



Harris County Hospital District

POLICY AND REGULATIONS MANUAL HIPAA ADMINISTRATIVE POLICY

Permitted Use and
Disclosure of Protected
Health Information Without
Patient's Authorization

Policy No: 3.11.306
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Effective Date: 041403
Board Motion No:

**TITLE: PERMITTED USE AND DISCLOSURE OF
PROTECTED HEALTH INFORMATION WITHOUT
PATIENT'S AUTHORIZATION**

PURPOSE:

The purpose of this policy is to provide guidelines concerning the Harris County Hospital District's (HCHD) Use and Disclosure of Protected Health Information without the patient's Authorization.

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

[Key Words: Use, Disclosure, Authorization, Protected Health Information (PHI), Provider, Workforce]

POLICY STATEMENT:

Harris County Hospital District will ensure that any use or disclosure of Protected Health Information, without a patient's Authorization, is in accordance with applicable Federal and state Privacy laws. Disclosures of PHI will be documented in the patient's medical record and tracked to enable Harris County Hospital District to respond to patients' requests for Accounting of Disclosures.

POLICY ELABORATION:

I. DEFINITIONS

- A. Authorization – is a signed written document that allows Use and Disclosure of PHI for purposes other than Treatment, Payment, or Healthcare Operations.



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- B. De-identified Information – is health information that does not identify a patient and there is no reasonable basis to believe that the information can be used to identify a patient.
- C. Disclosure – is the release of information outside the facility.
- D. Individually Identifiable Health Information (IIHI) – Information, including Demographic Information, including demographic information, that:
 - 1. Is created or received by a healthcare provider, health plan, employer, or healthcare clearinghouse; and
 - 2. Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care 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.
- E. Law Enforcement Official – means an officer or employee of any agency or authority of the United States, as a State, a territory, a political subdivision of a State or territory or an Indian tribe, who is empowered by law to:
 - 1. Investigate or conduct an official inquiry into a potential violation of law; or
 - 2. Prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.



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- F. Protected Health Information (PHI) - is Individually Identifiable patient Health Information in any form, including demographic information, that is created or received by a healthcare provider, and relates to the patient's healthcare condition, provision of healthcare, or payment for the provision of healthcare.
- G. Workforce – means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity, is under the direct control of such entity, whether or not they are paid by the covered entity.

II. USE AND DISCLOSURE OF PHI AS REQUIRED BY LAW

- A. If Use or Disclosure of PHI is required by law, Harris County Hospital District may Use or Disclose the PHI so long as the Use or Disclosure complies with the law and is limited to the relevant requirements of the law.
- B. If Uses and Disclosures of PHI required by law relate to victims of abuse, neglect or domestic violence, judicial and administrative proceedings, or law enforcement purposes, then Harris County Hospital District must also comply with the respective standards enumerated in sections IV, VI, and VII. Below.



III. USE AND DISCLOSURE OF PHI FOR PUBLIC HEALTH ACTIVITIES

- A. The Hospital District may Disclose PHI to a public health authority authorized by law to collect or receive PHI to prevent or control disease, injury, or disability; or at the direction of a public health authority, to an official of a foreign government agency acting in collaboration with the public health authority (HCHD Infection Control Policy, Required Reporting of Diseases and Conditions, No. 1101).
- B. The Hospital District may Disclose PHI to a public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect (HCHD Policy, Identification of Abandoned/Abused/ Neglected Persons, No. 4025).
- C. The District may Disclose PHI to a person subject to the jurisdiction of the Food and Drug Administration (FDA) with respect to an FDA-regulated product or activity for which that person has responsibility, for the purpose of activities related to the quality, safety or effectiveness of such FDA-regulated product or activity. Such purposes include:
1. To collect or report adverse events (or similar activities with respect to food and dietary supplements), product defects and problems, or biological product deviations ;
 2. To track FDA-regulated products;
 3. To enable product recalls, repairs, or replacement, or lookback (including locating and notifying individuals who have received products that have



