



# Harris County Hospital District

## **POLICY AND REGULATIONS MANUAL HIPAA ADMINISTRATIVE POLICY**

Patient's Access To The  
Designated Record Set

Policy No: 3.11.303  
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Effective Date: 041403  
Board Motion No:

### **TITLE: PATIENT'S ACCESS TO THE DESIGNATED RECORD SET**

#### **PURPOSE:**

The purpose of this policy is to provide District-wide guidelines to assure patient's access to his/her Designated Record Set, describing the procedure for submission, processing, and outlining grounds for denials.

This policy supports Harris County Hospital District's HIPAA policy and may require development of department specific procedures.

[Key Words: Authorization, Designated Record Set (DRS), Open Record, Protected Health Information (PHI), Personal Representative]

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#### **POLICY STATEMENT:**

A patient may review and obtain a copy of his/her Designated Record Set, with few exceptions, pursuant to Federal and state laws. Harris County Hospital District will provide the patient reason(s) for denials of access in writing and how to file an appeal. If appropriate, the patient or legal representative may request to have the denial reviewed by an independent licensed health care professional. Harris County Hospital District reserves the right to charge state mandated rates for providing copies of the Designated Record Set.

#### **POLICY ELABORATION:**

##### **I. DEFINITIONS**

- A. Authorization – A signed written document that allows Use and Disclosure of PHI for purposes other than Treatment, Payment, or Healthcare Operations.
- B. Designated Record Set (DRS) - means a group of records maintained by or for the Hospital District that is:
  - 1) The medical and billing records about patients,



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- 2) The enrollment, payment, claims adjudication and case or medical management record systems maintained by or for a health plan, or
- 3) Used, in whole or part, by or for licensed health care professional to make decisions about patients.

For purposes of this definition, the term "Record" means any item, collection or grouping of information that includes PHI and is maintained, collected, used or disseminated by or for the facility; the term "Record" includes (a) patient information originated by another healthcare provider and used by the facility to make decisions about the patient, and (b) tracings, photographs, videotapes, digital and other images that may be recorded to document care of the patient.

C. Individually Identifiable Health Information – Information, including Demographic information that:

- (1) Is created or received by a healthcare provider, health plan, employer, or healthcare clearing house; and
- (2) Relates to the past, present, or future physical or mental condition of an individual, and the provision of healthcare to an individual, or the past, present or future payment for the provision of healthcare to an individual; and
- (3) Identifies the individual; or
- (4) There is a reasonable basis to believe the information can be used to identify the individual.

D. Open Records – Medical records of patients currently being treated in the facility.

E. Personal Representative – A person with authority under the law to act on behalf of the patient.



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F. Protected Health Information (PHI) – Individually Identifiable patient Health Information in any form that is created or received by a health care provider, and relates to the patient's healthcare condition, provision of healthcare, or payment for the provision of healthcare.

G. Record Custodian – An individual designated by HCHD to be responsible for the safekeeping, maintenance and release of PHI.

### **II. RIGHT OF ACCESS TO PHI**

Patients may inspect and obtain a copy of their PHI maintained in a Designated Record Set, except:

- A. Information prepared by HCHD in reasonable anticipation of or for use in a civil, criminal, or administrative action; and
- B. PHI maintained by HCHD that is either prohibited from being disclosed under the Clinical Laboratory Improvement Amendments or exempt from the Clinical Laboratory Improvement Amendments.

### **III. REQUESTS FOR ACCESS TO DESIGNATED RECORD SET**



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- A. All requests to inspect and copy a patient's DRS including open records may be submitted in writing by the patient, or patient's Personal Representative, to the Designated Record Custodian. (See Attachment A, Authorization for Use and Disclosure of Protected Health Information.)
- B. The Record Custodian shall review the request and either approve or deny it no later than 15 days after the receipt of the request, or if a charge is incurred, 15 days after receipt of payment.

