UNIVERSITY of VIRGINIA HEALTH SYSTEM

Vice President and Chief Executive Officer of the Medical Center

MEDICAL CENTER POLICY NO. 0092

A. SUBJECT: Release of Patients' Protected Health Information

B. EFFECTIVE DATE: July 1, 2013 (R)

C. POLICY:

The University of Virginia Medical Center is committed to protecting the privacy and confidentiality of patient's Protected Health Information (PHI; also referenced herein as "health records") and supports the patient's right to review and/or obtain a copy of his/her own PHI. The Health Information Services Department (HIS) is the primary resource for processing and facilitating disclosure requests.

PHI is any information, whether oral or recorded in any form or medium that:

- "[i]s created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse"; and
- "[r]elates 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 health care to an individual."

PHI shall be used or disclosed only as follows:

- To the patient or his agent[1] as authorized under, Medical Center Policy No. 0024 "Informed Decision-making".
- To other individuals or entities with written authorization from the patient or his/her agent.
- For purposes not requiring the patient's authorization, if the release has been approved by HIS or is otherwise permitted by law.

The release of a patient's PHI is governed by both state and federal law (HIPAA). In accordance with Virginia law, "requests for copies of health records shall be in writing, dated, and signed by the requester, identify the nature of the information requested, and include evidence of the authority of the requester to receive such copies and identification of the person to whom the information is to be disclosed" (Code of Virginia Health Records Privacy 32.1-127.1:03).

[1] Patient's authorized "agent" has the same meaning as such terms as "legal representative", "surrogate decision maker", "healthcare agent" and "legally authorized representative." appearing in other Medical Center policies.

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D. POLICY STANDARDS:

1. Authority to Release Information
   Authority to release health information lies with:

   a. The adult patient, if the patient has decision making capacity.

   b. The adult patient's agent, as authorized under Medical Center Policy No. 0024 "Informed Decision-making" if the adult patient lacks decision making capacity.

   c. The executor or administrator of the estate, if the patient is deceased.

   d. A custodial parent or legal guardian on behalf of the minor, or the minor himself/herself if he/she is emancipated.

   e. Non-custodial parents have a right to access their minor child's health information, but not to authorize release of information to others.

2. Requests Not Requiring Patient Authorization
   A patient's health records may be released without the patient's authorization as permitted by law, including to:

   a. Another healthcare provider for use in treatment or billing.

   b. Provide outcomes of treatment to patient or agent (see Medical Center Policy No. 0024 "Informed Decision-making").

   c. Payors for the Medical Center, unless the patient has requested withholding of information regarding an encounter and has pre-paid for it in full as described in Medical Center Policy No. 0150 "Request for Restriction of Patient Information".

   d. Vendors of services and goods, where the vendor needs the patient's health records to provide the services or goods. (See Medical Center Policy No. 0189 "Medical Center Procurement Guidelines")

   e. The Department of Social Services during the course of an investigation of suspected child or adult abuse, neglect or exploitation.

   f. Another healthcare provider who has also cared for the patient, to use in quality assurance, peer review or related purposes.

   g. A patient's family member or friend involved in the patient's care or payment, when the patient is not able to be consulted, provided that the information released is directly relevant to the family member's or friend's involvement in the patient's care or payment.

   h. Law Enforcement for reporting wounds inflicted with a weapon or threats of harm to a third party made by a patient or as otherwise provided by Medical Center Policy No. 0220 "Interactions with Law Enforcement Authorities".

i. Workers' compensation representative or the patient's employer if the patient has filed a workers' compensation claim, as provided in section E.4.

j. The guardian ad litem and any attorney who has been appointed to represent a patient during an involuntary commitment hearing

k. A magistrate, special justice, evaluators, a community services board representative, monitors of mandatory outpatient commitment or a law enforcement officer participating in a emergency custody, temporary detention or involuntary commitment proceeding; however, PHI disclosed to a law enforcement officer shall be limited to information necessary to protect the officer, the patient or the public from physical injury or to address the healthcare needs of the patient.

l. A governmental oversight agency or a contractor of such an agency, for oversight authorized by law, such as inspections, audits, investigations, or licensure or disciplinary actions.

m. Researchers and others authorized to receive information under a waiver of authorization issued by an Institutional Review Board/Privacy Board for use in human subjects research or as otherwise provided in Medical Center Policy No. 0084 "Health Information Request for Non-Patient Care Usage",

n. Public health authorities authorized by law to collect the information in question for public health surveillance or investigation purposes, and to FDA-regulated entities to track or report problems with their FDA-regulated products;

o. In response to subpoenas and court orders as provided in section E.3;

p. Medical examiners, funeral directors and organ procurement organizations to the extent needed to carry out their duties.

3. Routine and Recurring Requests; Minimum Necessary
HIS shall maintain a list of approved routine and recurring types of release of PHI that may be made without individual review by HIS to establish the following:

a. The minimum amount of information necessary for the intended purpose (see Medical Center Policy No. 0245 "Minimum Necessary Use and Disclosure of Protected Health Information").

b. To track those disclosures for which the Medical Center must keep a record of disclosure, so that an accounting of those disclosures can be provided at the patient's request (see Medical Center Policy No. 0256 "Accounting of Disclosures of Protected Health Information").

4. Denial of Patient Access to Health Information
A patient's access to his/her own PHI may be denied under the following circumstances (see procedure in section E.5 below):

a. Where the patient's attending physician or clinical psychologist has documented in the health record that such access would be reasonably likely to endanger the life or physical safety of the patient or another person;

b. Where the patient's attending physician or clinical psychologist has documented in the health record that such record makes reference to a person (other than a healthcare provider), and that the access requested would be reasonably likely to cause substantial harm to such referenced person;

c. Where clinical laboratory test records and reports are prohibited from release under the Clinical Laboratory Improvements Amendments of 1988;

d. Where information that has been created or obtained in the course of research that includes treatment, such as clinical trials, if access has been temporarily denied to the patient for as long as the research is in progress pursuant to the patient's consent to the research.