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- been recalled, withdrawn, or the subject of lookback); or
4. To conduct post marketing surveillance (e.g., pacemakers, orthotics, etc.).
- D. The Hospital District may Disclose PHI to a person who may have been exposed to or is at risk of spreading or contracting a communicable disease if Harris County Hospital District or the public health authority is authorized by law to notify such person, as necessary in the conduct of a public health intervention or investigation.
- E. The Hospital District may Disclose PHI to an employer about a patient who is a member of the employer's Workforce if:
1. Harris County Hospital District provides healthcare services to the patient at the employer's request to conduct an evaluation relating to medical surveillance of the workplace or to evaluate the patient for a work related illness or injury,
 2. The PHI Disclosed is limited to the findings of a workplace related medical surveillance or a work related illness or injury,
 3. The employer needs such information to comply with its obligations under Occupational Safety, Mine Safety and Health Administration regulations or similar state laws to record a work related illness or injury or to carry out its responsibilities for workplace medical surveillance, and
 4. Harris County Hospital District provides written notice to the patient that the PHI relating to the medical surveillance of the workplace or work



related illness or injury is being Disclosed to the employer by:

- a Giving a copy of the notice to the patient at the time the healthcare services are provided; or
- b Posting a notice in a prominent location where the healthcare services are provided, if the healthcare services are provided on the employer's work site.

IV. DISCLOSURE OF PHI ABOUT VICTIMS OF ABUSE, NEGLIGENCE OR DOMESTIC VIOLENCE

A. Except for reports of child abuse or neglect, subject to Section III. B. above, any Disclosure of PHI about a patient whom HCHD reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority authorized by law to receive reports of such abuse, neglect, or domestic violence shall be made as follows:

1. To the extent the Disclosure is required by law, complies with the law, and is limited to the relevant requirements of the law.
2. If patient agrees to the Disclosure, or
3. If the Disclosure is expressly authorized by a statute or regulation, and
 - a HCHD, in the exercise of professional judgment, believes the Disclosure is necessary to prevent serious harm to the patient or to other potential victims, or
 - b The patient is unable to agree due to incapacity, the authorized recipient of the PHI



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confirms that the PHI is not intended to be used against the patient, and that an immediate enforcement activity that depends upon the Disclosure would be materially and adversely affected by waiting until the patient is able to agree to the Disclosure.

- B. If HCHD makes a Disclosure as described in paragraph A. above, it must promptly inform the patient of the Disclosure, unless:
1. HCHD, in the exercise of professional judgment, believes that informing the patient would place the patient at risk of serious harm; or
 2. HCHD would be informing a personal representative, and HCHD reasonably believes that the Personal Representative is responsible for the abuse, neglect or other injury, and HCHD determines, in the exercise of professional judgment, that informing such person would not be in the patient's best interests.

V. DISCLOSURE OF PHI FOR HEALTH OVERSIGHT ACTIVITIES

- A. Harris County Hospital District may Disclose PHI to a health oversight agency for health oversight activities authorized by law, including audits, investigations, inspections, licensure or disciplinary actions, legal proceedings or actions, or other activities necessary for the appropriate oversight of:
1. The healthcare system;



2. Government benefit programs for which health information is relevant to beneficiary eligibility; or
 3. Entities subject to government regulatory programs or civil rights laws for which health information is necessary for determining compliance.
- B. Harris County Hospital District may not Disclose PHI as described in paragraph A. above if an investigation or other activity relates to a patient but does not arise out of and is not directly related to:
1. The receipt of healthcare;
 2. A claim for public benefits related to health (*unless* it is conducted in conjunction with a health oversight activity or investigation, in which case a disclosure is permitted);
 3. Qualification for, or receipt of, public benefits or services, when the patient's health is integral to the claim for public benefits or services

**VI. DISCLOSURE OF PHI FOR JUDICIAL AND
ADMINISTRATIVE PROCEEDINGS**

Harris County Hospital District may Disclose PHI in the course of any judicial or administrative proceeding as follows:

- A. Upon receipt of a court or administrative tribunal order, provided that Harris County Hospital District Discloses only the PHI expressly authorized by the order;
- B. In response to a subpoena, discovery request, or other lawful process not accompanied by a court or administrative tribunal order, if Harris County Hospital