#### **IV. APPROVAL OF REQUESTS OF ACCESS TO DESIGNATED RECORD SET**

If the Record Custodian approves the request to access the patient's DRS, the patient, or patient's Personal Representative, must be informed of the approval and,

- A. Provide the access requested, including the opportunity to inspect and request a copy of the DRS, including the Open Medical Record.
- B. Provide access to DRS in the form or format requested, if the DRS is readily producible in such form or format and if not readily producible in such form or format, in a readable hard copy form or other format or form agreed by the Hospital District and the patient, or the patient's Personal Representative.
- C. Arrange for a convenient time and place; for the patient, or their Personal Representative, to inspect the copy of the patient's DRS or mail the copy of the DRS as requested by the patient, or his/her Personal Representative (The patient or such representative will be required to sign in and will be



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observed by the Hospital District's staff during the on-site inspection of DRS).

### **V. DENIAL OF REQUESTS FOR ACCESS TO DESIGNATED RECORD SET**

A. The Hospital District may deny a patient, or his/her Personal Representative, access to the patient's DRS only if one of the grounds for denial enumerated in the section on "Unreviewable Grounds for Denial" or in the section on "Reviewable Grounds for Denial" applies.

B. If the Hospital District denies a patient, or his/her Personal Representative, access to the patient's DRS, the Hospital District shall provide the requestor with a denial document written in plain language containing:

1. The basis for the denial;
2. If applicable, a statement of the patient's rights to review the denial, including a description of how the patient may exercise such rights; and
3. A description of how the patient may file a complaint with the HCHD Office of Privacy Administration

Harris County Hospital District (HCHD)

P. O. Box 300033

Houston, Texas 77230-0033

713.566.6097

(800) 500-0333 (Ethics Line)

(800) 500-0993 (Facsimile)

or with the Secretary of DHHS (See Attachment B).



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- C. If the Hospital District denies requested access to DRS, the Hospital District shall, to the extent possible, provide the patient, or his/her personal representative, access to any other DRS requested, after excluding the DRS to which the Hospital District has grounds to deny access.
- D. If the Hospital District does not maintain the DRS requested, but knows where it is maintained, the Hospital District must inform the patient where to direct the request to access the patient's DRS.



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### **VI. UNREVIEWABLE GROUNDS FOR DENIAL**

The Hospital District may deny a patient's, or his/her Personal Representative's, request to access the patient's DRS without providing the patient an opportunity to seek review of the denial in the following circumstances:

- A. The patient, or such representative, requests DRS to which there is no right of access as described in the section entitled "Right of Access to DRS".
- B. The requested PHI is not maintained by the Hospital District in a Designated Record Set.
- C. The Hospital District acting under the direction of a correctional facility, denies an inmate's request to copy DRS, if obtaining the PHI would jeopardize the health, safety, security, custody, or rehabilitation of the patient or other inmates, or the safety of any officer, employee, or other person at the correctional facility or transporting the inmate (Please note that if an inmate requests to inspect DRS, the request must be granted unless one of the other grounds for denial applies).
- D. The Hospital District temporarily suspended a patient's access to DRS created in the course of Research that includes Treatment, provided that the patient agreed to the denial of access when consenting to participate in the Research and the Hospital District has informed the patient that the right of access to DRS will be reinstated upon completion of the Research.



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- E. The PHI was obtained from someone other than a healthcare Provider under a promise of confidentiality, and the access requested is reasonably likely to reveal the source of PHI.

### **VII. REVIEWABLE GROUNDS FOR DENIAL**

The patient, or his/her personal representative, has the right to have the denial of access reviewed, in the following circumstances:

- A. A Physician 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 of another person,
- B. The requested PHI refers to another person (other than a healthcare Provider), and a Physician has determined in the exercise of professional judgment that the access requested is reasonably likely to cause substantial harm to such person, or
- C. The request for access to DRS is made by the patient's Personal Representative and a Physician has determined in the exercise of professional judgment that the provision of access to the Personal Representative is reasonably likely to cause substantial harm to the patient or to another person.

### **VIII. PROCESS FOR REVIEW OF DENIAL**

- A. The patient, or his/her Personal Representative, shall submit to HCHD Privacy Officer, or designee, a written request to review the denial.
- B. The Privacy Officer, or designee, shall promptly refer the request to the licensed healthcare professional who is



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designated by the Hospital District to act as a reviewing official and who did not participate in the original decision to deny access to DRS.

