

PRIVACY 25.0

USES AND DISCLOSURES REQUIRING AN OPPORTUNITY TO AGREE OR OBJECT

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](#) that require an opportunity for the individual to agree or 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 there under 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:

A Facility may [use](#) or [disclose PHI](#) after providing an opportunity for the patient (or their authorized [personal representative](#), as applicable) (“individual”) to agree or object, in the situations described in this Policy and using the procedure outlined below. State law may impose additional requirements and restrictions – Facilities will contact the UHS Legal Department if they have any questions regarding the state laws that apply to them.

Procedure:

As described below, Facilities may [use](#) or [disclose PHI](#) in certain situations after giving the individual an opportunity to agree or object. The Facility may use or disclose PHI in these situations as long as the individual is informed in advance and has the opportunity to agree to or prohibit or restrict the use or disclosure. The Facility may orally inform the individual and obtain the individual’s oral agreement to the [uses](#) and [disclosures](#) describe below.

Use and Disclosure for Facility Directories

If the Facility maintains a facility directory, it may **use** or **disclose** limited information about the patient, after giving the individual an opportunity to agree or object as described in UHS Privacy 12.0 *Patient Directory Policy*. Information on patients in UHS behavioral health Facilities, in behavioral health or psychiatric departments, or in substance/drug or alcohol abuse programs will **not** be included in a patient directory. Refer to UHS Privacy 11.0 *Disclosure of Alcohol and Substance/Drug Abuse Records*.

Disclosures to Persons Involved with Patient's Health Care or Payment and for Notification

Facilities may **disclose** PHI to a family member, other relative, close personal friend of the patient, or any other person identified by the patient who is involved with the patient's health care or payment. **Disclosure** is limited to the **PHI** that is directly relevant to the individual's involvement with the patient's health care or **payment**. A Facility may also use or disclose PHI to notify -- or assist in the notification of (including identifying or locating) -- a family member, a personal representative, or other person responsible for the care of the patient. This disclosure is limited to providing information about the patient's location, general condition or death.

In either situation described above, the Facility's use or disclosure is subject to the following requirements:

- When a patient is present and has the capacity to make health care decisions, UHS will only **use** and **disclose** the **PHI** if:
 - the patient agrees;
 - the patient is provided with an opportunity to object and does not object; or
 - it can be reasonably inferred from the circumstances (based on the exercise of professional judgment) that the patient does not object to the **disclosure**.
- If either (i) the patient is not present or (ii) an opportunity to agree cannot be practically provided because of the patient's incapacity or emergency circumstances, a Facility may exercise professional judgment to determine whether the **disclosure** is in the best interest of the patient. If so, only the **PHI** directly relevant to the person's involvement with the individual's health care or payment related to the individual health care or needed for notification purposes will be disclosed and made available (for example, information necessary to allow someone to retrieve prescriptions, medical supplies or X-rays for a patient).

Use or Disclosure for Disaster Relief

A Facility may **use** or **disclose** basic **PHI** to a public or private entity authorized by law or its charter to assist in disaster relief efforts, for the purpose of coordinating with these entities uses

or disclosures for involvement in an individual's care and notification purposes. The following requirements will be adhered to, unless the Facility determines that they will interfere with the ability to respond to the emergency circumstances:

- When a patient is present and capable of making health care decisions, UHS will only **use** and **disclose** the **PHI** if:
 - the patient agrees;
 - the patient is provided with an opportunity to object and does not; or
 - it can be reasonably inferred from the circumstances (based on the exercise of professional judgment) that the patient does not object to the **disclosure**.
- If either (i) the patient is not present or (ii) an opportunity to agree cannot be practically provided because of the patient's incapacity or emergency circumstances, a Facility may exercise professional judgment to determine whether the **disclosure** is in the best interest of the patient. If so, only the **PHI** directly relevant to the person's involvement with the individual's health care will be disclosed and made available (for example, information necessary to allow someone to retrieve prescriptions, medical supplies or X-rays for a patient).

Deceased Individuals

A Facility may disclose to a family member or other persons who were involved in the care or payment for care of the decedent prior to death, the PHI of a deceased individual that is relevant to such person's involvement, unless the disclosure would be inconsistent with any prior expressed preference of the individual that is known to the Facility. This does not apply to disclosures to others whose access to PHI is governed by other UHS Privacy policies and other provisions of the Privacy Law (such as health care providers, health plans, public health authorities, or law enforcement officials).

For example, a Facility could describe the circumstances that led to a patient's death with the deceased patient's sister who was asking about the death. In addition, a Facility could disclose billing information to a family member of a decedent who is wrapping up the decedent's estate. In both situations, however, the Facility generally should not share information about past, unrelated medical problems. If the Facility questions the relationship or otherwise believes disclosure would not be appropriate, the Facility is not required to disclose the information.

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. § 164.510

Related UHS Policies:

UHS Privacy 24.0 *Overview of the Uses and Disclosures of PHI*

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Reviewed and Approved by:

UHS Compliance Committee