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District receives satisfactory assurances from the party seeking the PHI that:

1. Reasonable efforts have been made by such party to ensure that the patient whose PHI is requested has been given notice of the request. Harris County Hospital District receives such satisfactory assurances if the party seeking the PHI provides a written statement with accompanying documentation showing that:
 - a The party seeking the PHI has made a good faith effort to provide written notice to the patient or to mail the notice to the patient's last known address, if the patient's location is unknown;
 - b The notice contained sufficient information about the proceeding for which the PHI is requested to permit the patient to raise an objection to the court or administrative tribunal; and
 - c The time for the patient's objections has elapsed and no objections were filed, or all objections filed by the patient have been resolved by the court or administrative tribunal, and the Disclosure sought is consistent with such resolutions; or
2. Reasonable efforts have been made by such party to secure a qualified protective order which prohibits parties from Using or Disclosing PHI for any purpose other than the proceeding for which the PHI is requested and which requires the return to



Harris County Hospital District or destruction of all PHI (including all copies) at the end of the proceeding. Harris County Hospital District receives such satisfactory assurances if the party seeking the PHI provides a written statement with accompanying documentation showing that:

- a The parties to the dispute giving rise to the request for PHI have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute; or
- b The party seeking the PHI has requested a qualified protective order from the court or administrative tribunal with jurisdiction over the dispute.

Refer to HCHD HIM Policy No. 3015 for handling of subpoenas.

VII. DISCLOSURE OF PHI FOR LAW ENFORCEMENT PURPOSES

Harris County Hospital District may Disclose PHI for a law enforcement purpose to a law enforcement official if the requirements enumerated below are met.

- A. Disclosure Pursuant to Law. Harris County Hospital District may Disclose PHI as required by law, including laws requiring reporting of certain types of wounds or other physical injuries (See also Sections III. B and IV of this policy for additional information).



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B. Disclosure Pursuant to Process. Harris County Hospital District may Disclose PHI in compliance with:

1. A court order or court-ordered warrant;
2. A subpoena or summons issued by a judicial officer;
3. A grand jury subpoena; or
4. An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized by law, provided that:
 - a The PHI sought is relevant and material to a legitimate law enforcement inquiry;
 - b The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the PHI is sought; and
 - c De-identified Information could not reasonably be used instead of PHI.

C. Disclosure for Identification and Location Purposes. Harris County Hospital District may Disclose PHI in response to a law enforcement official's request for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that:

Harris County Hospital District Discloses only the following PHI:

1. Name and address,
2. Date and place of birth,
3. Social security number,
4. ABO blood type and rh factor,
5. Type of injury,
6. Date and time of treatment,
7. Date and time of death, if applicable, and



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8. Distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair, scars and tattoos.

Except as permitted by paragraph a above (ABO blood type and rh factor), Harris County Hospital District may not Disclose any PHI related to the patient's DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissues.

- D. Disclosure about Victims of Crimes. Harris County Hospital District may Disclose PHI in response to a law enforcement official's request about a patient suspected to be a victim of a crime (except for Disclosures subject to Sections III. E. and IV. above) if:

1. The patient agrees to the Disclosure; or
2. Harris County Hospital District is unable to obtain the patient's agreement because of incapacity or other emergency circumstances but:
 - a. The law enforcement official represents that the PHI is needed to determine whether violation of law by a person other than a patient has occurred and that the PHI is not intended to be used against the patient;
 - b. The law enforcement official represents that immediate law enforcement activity depending on the Disclosure would be materially and adversely affected by waiting until the patient is able to agree to the Disclosure, and



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- c The Disclosure is in the best interests of the patient as determined by Harris County Hospital District in the exercise of professional judgment.

- E. Disclosure about Decedents. Harris County Hospital District may Disclose PHI about a decedent to a law enforcement official to alert him/her of the death, if Harris County Hospital District suspects that the death has resulted from criminal misconduct.