- C. The designated reviewing official shall determine, within a reasonable period of time, whether or not to deny access to DRS (based on whether a “reviewable ground for denial” applies) and notify the Privacy Officer, or designee, of the decision in writing.
- D. The Privacy Officer, or designee, shall promptly notify the patient, or his/her Personal Representative, in writing of the designated reviewing official’s determination.
- E. If the designated reviewing official overturns the original denial and grants access to DRS, the patient, or his/her Personal Representative, will be provided access to the DRS as described in this policy.

### **IX. COPYING AND FEES**

If patient, or his/her Personal Representative, requests a copy of the patient’s DRS or agrees to receive DRS, HCHD may charge the patient, or such Representative, a reasonable fee which includes only the cost of:

- A. Copying, including the cost of supplies for and labor of copying (Policy 2015, Fee for Inspection and/or Copying a Patient’s Health Information Record.)
- B. Postage, if the patient or representative requested that the copies of DRS be mailed to the patient or the patient’s Personal Representative.



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### X. DOCUMENTATION

Harris County Hospital District must document and retain for six (6) years from the date of creation, as applicable, the following:

- A. The Designated Record Sets subject to access by patient or his/her Representative, and
- B. The titles of persons or offices responsible for receiving and processing requests to access the DRS.
- C. Patient's or Representative's requests for access and review.
- D. HCHD's denial and review responses.

### REFERENCES/BIBLIOGRAPHY:

- Policy 3.11.000, HCHD HIPAA Policy
- Policy 3.11.307, Designated Record Set
- Policy 2015, Fee for Inspection and/or Copying a Patient's Health Information Record

### OFFICE OF PRIMARY RESPONSIBILITY:

Office of Privacy Administration

### REVISION HISTORY:

Record revisions below:

Effective Date	Version	Approved by:

Harris County Hospital District  
**AUTHORIZATION FOR USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION**

PATIENT INFORMATION (Please Print)

Hospital Card Number:			
Patient Name:	Social Security No.	Date of Birth	Phone No.
Address	City	State	Zip Code

I, \_\_\_\_\_, authorize Harris County Hospital District to disclose and provide photocopies of the health-care information indicated below from my medical record to the following party:

\_\_\_\_\_  
 Name of person(s) or company to receive information Phone Number

\_\_\_\_\_  
 Street Address City State Zip Code

Information To Be Released – Covering the Periods of Health Care

From (date) \_\_\_\_\_ to (date) \_\_\_\_\_

Please check type of information to be released:

- |  |   |  |  |
|--|---|--|--|
| <input type="checkbox"/> Admission Sheet         | <input type="checkbox"/> History and Physical                 | <input type="checkbox"/> Discharge Summary   | <input type="checkbox"/> Clinic Visit          |
| <input type="checkbox"/> Autopsy                 | <input type="checkbox"/> Operative Report                     | <input type="checkbox"/> Pathology Report  | <input type="checkbox"/> Other (specify) _____ |
| <input type="checkbox"/> Footprints              | <input type="checkbox"/> Laboratory Report                    | <input type="checkbox"/> Radiology Report (X-Ray, MRI, Ultrasound, etc)                            | _____  |
| <input type="checkbox"/> Entire Record           | <input type="checkbox"/> Entire Record Excluding Nurses Notes | <input type="checkbox"/> Emergency Room Sheet  | _____  |
| <input type="checkbox"/> Itemized Bill           | <input type="checkbox"/> Lab / Slides                         | <input type="checkbox"/> Radiology Film (MRI, chest X-Ray, etc.)                                   |  |
| <input type="checkbox"/> Complete Billing Record | <input type="checkbox"/> Block/Specimens                      | <input type="checkbox"/> Psychotherapy Notes (If this box is checked, no other box may be checked) |  |

Purpose of Request/Disclosure

- Treatment or Consultation     At the request of the Patient     Billing or claims payment     Requested for Government Benefit
- Other, (specify) \_\_\_\_\_

Drug and/or Alcohol Abuse, and/or Psychiatric, and/or HIV/AIDS Records Release

I understand if my information requested above contains information in reference to drug and/or alcohol abuse, psychiatric care, sexually transmitted disease, HIV, Aids, Hepatitis B or C testing, and/or other sensitive information, I agree to its release. Check One:  Yes  No

Re-Disclosure

I understand the information disclosed by this authorization may be subjected to re-disclosure by the recipient and no longer be protected by the Health Insurance Portability and Accountability Act 1996. This facility, its employees, officers and physicians are hereby released from any legal responsibility or liability for disclosure of the above information to the extent indicated and authorized herein.

