

Use and Disclosure of Protected Health Information

Effective Date: January 9, 2018

Policy Statement

Columbia University is committed to protecting the privacy and security of Protected Health Information (PHI). HIPAA Privacy regulations require the patient's written authorization prior to the use or disclosure of PHI *except* for the purposes of treatment, payment or healthcare operations (TPO). Further Use or Disclosure of PHI must be in accordance to a patient's written authorization or as permitted or required by law.

When using or disclosing PHI, the Columbia University Healthcare Component (CUHC) will make reasonable efforts to limit use and disclosure of PHI to the Minimum Necessary to accomplish the intended purpose(s) of the Use, Disclosure or request.

Reason(s) for the Policy

To define how Protected Health Information (PHI) may be Used and Disclosed in compliance with city, state and federal regulatory requirements.

Primary Guidance to Which This Policy Responds

HIPAA Rule 45 CFR 164.502

Responsible University Office & Officer

Office of HIPAA Compliance, Chief Privacy Officer

Revision History

Issued: January 2018

Who is governed by this Policy

All CUHC workforce members

Who Should Know this Policy

All CUHC workforce members

Exclusions & Special Situations

None

Policy

Privacy and Confidentiality of PHI for Treatment, Payment and Healthcare Operations

Columbia University will protect the privacy of its patient's PHI while allowing workforce members to Use and Disclose PHI for purposes of treatment, payment or healthcare operations. Columbia University may:

1. Treatment

- a. Use a patient's PHI to provide the patient with treatment or services
- b. Share a patient's PHI with other departments within the covered healthcare component as long as the department is providing or has in the past provided services to the patient.
- c. Disclose a patient's PHI to its physicians, other healthcare professionals and other CUHC personnel who are involved in the patient's care.
- d. Disclose a patient's PHI to individuals who are involved in the patient's care.

2. Payment

- a. Use and Disclose a patient's PHI to bill and collect for the treatment and services provided to the patient.
- b. Disclose a patient's PHI to the patient's health plan to obtain prior approval for treatment or to determine whether the patient's plan will cover the treatment.
- c. Disclose a patient's PHI to other health care providers to facilitate the other health care provider's billing and collecting efforts and as permitted by law.

3. Healthcare Operations

- a. Use and Disclose a patient's PHI for purposes of its own healthcare operations
- b. Aggregate patient information to decide what additional services should be offered, what services are not needed and whether certain new treatments are effective.
- c. Combine the PHI in its possession with PHI from other health care providers in order to compare its performance with other like providers and make improvements in the care and services offered.
- d. Disclose a patient's PHI to other healthcare organizations as permitted by law.

Examples of Healthcare Operation activities include but are not limited to:

- Conducting quality assessments and improvement activities
- Developing clinical guidelines conducting patient safety activities as defined in applicable regulations

Please refer to the Uses and Disclosure of Protected Health Information Guidance Document for additional information.

Genetic Information

The patient's genetic information may be used or disclosed only for assessing or managing the patient's health, for providing treatment or if the patient has signed an informed written consent to participate in an approved research study. For research, the genetic information disclosed will be used only as research information in an approved research protocol.

A patient's genetic information will not be disclosed without obtaining a written authorization from the patient unless the genetic test is required by law or for reasons including but not limited to the following:

1. to establish parentage
2. to determine the presence of metabolic disorders in a newborn by testing conducted pursuant to newborn screening and protocols
3. to furnish genetic information relating to a decedent of a blood relative of the decedent for the purpose of medical diagnosis
4. in connection with a criminal investigation or prosecution
5. required under specific order of a state or federal court
6. for identification of the individual; or
7. for identification of human remains

Health and Safety

To prevent a serious threat to health or safety, the Columbia University Healthcare Component may release the minimum necessary PHI without the patient's authorization to prevent a serious threat to health or safety if there exists a reasonable and good faith belief that:

1. Disclosure is necessary to prevent or reduce a serious and imminent threat to the health or safety of the public.
 - a. The disclosure will be made only to a person or persons reasonably able to prevent or reduce the threat, and
 - b. The disclosure may be made to the individual associated with the threat
2. Disclosure is necessary for law enforcement authorities to identify or apprehend an individual.
 - a. The disclosure will be made if the patient admits participation in a crime that caused or may have caused serious physical harm to the victim; or
 - b. The disclosure will be made if it appears from the circumstances that the patient escaped from a correctional institution or from lawful custody.

Please refer to the Uses and Disclosure of Protected Health Information Guidance Document for additional information. Questions about whether a disclosure is required to prevent a serious threat to health or safety or what information may be disclosed should be directed to the Office of HIPAA Compliance.

HIV and AIDS Information

HIV/AIDS information is PHI and as such, it is protected by city, state, and federal laws and regulations. However, because of its extremely sensitive nature, if HIV/AIDS information is improperly used or disclosed, the patient's privacy, healthcare or other interests may be irreparably damaged.

Prior to conducting an HIV-related test of an individual, the patient's health care provider will obtain informed consent provided the patient has the capacity to consent. If the patient does not have the capacity to consent, the patient's health care provider will obtain informed consent from the person legally authorized to consent to health care on the patient's behalf prior to performing the HIV-related test.

Please refer to the Uses and Disclosure of Protected Health Information Guidance Document for additional information.