- F. Disclosure Related to Crimes on Premises. Harris County Hospital District may Disclose PHI to a law enforcement official if Harris County Hospital District in good faith believes that the PHI constitutes evidence of criminal misconduct that occurred on Harris County Hospital District's premises.

- G. Disclosure of Crimes Related to Emergencies. When providing emergency care in response to a medical emergency (other than an emergency on Harris County Hospital District's premises or an emergency resulting from abuse, neglect, or domestic violence), the District may Disclose PHI to a law enforcement official if the Disclosure appears necessary to alert the law enforcement official to:
 - 1. The commission and nature of the crime;
 - 2. The location of the crime or of the victim of the crime; and
 - 3. The identity, description, and location of the perpetrator of the crime.



VIII. USE AND DISCLOSURE OF PHI ABOUT DECEDENTS

- A. Harris County Hospital District may Disclose PHI to Coroners and Medical Examiners in order to:
1. Identify a deceased patient;
 2. Determine a cause of death; or
 3. Enable coroners or medical examiners to perform their other duties, as authorized by law.
- B. Harris County Hospital District may Disclose PHI to Funeral Directors, consistent with applicable law, as necessary to carry out their duties with respect to the decedent. If required for funeral directors to carry out their duties, Harris County Hospital District may Disclose PHI prior to and in reasonable anticipation of the patient's death

IX. USE AND DISCLOSURE OF PHI FOR CADAVERIC ORGAN, EYE OR TISSUE DONATION

Harris County Hospital District may Use and Disclose PHI to organ procurement organizations or other entities engaged in the procurement, banking, or transplantation of cadaveric organs, eyes, or tissues in order to facilitate organ, eye, and tissue donation and transplantation (See HCHD Organ/Tissue Donation, Policy, No. 4500)

X. USE AND DISCLOSURE OF PHI FOR RESEARCH

Harris County Hospital District may Use and Disclose PHI for Research purposes without obtaining a patient's Authorization, in



accordance with procedures described in Policy 3.11.700, Use and Disclosure of Protected Health Information for Research.

XI. USE AND DISCLOSURE OF PHI TO AVERT A SERIOUS HEALTH OR SAFETY THREAT

Harris County Hospital District may, consistent with applicable laws and standards of ethical conduct, use or Disclose PHI, if Harris County Hospital District in good faith believes the use or disclosure:

- A. Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public and is to a person(s) reasonably able to prevent or lessen the threat, including the target of the threat; or
- B. Is necessary for law enforcement officials to identify or apprehend a patient:
 - 1. If it appears from all the circumstances that the patient has escaped from a correctional facility or from lawful custody, or
 - 2. Because of a patient's statement admitting participation in a violent crime that Harris County Hospital District reasonably believes may have caused serious physical harm to the victim, unless Harris County Hospital District learned this information:
 - a. In the course of Treatment, counseling, or therapy to affect the propensity to commit the crime that is the basis for the disclosure; or



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- b Through a patient's request to initiate or be referred to Treatment, counseling, or therapy to affect the propensity to commit the crime that is the basis for the disclosure.

Please note that the disclosure pursuant to paragraph B. must be limited to the patient's statement admitting participation in a violent crime and to the following PHI about a patient:

- (1) Name and address,
- (2) Date and place of birth,
- (3) Social security number,
- (4) ABO blood type and rh factor
- (5) Type of injury,
- (6) Date and time of treatment,
- (7) Date and time of death, if applicable,
and
- (8) Distinguishing physical characteristics,
including height, weight, gender, race,
hair and eye color, presence or absence
of facial hair, scars and tattoos.

XII. USE AND DISCLOSURE OF PHI FOR SPECIALIZED GOVERNMENT FUNCTIONS

- A. Disclosure for Military and Veteran Activities
Harris County Hospital District may Use or Disclose PHI of patients who are Armed Forces personnel for activities considered by appropriate military command authorities necessary to ensure proper execution of the military mission, if the military authority has published by notice in



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the Federal Register the following information:

1. Appropriate military command authorities and
2. The purposes for which the PHI may be Used or Disclosed.

(Please note that Harris County Hospital District may Use or Disclose PHI of patients who are foreign military personnel to an appropriate foreign military authority for the purposes referenced in paragraph A. above and published in the Federal Register for the Armed Forces.