E. PROCEDURE:

1. Requests for PHI

a. Requests for copies of PHI or access to PHI shall be referred to HIS - Release of Information except for point of care releases between the provider and patient.

b. HIS will process and facilitate the request, unless other arrangements are made and documented accordingly with the patient care area, inpatient or outpatient.

c. The patient or agent must complete and sign a HIPAA compliant authorization.

d. An authorization may be completed in patient care areas and forwarded or faxed to HIS - Release of Information.

e. Authorization forms from other facilities may be accepted, providing that all HIPAA required data elements are present.

f. The completed, signed authorization form is filed in the health record.

Health records may be copied and mailed or viewed in the HIS Department. Patients shall be furnished their records in an electronic format if they so request—either in the electronic format requested by the patient or, if that is not available, in a mutually agreed alternative electronic format, or if no electronic format is agreed to, in hard copy. Fees for processing release requests (media, postage, and labor) may be assessed, which may not exceed a reasonable cost-based fee for responding to the request.

g. Requests for the release of billing information shall be referred to Patient Financial Services.

h. Requests for physician billing information shall be referred to University of Virginia University Physicians Group.

i. A member of the patient care team, a patient representative, and/or a HIS representative shall sit with the patient to review the record.

j. Whenever possible, electronic portions of the health record shall be printed and placed with the paper portion of the health record for review by the patient or his/her agent.

2. Requests for Access to PHI While Receiving Inpatient Care

   a. In the event a patient or agent requests access to the patient's PHI while receiving inpatient care, the patient or his/her agent shall be informed that a more complete record will be available upon discharge. If the patient or his/her agent elects not to wait for discharge, the requested records shall be provided within a day of the request.

   b. The attending and/or resident physician should be notified of the request, although his/her permission is not required.

3. Subpoenas/Court Orders

   a. To facilitate compliance with state and federal law and regulation, all subpoenas and court orders seeking Protected Health Information and directed to HIS, the Medical Center and/or its clinics, units, or areas, are processed and coordinated through the Release of Information section of HIS per its policies and procedures.

   b. Clinical areas maintaining the original documentation shall disclose the appropriate documentation and track the disclosure once the subpoena or court order has been validated and approved for disclosure by HIS.

   c. A subpoena or court order served upon a location other than HIS shall be delivered or faxed to the Release of Information section of HIS.

   d. The Release of Information staff is responsible for validating the subpoena or court order, making the appropriate copies, forwarding the copies to the designated destination, and documenting the disclosure.

4. Workers' Compensation Requests

   a. Requests for copies of PHI regarding Workers' Compensation must be in writing and forwarded to HIS - Release of Information, except telephone requests directly to a treating physician, who may respond by telephone if the caller's identity is verified.

   b. Workers' Compensation representatives coming to the Medical Center for case management/payment purposes will be permitted access to the current health record upon registration and verification via the Utilization Management Department. Access to PHI will be permitted, 8:00 a.m.-5:00 p.m., Monday through Friday only.

   c. When a patient indicates that his/her presentation for treatment involves a Workers' Compensation claim, Medical Center pre-certification or admission staff may initiate disclosures of information to a Workers' Compensation representative or the patient's employer that is specifically related to the admission, procedure or outpatient services.

5. Denial Process

   a. If a patient's request for release of, or access to, records is denied as provided in Section D.4 above ("Denial of Patient Access to Health Information"), HIS shall, if requested by the patient or his/her attorney or authorized insurer, furnish such records within 15 days of the date of such request to the patient's attorney or authorized insurer, rather than to the patient.

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b. The clinician shall notify the patient of his/her right to have the denial reviewed by an individual whose licensure, training, and experience is comparable to that of the attending physician or clinical psychologist who made the denial decision, and who did not participate in the original decision to deny access. The patient may either designate a physician or clinical psychologist to review the records at the patient's own expense, or request the Medical Center to designate a physician or clinical psychologist to review the records at the Medical Center's expense. Access will be provided or denied in accordance with the determination of the reviewing designee.

c. If the Medical Center does not maintain the PHI that is the subject of the request for access and knows where the requested information is maintained, the patient will be informed of where to direct the request for access.

SIGNATURE:

R. Edward Howell, CEO, UVA Medical Center

DATE: 6/20/13

Medical Center Policy No. 0092 (R)
Approved June 1979
Revised August 1990, September 1993, September 1996, March 2003, February 2004, June 2005, June 2008, December 2009, December 2012, June 2013
Reviewed December 1999
Approved by the Interim Chief Technology and Health Information Officer
Approved by Medical Center Administration

Attachment
Medical Center Policy 0092
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Requests for copies of PHI or access to PHI:

Health Information Services (HIS)
Release of Information
1222 Jefferson Park Avenue, Room 1301
P.O. Box 800476
Charlottesville, Virginia 22908-0476
Telephone: (434) 924-5136
Fax: (434) 924-2432
Web site: https://www.healthsystem.virginia.edu/intranet/his/

Requests for the release of billing information:

Patient Financial Services (PFS)
Customer Service Group
P.O. Box 800750
Charlottesville, Virginia 22908
Telephone: (800) 523-4398 or (434) 924-5376

Requests for physician billing information:

UVA University Physicians Group
500 Ray C. Hunt Drive
Charlottesville, Virginia 22903-2981
Telephone: (800) 868-6600 or (434) 980-6110

Worker's compensation case management/payment review:

Utilization Management Department (UM)
P.O. Box 800647
Charlottesville, VA 22908
Telephone: (434) 924-5344