

HIPAA-10: PHI Uses and Disclosures Policy

Effective Date:	12-01-2015	Last Revised:	7-17-2017
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Scope of Policy

This policy governs the permitted uses and disclosures of Protected Health Information for **TCS**. All personnel of **TCS** must comply with this policy. Demonstrated competence in the requirements of this policy is an important part of the responsibilities of every member of the workforce.

Assumptions

- TCS** must comply with HIPAA and the HIPAA implementing regulations concerning uses and disclosures of Protected Health Information, in accordance with the requirements at § 164.502 to § 164.514.
- TCS** must implement policies and procedures to ensure that all uses and disclosures of PHI are made or denied in accordance with HIPAA law and regulations.
- For especially sensitive information, such as AIDS/HIV, alcohol and drug abuse prevention and treatment, and the like, patient consent to disclosure must be *informed*. That is, made with the patient's or consumer's knowledge of the risks and benefits of the disclosure.
- Any disclosure of confidential patient information carries with it the potential for an unauthorized redisclosure that breaches confidentiality.
- TCS** incurs costs when releasing patient information (copying, postage, and so forth) and is permitted under HIPAA Regulations and under State law to charge a reasonable fee to offset those costs.

Policy Statement

- It is the Policy of **TCS** to conduct its operations in full compliance with HIPAA's Rules governing uses and disclosures of Protected Health Information.
- TCS** will process requests for information from patient records in a timely, consistent manner as set forth in this policy.

Procedures

- The following priorities and time frames shall apply to requests for disclosures of PHI:
 - *Emergency requests involving immediate emergency care of patient:* immediate processing.
 - *Priority requests pertaining to current care of patient:* within one workday.
 - *Patient request for access to own record:* within three (15) workdays.
 - *Subpoenas and depositions:* as required.
 - *All other requests:* within five (15) workdays
- Courtesy Notifications to Practitioners – As a courtesy, records processing personnel shall notify the appropriate healthcare practitioner when any of the following occur:
 - Patient or his or her representative requests information from the medical record.
 - Patient or representative requests direct access to the complete medical record.
 - Patient or representative institutes legal action.
- Disclosure Monitoring-- Health Information Management personnel will review and update this log weekly to give proper priority to requests and to provide early intervention in problem situations. The log shall contain the following information:
 - Date department received the request.
 - Name of patient.

- Name and status (patient, parent, guardian) of person making request.
 - Information released.
 - Date released.
 - Fee charged.
- ❑ Unless the request specifies release of the complete medical record, **TCS** shall release only selected portions of the record. **TCS** shall prepare an appropriate cover letter detailing the items included.
- ❑ Prohibition of Redisdisclosure -- Unless a law or regulation requires a more specific prohibition on redisclosure (usually for AIDS/HIV, alcohol and drug abuse, and other particularly sensitive medical information), each disclosure outside the facility shall contain the following notice:
- *The attached medical information pertaining to [Name of patient] is confidential and legally privileged. **TCS** has provided it to [Name of recipient] as authorized by the patient. The recipient may not further disclose the information without the express consent of the patient or as authorized by law.*
- ❑ Retention of Disclosure Requests -- The designated Privacy Officer will retain the original request, the authorization for release of information, and a copy of the cover letter in the patient(s) medical record for the appropriate record retention period.
- ❑ Disclosure Quality Control -- The Executive Director and/or the designated Privacy Official shall conduct a routine audit of the release of information at least annually, paying particular attention to the following:
- Validity of authorizations.
 - Appropriateness of information abstracted in response to the request.
 - Retention of authorization, request, and transmitting cover letter.
 - Procedures for telephone, electronic, and in-person requests.
 - Compliance with designated priorities and time frames.
 - Proper processing of fees.
 - Maintenance of confidentiality.
- ❑ In-service Training on Disclosures -- The Executive Director and/or Privacy Official shall give periodic in-service training to all employees involved in the release of information.
- ❑ Annual Policy Review - The Privacy Official shall review this policy and associated procedures with risk management and legal counsel at least annually.

- ❑ Capacity to Authorize – TCS requires a written, signed, current, valid authorization to release medical information as follows:

Patient Category	Required Signature
Adult Patient	The patient or a duly authorized representative, such as court-appointed guardian or attorney. Proof of authorized representation required (such as notarized power of attorney).
Deceased Patient	Next of kin as stated on admission face sheet (state relationship on authorization) or executor/ administrator of estate.
Unemancipated Minor	Parent, next of kin, or legally appointed guardian or attorney (proof of relationship required).
Emancipated Minor	Same as adult patients above.
Psychiatric, drug, alcohol program patients/clients	Same as adult patients above, but check for special requirements.
AIDS/HIV or other sexually transmitted disease patients	Same as adult patients above, check for special requirements.

- ❑ Authorization Forms -- The Executive Director and/or the designated Privacy Official shall develop and use an approved authorization form. All personnel will use this form whenever possible. All personnel shall, however, honor letters and other forms, provided they include all the required information.
- ❑ Revocation of Authorization -- A patient may revoke an authorization by providing a written statement to us. The revocation shall become effective when the facility receives it, but shall not apply to disclosures already made.
- ❑ Refusal to Honor Authorization – The Executive Director and/or the designated Privacy Official, or others authorized to release information, will not honor a patient authorization when they have a reasonable doubt or question as to the following information:
 - Identity of the person presenting the authorization.
 - Status of the individual as the duly appointed representative of a minor, deceased, or incompetent person.
 - Legal age or status as an emancipated minor.
 - Patient capacity to understand the meaning of the authorization.
 - Authenticity of the patient(s) signature.
 - Current validity of the authorization.
 - In such situations, the employee shall refer the matter to the Executive Director and/or Privacy Officer for review and decision.
- ❑ Electronic Records -- The above requirements apply equally to electronic records. No employee shall release electronic records without complying with this policy.

Note: See Addendum for Person and Identity Verification and PHI Disclosures Tables