

PRIVACY 21.0

PATIENT'S RIGHTS TO REQUEST USE OR DISCLOSURE RESTRICTIONS AND ALTERNATIVE COMMUNICATIONS

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)** of any subsidiaries of Universal Health Services, Inc., including facilities and UHS of Delaware Inc. (collectively, "UHS"), including UHS **covered entities** ("Facilities").

Purpose: Establishes guidelines for handling: (1) patient requests for a restriction on the **use** or **disclosure** of **PHI**; and (2) patient requests to receive communications of **PHI** by alternative means.

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:

UHS recognizes a patient's right to request privacy protection for **PHI**, including a restriction of the uses or disclosures and/or a request to receive communications of **PHI** by an alternative means or at alternative locations. As described by and subject to the restrictions in this Policy, Facilities will permit and consider requests by patients or their representatives for the restriction of the **uses** and **disclosures** of their **PHI** to carry out **treatment, payment, and operations**, or to an individual involved in the patient's care, such as a family member, other relative, or a close personal friend of the patient, or any other person identified by the patient. Facilities will also accommodate reasonable requests by patients to receive communications of **PHI** at an alternative address or by an alternative means as described below.

Procedure:

Restrictions on the Use or Disclosure of PHI

Requests to restrict the **use** or **disclosure** of **PHI** will be processed as follows:

1. Requests to be in Writing

Requests for restriction of the **uses** and **disclosure** of **PHI** should be submitted in writing to a department the Facility designates to handle these requests, typically the Facility's Health Information Management/Medical Records Department ("HIM/Medical Records department"). If the patient cannot or will not submit the request in writing, the **workforce** member receiving the request should promptly document the request in writing and submit it to the HIM/Medical Records department.

2. Determining Whether Requested Restriction is Mandatory

The HIM/Medical Records department will determine whether the Facility is obligated to adhere to the request as a mandatory restriction or whether it is an optional restriction.

3. Mandatory Restriction on Disclosure to a Health Plan

The Facility must agree to the request of a patient or their authorized representative to restrict disclosure of **PHI** about the patient to a **health plan** if:

- The **disclosure** is for the purpose of carrying out payment or health care operations and is not otherwise required by law; and
- The **PHI** pertains solely to a health care item or service that has been paid in full by the patient or someone (other than the **health plan**) on behalf of the patient.

Where health care items or services are provided in a single patient encounter and the Facility is not allowed to unbundle for the purposes of billing the health care plan, or it would be more costly to unbundle, the Facility should counsel patients on the consequences of excluding the item or service (e.g., the health plan still may be able to determine that the restricted item or service was performed based on the context). If the Facility is able to unbundle the items or services after such counseling, it should do so. If it is not able to unbundle, the Facility should inform the individual and give the individual the opportunity to restrict and pay out of pocket for the entire bundle of items or services.

Situations may arise where a patient has a restriction in place, but when obtaining follow up care the patient does not pay out of pocket or request a restriction. In such situations, if the Facility needs to include PHI to a health plan regarding the prior items or services that were restricted in order to have the service deemed medically necessary or appropriate, the Facility may do so as long as it only releases the minimum necessary PHI in accordance with UHS Privacy 6.0 *Minimum Necessary Policy*. Facilities are strongly encouraged to make sure the patient is aware that the previously restricted PHI may be disclosed to the health plan unless they request an additional restriction and pay out of pocket for the follow up care.

Where the law prohibits accepting payment from patients (such as with certain HMO laws) the Facility may counsel the patient that he or she will have to use an out of network provider in order to restrict disclosure. If the Facility is able to treat the services as out of network in accordance with their payor contracts and the law should do so in order to abide by the requested restriction.

A mandatory restriction under this Policy will not impact a Facility's ability to disclose PHI for payment purposes to a collection agency or otherwise for collection activities related to an individual's debt to the Facility.

4. Uses and Disclosures that Cannot be Restricted

The HIM/Medical Records department will not agree to a restriction of the following uses or disclosures, and an agreement to a restriction will not be effective to prevent them:

- Disclosures required by the Secretary of Health and Human Services to investigate or determine the Facility's compliance with the HIPAA Privacy Rule
- Uses and disclosures for which an authorization or opportunity to object is not required under the [HIPAA Privacy Rule](#). Facilities will refer to UHS Privacy 24.0 *Overview of the Uses and Disclosures of PHI* for a description of these types of [uses](#) and [disclosures](#).

5. Optional Restriction on Use and Disclosure

Other than those requests identified above, a Facility may, but is not required to, agree to a request by a patient to restrict the [uses](#) and [disclosures](#) of their [PHI](#) for the purpose of [treatment](#), [payment](#), and [operations](#) or to an individual involved in the requesting patient's care, such as a family member, other relative, or a close personal friend of the patient, or any other person identified by the patient. If a Facility agrees to a request for restriction, the Facility must abide by the requested restriction until the restriction is terminated (see below for termination process).

6. Termination of Restriction on Use and Disclosure

A Facility may terminate a restriction, if:

- The patient agrees to or requests the termination in writing;
- The patient orally agrees to the termination and the oral agreement is documented by the Facility; or
- The Facility informs the patient that it is terminating its agreement to a restriction, except that unilateral termination by the Facility is only effective with respect to [PHI](#) created or received after it has informed the patient and is not effective for mandatory restrictions of [PHI](#) described above in Section 3.

7. Emergency Situations

If the patient who requested the restriction needs emergency treatment and the restricted [PHI](#) is needed to provide the [treatment](#), a Facility may [use](#) the restricted [PHI](#), or may [disclose](#) the [PHI](#) to

a [health care provider](#), to provide the emergency treatment to the patient. The Facility must request that the [health care provider](#) not further [use](#) or [disclose](#) the [PHI](#).

8. Documentation

The Facility will document all restrictions on the [use](#) and [disclosure](#) of [PHI](#) and retain the documentation for six (6) years. The Facility will employ a method to flag or make a notation in the record with respect to PHI that has been restricted to assure that such information is not inadvertently sent to or made accessible to the health plan. For non-mandatory restriction requests, in the event the Facility does not agree to a restriction in accordance with this Policy, it will notify the patient in writing and maintain a copy of the notification for six (6) years.

Requests for Confidential Communications

A Facility must permit patients to request that they receive communications of [PHI](#) from the Facility by alternative means or at alternative locations. For example, an individual may request that the Facility communicate with them using a particular address or telephone number. Also, a patient may ask that the Facility send communications in a closed envelope rather than a post card. Facilities will accommodate these requests, as long as the requests are made in writing and are reasonable. Before granting the request, a Facility should make sure they have sufficient information on how payment, if any, will be handled, and that they have an alternative address or other method of contact. The Facility may condition the provision of the communication accommodation on information on how payment will be handled and specification of an alternative address or other method of contact. Facilities will not require an explanation from the patient about the reason for the request.

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. § 164.502(c)

45 C.F.R. § 164.512

45 C.F.R. § 164.522

45 C.F.R. § 164.530

Related UHS Policies:

UHS Privacy 18.0 *Patient Rights Under the HIPAA Privacy Rule*

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Reviewed and Approved by:

UHS Compliance Committee