Minors

HIPAA provides individuals with certain rights related to their PHI, including the right to request their PHI be kept confidential. Although minors do not generally have the authority to exercise rights on their

own behalf, state law and HIPAA provide minors with the authority to exercise control over certain categories of their own PHI.

In accordance with New York State Public Health law, a minor over the age of twelve (12) may seek and receive the following types of health care services independently from his/her personal representative (Parental consent is not required):

1. HIV/AIDS testing and treatment
2. Testing and treatment for venereal and sexually transmissible diseases
3. Pregnancy and pre-natal care
4. Abortion
5. Chemical dependency services; and
6. Mental health outpatient services

The minor's personal representative does not have a right to the minor's PHI if the minor alone consented to the treatment, unless the minor authorizes the release.

Please refer to the Uses and Disclosure of Protected Health Information Guidance Document for additional information.

Releases of PHI to coroners, medical examiners and funeral directors

CUHC will disclose a patient's PHI to coroners and medical examiners for the purposes of identifying a deceased person, determining a cause of death, or other duties as authorized by law. Prior to making a disclosure, CUHC shall verify the identity and authority of the individual making the request.

1. CUHC will disclose only the minimum amount of PHI necessary to meet the purpose of the request.
2. Specially protected PHI, including HIV/AIDS information and genetic information will be disclosed in accordance with their regulatory requirements.

Confidentiality of Psychotherapy and Personal Notes

Psychotherapy and personal notes are considered the property of the health care provider who created them and will not be released or disclosed to patients.

Disclosure of Protected Health Information Required by Law

There are times when Columbia is required by law to report or provide PHI to state or federal agencies or authorities or when responding to judicial or administrative requests for PHI. A patient's authorization is not required for mandatory reporting and CUHC will not grant a patient's request for restriction if the request would interfere with a mandatory reporting obligation.

Please refer to the Uses and Disclosure of Protected Health Information Guidance Document for additional information.

Organ Donation

Columbia will disclose a patient's PHI without written authorization to facilitate organ and tissue procurement, banking, and transplantation.

1. Prior to making the disclosure, Columbia will verify the identity and authority of the individual making the request.
2. Columbia will disclose only the minimum amount of PHI necessary to meet the purpose of the request.
3. Specially protected PHI, including HIV/AIDS information and genetic information, will be disclosed in accordance with their respective regulatory requirements.

Refer to the guidelines for those circumstances when consent (authorization) is not required for a disclosure.

Disclosures of Protected Health Information over the Telephone

Treatment information may only to the patient or their authorized representative. Certain exceptions may apply.

In some situations, using the telephone to communicate with a patient or to respond to requests for a patient's PHI is necessary or more convenient, than communicating via mail or requiring the patient to come to CUMC for a face-to-face meeting. Workforce members should attempt to limit, to the extent practicable, the PHI communicated over the telephone.

Please refer to the Uses and Disclosure of Protected Health Information Guidance Document for additional information.

Research

The Use or Disclosure of PHI for research purposes is permitted in certain circumstances in accordance with established state and federal regulations.

Refer to the Columbia University Institutional Review Board Policy on the Privacy Rule and the Use of Health Information in Research for additional information.

Responsibilities

Columbia University Healthcare Component is responsible for identifying those individuals or groups of individuals that need access to PHI to carry out their duties. For each person or group that is identified, the CUHC must make a reasonable effort to limit access to the specific category or categories of PHI needed to perform their duties. The CUHC will document workforce members' access to PHI in accordance established regulatory requirements.

Definitions

Disclosure with respect to PHI, the release or transfer of PHI to, or the provision of access to such PHI by, a person or entity outside of the entity holding the PHI.

Genetic information is any written or recorded individually identifiable health information resulting from genetic testing or medical evaluation to determine the presence or absence of genes that are

associated with a statistically increased risk of developing a disease, disorder or syndrome that is asymptomatic at the time of testing.

Protected Health Information is information about a patient, including demographic information, that may identify a patient, which relates to the past, present, or future physical or mental health or condition of a patient; the provision of health care to a patient; or the past, present or future payment for the provision of health care to a patient.

Psychotherapy Notes are notes that are recorded in any medium (e.g., on paper, electronically) by a mental health care provider who is documenting or analyzing the contents of conversation during a private counseling session or a group, joint or family counseling and are kept separate from the rest of the patient's medical record.

Use with respect to PHI, the creation, sharing, employment, application, storage, utilization, examination or analysis of such PHI within an entity that maintains such PHI.

Contacts

Office of HIPAA Compliance, Chief Privacy Officer

Tel: (212) 305-7315

Email: HIPAA@cumc.columbia.edu

Cross References to Related Policies

Accounting of Disclosures

http://www.cumc.columbia.edu/hipaa/pdf/Accounting_of_Disclosures.pdf

Privacy Program

http://www.cumc.columbia.edu/hipaa/pdf/Privacy_Program_Patient_Rights_Policy.pdf

Policy on the Privacy Rule and the Use of Health Information in Research

<https://research.columbia.edu/sites/default/files/content/HRPO/HIPAAandResearchPolicy2017.docx>

Web Address

<https://www.hipaa.cumc.columbia.edu/>

Appendix

http://policylibrary.columbia.edu/files/policylib/imce_shared/Guidance_Use_and_Disclosure_of_PHI.pdf