This authorization will expire on the following event or date \_\_\_\_\_ or 180 days from the date of signature. I understand that this authorization may be revoked by the person giving the authorization by written and dated notice to Harris County Hospital District, except to the extent that disclosure of information has been made prior to receipt of the revocation by Harris County Hospital District.

Signature of Patient or Personal Representative Who May Request Disclosure

I understand that I do not have to sign this authorization, and my treatment or payment for services will not be denied if I do not sign this form unless specified above under **Purpose of Request**. I can inspect or copy the protected health information to be used or disclosed.

\_\_\_\_\_  
 Signature of Patient Date Signed

Authority to Sign if not patient \_\_\_\_\_

Identity of Requestor Verified via:     Photo ID     Matching Signature     Other, specify \_\_\_\_\_

Top cop: Facility    Bottom copy: Patient    Form# \_\_\_\_\_    Form effective Date: \_\_\_\_\_



### Denial of Access to Protected Health Information

Date:

To:

From: (Designated Record Custodian)

Request made on \_\_\_\_\_ to inspect/copy protected health information (PHI) denied with respect to:  
Date

Name of Patient

- All records
- Portions of records specified here \* \_\_\_\_\_

\* HCHD will provide access to other portions of requested records

**Reason for Denial of Access to PHI (check one of the following)**

**A Request is denied for the following reason (s):**

- The PHI is one of the following:
  - Information prepared by the Hospital District in reasonable anticipation of or for use in a civil, criminal or administrative action.
  - Information prohibited from disclosure under or exempt from the Clinical Laboratory Improvement Amendments.
- The Hospital District is acting under the direction of a correctional institution, and it is determined that granting the request to copy the PHI would jeopardize the health, safety, security, custody or rehabilitation of the patient or other inmates, or the safety of an officer, employee or other person at the correctional institution or transporting the patient.
- The PHI was created in the course of research that includes treatment, the patient agreed to the denial of access when consenting to participate in the research, and the right to access PHI will be reinstated upon completion of the research.
- The PHI was obtained under a promise of confidentiality from someone other than a healthcare provider and granting the request is reasonably likely to reveal the source of the PHI.
- The PHI requested is not maintained by the Hospital District in a Designated Record Set.

**Under Federal Law, you do not have the right to request a review of this denial.**

B

**Request is denied for the following reasons(s)**

- A Physician has determined, in the exercise of professional judgment, that inspection/copying of the PHI requested is reasonably likely to endanger the life of physical safety of the patient or another person.
- The PHI refers to another person, and a Physician in the exercise of professional judgment has determined that inspection/copying of the PHI requested is reasonably likely to substantially harm that person.
- A Physician in the exercise of professional judgment has determined that the provision of the requested PHI to the personal representative is reasonably likely to substantially harm the patient or another person.

**Under Federal law, you have the right to request a review of this denial by a licensed healthcare professional designated by HCHD who did not participate in the decision to deny your request. To request a review of the denial, submit a written request to the HCHD Privacy Officer. You have the right to submit a complaint about this denial to the HCHD Privacy officer and Secretary of the United States, Department of Health and Human Services within 180 days of receipt of this denial. (See back for addresses)**



## **HCHD PRIVACY OFFICER**

OFFICE OF PRIVACY ADMINISTRATION  
HARRIS COUNTY HOSPITAL DISTRICT (HCHD)  
P. O. BOX 300033  
HOUSTON, TEXAS 77230-0033  
(713) 566-6097 (TELEPHONE)  
(800) 500-0333 (ETHICS LINE)  
(800) 500-0993 (FASCIMILE)

E-MAIL AT [hipaa@hchd.tmc.edu](mailto:hipaa@hchd.tmc.edu)

## **U. S. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Region VI, Office for Civil Rights  
U.S. Department of Health and  
Human Services  
1301 Young Street, Suite 1169  
Dallas, TX 75202.  
Voice Phone (214) 767-4056  
FAX (214) 767-0432  
TDD (214) 767-8940.