

PRIVACY 16.0

DISCLOSURES FOR LAW ENFORCEMENT PURPOSES

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 Facilities may [use](#) and [disclose PHI](#) for law enforcement purposes without a patient authorization or providing an opportunity for the patient to object.

Definitions:

Terms not defined in this Policy or the *HIPAA Terms and Definitions* maintained by 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:

[Disclosures](#) of [PHI](#) for law enforcement purposes to [law enforcement officials](#) may be made by Facilities in accordance with this Policy. State law may impose additional requirements – Facilities will contact the UHS Compliance Office of the UHS Legal Department if they have any questions regarding the state laws applicable to them.

Procedure:

The following [disclosures](#) may be made to [law enforcement officials](#) for [law enforcement purposes](#).

Disclosures Required by Law

Facilities may [disclose PHI](#) in the following situations, to the extent that the [disclosure](#) is required by law and complies with the law, and is limited by the requirements of the law.

Facilities should designate a supervisor or a hospital administrator to interact with law enforcement for all official requests.

1. Disclosures to Law Enforcement Officials Required by Law

Facilities may disclose PHI to law enforcement officials for law enforcement purposes if and to the extent required by law. Depending on the state in which the Facility resides, for example, the required disclosures may include the reporting of certain types of wounds or other physical injuries (except that reports of child abuse or neglect or other victims of abuse, neglect or domestic violence should be made to the law enforcement or other government authority authorized by law to receive the reports).

2. Disclosures Required by Court Orders, Court-Ordered Warrants, and Subpoenas or Summons issued by Judicial Officials

Facilities may disclose PHI to comply with the following forms of legal process, but must limit the disclosure to only the PHI required by the legal process, and follow any other requirements described in the legal process. Any questions regarding legal process, including the source and/or breadth of the order, warrant, subpoena or summons will be referred to the UHS Legal Department:

- Court orders or court-ordered warrants (applies only if the order or warrant is ordered or issued by a court). Disclosure of PHI is limited to the PHI expressly required to be disclosed by the court order or court-ordered warrant.
- Subpoenas issued by a judicial official (applies only if the subpoena is issued by a judicial official). Disclosure of PHI is limited to the PHI expressly required to be disclosed by the subpoena.
- Summons issued by a judicial official (applies only if the summons is issued by a judicial official). Disclosure of PHI is limited to the PHI expressly required to be disclosed by the subpoena.
- Grand jury subpoenas. Disclosure of PHI is limited to the PHI sought in the subpoena.

3. Disclosures in Compliance with Administrative Requests, Subpoenas or Summons

Disclosures may be made by Facilities to comply with and as limited by the relevant requirements of an administrative request, including a subpoena or summons, a civil investigative demand, an authorized investigative demand, or similar process provided that all the following requirements are met:

- The information sought is relevant and material to a legitimate law enforcement inquiry;
- The request is reasonably specific and limited in scope; and
- De-identified information could not reasonably be used.

Limited Information for Identification and Location Purposes

The Facility may **disclose** only the **PHI** listed below in response to a request from **law enforcement officials** for the information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person.

The Facility may also disclose PHI to a law enforcement official that is reasonably able to prevent or lessen the threat, in order to avert a serious threat to health or safety, consistent with applicable law and ethical standard, if the Facility believes (based on actual knowledge or relying on a credible representation of a person with apparent knowledge or authority) 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;
- Is necessary for law enforcement authorities to identify or apprehend an individual where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody, or
- Is necessary for law enforcement authorities to identify or apprehend an individual because of a statement by an individual admitting participation in a violent crime that the Facility reasonably believes may have caused serious physical harm to a victim, as long as
 - the Facility believes the disclosure is necessary for law enforcement authorities to identify or apprehend an individual;
 - the information was not learned in the course of treatment to affect the propensity to commit the criminal conduct that is the basis for the disclosure, or counseling or therapy;
 - the information was not obtained through a request by the individual to initiate or to be referred for treatment, counseling or therapy that is the basis for the disclosure; and

- the information **disclosed** will be limited to the statement made by the individual that admits participation in a violent crime and the **PHI** described in the list below.

In any of the situations described above, the Facility will not **disclose any PHI** related to an individual's DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissue in response to these requests. The Facility may **disclose only** 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
- 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

For a discussion of the other situations where **PHI** may be **used** or **disclosed** to avert a serious threat to health or safety, refer to UHS Privacy 25.0 *Use and Disclosure Not Requiring an Opportunity to Agree/Object*.

Victims of a Crime

The Facility may **disclose PHI** to **law enforcement officials** of any individual who is or is suspected to be a victim of a crime if:

- The individual agrees; or
- If the Facility is unable to obtain the individual's agreement because of incapacity or another emergency circumstance if all of the following are met:
 - the law enforcement official represents that the information is needed to determine whether a violation of law by another person has occurred and that the information is not intended to be used against the victim individual;

- the law enforcement official represents that immediate law enforcement activity dependent on the disclosure would be materially and adversely affected by waiting for a patient to agree to the disclosure; and
- the Facility determines (using professional judgment) that the disclosure is in the best interest of the patient.

Decedents

A Facility may disclose PHI to a law enforcement official about an individual who has died for the purpose of alerting law enforcement of the death if the Facility has a suspicion that the death may have resulted from criminal conduct.

Crime on Premises

A Facility may disclose PHI believed to constitute evidence of criminal conduct occurring on Facility premises.

Correctional Institutions or Law Enforcement with Lawful Custody

A Facility may make a limited disclosure of PHI of inmates to correctional institutions or to law enforcement officials having lawful custody as described in UHS Privacy 17.0 *Disclosures to Correctional Institutions or Law Enforcement with Lawful Custody*.

State Law

State law may impose additional requirements – Facilities will contact the UHS Legal Department if they have any questions regarding the state laws applicable to them.

References:

45 C.F.R. § 164.512(f) and (j)(ii)

Related UHS Policies:

UHS Privacy 17.0 *Disclosures to Correctional Institutions or Law Enforcement with Lawful Custody*

UHS Privacy 25.0 *Use and Disclosure Not Requiring an Opportunity to Agree/Object*

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Reviewed and Approved by:

UHS Compliance Committee