- B. Disclosure for National Security and Intelligence Activities
Harris County Hospital District may Disclose PHI to authorized Federal officials for the conduct of lawful intelligence, counter-intelligence, and other national security activities authorized by the National Security Act and its implementing authority.
- C. Disclosure for Protective Services for the President and Others
Harris County Hospital District may Disclose PHI to authorized Federal officials for:
1. The provision of protective services to the President or other persons authorized by law to receive such services; or
 2. The conduct of investigations related to threats against the President, the former President or their immediate family members, the Vice-President or his/her immediate family member, the major candidates for the Presidential or Vice-Presidential Office or their immediate family members, or a person protected by the Secret Service.



D. Disclosure to Correctional Institution

Harris County Hospital District may Disclose PHI of an inmate or of another person to a correctional institution or a law enforcement official with custody of the inmate or another person if the correctional institution or the law enforcement official represents that such PHI is necessary for:

1. The provision of healthcare to the patient or the other person;
2. The health and safety of the patient, the other person, or other inmates;
3. The health and safety of officers, employees, or others at the correctional institution;
4. The health and safety of officers or others responsible for transporting or transferring inmates;
5. Law enforcement on the premises of the correctional institution; and
6. The administration and maintenance of the safety, security, and good order of the correctional institution.

(Please note that an individual is not an inmate if he or she is released on a parole, probation, supervised release, or is otherwise no longer in lawful custody.)

XIII. DISCLOSURE OF PHI FOR WORKER'S COMPENSATION

Harris County Hospital District may Disclose PHI as authorized by and to the extent necessary to comply with laws related Workers' Compensation or other similar programs, established by



law to provide benefits for work-related injuries/illnesses without regard to fault

XIV. PROCESSING REQUESTS FOR DISCLOSURE OF PHI WITHOUT AUTHORIZATION

- A. Requests for Disclosure of PHI without a patient's Authorization will be handled, as outlined in each of the policies noted above.
- B. The responsible employee will verify the identity of the requestor, review the request, and determine whether the requested Use or Disclosure of PHI is permitted under this and/or every other related policy.
- C. Within a reasonable time, but no longer than 15 days, after receiving the request, the responsible employee will approve or deny the request.
- D. If the request is denied, the denial will include the reason for the denial and inform the requestor of the need for the patient's written Authorization for the Disclosure of the Protected Health Information (Form, "Authorization For Disclosure of Protected Health Information").
- E. When required, the responsible employee will notify the patient, or the patient's personal representative, of the intent to Disclose the PHI.



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- F. Harris County Hospital District may charge reasonable fees to cover the cost of copying and postage related to the requests for Disclosure of PHI without a patient's Authorization (See Harris County Hospital District Health Information Management Policy # 2015, relating to fees for copies of medical records).

XV. RETENTION OF REQUESTS AND TRACKING OF DISCLOSURES OF PHI

- A. Requests for Disclosure of PHI without Patient's Authorization will be maintained for six (6) years from the date the document was created.
- B. The requests for Disclosure of PHI will be filed in the patient's medical records.
- C. Disclosures of PHI will be documented in the patient's medical record and tracked to enable HCHD to respond to patients' requests for accounting of Disclosure of PHI.

REFERENCES/BIBLIOGRAPHY:

- Policy 3.11.000, HCHD HIPAA Policy
- Policy 3.05, Research
- Policy 1101, HCHD Infection Control Policy, Required Reporting of Diseases and Conditions
- Policy 4025, HCHD Policy, Identification of Abandoned/Abused/Neglected Persons
- Policy 3015, HCHD HIM Policy for handling of subpoenas
- Policy 4500, HCHD Organ/Tissue Donation



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- Policy 2015, Health Information Management Policy relating to fees for copies of medical records

OFFICE OF PRIMARY RESPONSIBILITY:

Office of Privacy Administration.

REVISION HISTORY:

Record revisions below:

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