/billing record).

Persons or Offices Responsible for Receiving and Processing Access Requests

Facilities will designate a person or office that will be responsible for receiving and processing access requests. Typically, this would be assigned to the director of Health Information Management (HIM)/Medical Records Department. The information on the responsible individuals and/or departments will be retained by the Facility for six (6) years.

Time to Respond to Written Request

A Facility will respond to an individual’s request for access to the PHI within thirty (30) days after receipt of the request for the PHI if is maintained on-site and within sixty (60) days after receipt of the request for PHI if it is maintained off-site. A Facility may extend its time to respond to a request for access for one additional 30-day period if a Facility notifies the individual requesting the PHI before the initial term period expires of the reasons for the delay and the date by which a Facility will complete its action on the request.

Unreviewable Grounds for Denial

Under the HIPAA Privacy Rule, there is no right for individuals to access PHI and no right to the review of a denial on the following four grounds:

• Psychotherapy notes.
• Information compiled in reasonable anticipation of, or for use in, a civil, criminal or administrative action or proceeding.
• PHI maintained by a Facility that is functioning as a clinical laboratory (for example, its clinical laboratory is performing tests for other covered entities) if the individual is not defined as an “authorized person” under state law to receive a test result or report directly from a clinical laboratory.
• PHI generated by a Facility that is functioning as a research laboratory that tests human specimens but does not report patient specific results for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of individual patients.

Optional Grounds for Denial
The Facility may also deny access to an individual without providing the individual with a right to a review of the denial in the following circumstances:

- If a Facility is acting under the direction of a correctional institution, it may deny, in whole or in part, an inmate’s request to obtain a copy of PHI if obtaining such copy would jeopardize the health, safety, security, custody, or rehabilitation of the patient or of other inmates, or the safety of any officer, employee, or other person at the correctional institution or responsible for the transporting the inmate.

- A Facility may temporarily suspend access to PHI created and obtained by the Facility in the course of research for as long as the research is in progress, provided that the individual has agreed to the denial of access when consenting to participate in the research that includes treatment, and a Facility has informed the individual that the right of access will be reinstated upon completion of the research.

- PHI obtained from someone other than a Health Care Provider – a Facility may deny access to an individual’s PHI obtained from someone other than a health care provider under a promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information.

- Federal Privacy Act – Access to an individual’s PHI may be denied if the denial is necessary to comply with the federal Privacy Act, 5 U.S.C. §552a, which governs collection and use of confidential information by the government. If the Facility has any questions about whether this Act applies, it should contact its Privacy Officer and/or the UHS Legal Department.

**Reviewable Grounds for Denial**

A Facility may deny access to PHI in the following situations, and the individual must be provided a right to have the denial reviewed (using the process described in the next section below):

- A licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the patient or another person;

- The PHI makes reference to another person (unless such other person is a health care provider) and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person; or

- The request for access is made by the patient's personal representative and a licensed health care professional has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the patient or another person.

**Denial of Access**
If a Facility denies access to the PHI the Facility must provide a timely, written denial to the individual, in plain language that contains:

• The basis for the denial;
• If applicable, a statement of the individual's review rights, including a description of how the individual may exercise the review rights; and
• A description of how the individual may complain to a Facility pursuant to the Facility complaint procedures or to the Secretary of HHS. This description must include the name, or title, and telephone number of the contact person or office.

**PHI Maintained Outside Facility**

If a Facility does not maintain the PHI that is the subject of the individual's request for access, and the Facility knows where the requested information is maintained, the Facility must inform the individual where to direct the request for access.

**Review of Denial**

If an individual requests review of a denial of their request for access to PHI and that denial is reviewable (i.e., any of the situations described in section 5, above), the following procedure will be used:

• the Facility will designate a licensed health care professional to act as a “reviewing official” who was not directly involved in the original decision to deny;
• the Facility will promptly refer the request for review to the designated reviewing official;
• the reviewing official must determine, within a reasonable time, whether or not to deny the access requested based on the criteria in the HIPAA Privacy Rule (at 42 CFR 164.524), described in this Policy; and
• the Facility will promptly provide written notice to the individual of the reviewing official’s decision, and provide or deny access to the PHI in accordance with the decision.

**Providing Access**

In providing access to PHI under this Policy, the Facility will:

• Provide the individual with access to the PHI through inspection, copying or both.
• Arrange a convenient time and place to for the individual to inspect or obtain a copy of the PHI.
• If the individual requests a copy of the PHI, a Facility will to the extent possible produce the PHI in the form or format requested, if it is readily producible in such
form or format. If it is not readily producible in the format requested, a Facility may produce a hard copy format or another format agreed upon by a Facility and the individual requesting the PHI.

- A Facility may provide the individual with a summary or explanation of the PHI requested instead of providing access to the PHI if:
  
  i. The individual requesting the PHI agrees to a summary or explanation in advance; and
  
  ii. The individual agrees in advance to the fees imposed, if any, by a Facility for the summary or explanation.

Fees for Copies or Summaries

A Facility may charge a reasonable, cost-based fee, provided that the fee includes only the cost of:

- Copying, including the cost of supplies for and labor of copying, the PHI requested by the individual;
- Postage, when the individual has requested the copy, or the summary or explanation, be mailed; and
- Preparing an explanation or summary of the PHI, if agreed to by the individual as required by this Policy.

Copying fees may also be subject to state law restrictions. If there are any questions, the UHS Legal Department should be contacted.

Additional State Law Requirements

State law may impose additional requirements. If the Facility has any questions regarding its state requirements for breach notification, it should contact its Privacy Officer and/or the UHS Legal Department.

References:

45 C.F.R. § 164.524

Related UHS Policies:

UHS Privacy 18.0 Patient Rights Under the HIPAA Privacy Rule
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