



Administrative Hospital-wide Policy and Procedure

Policy: Uses and Disclosure of Protected Health Information

Policy Number: IM-020

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Signature:

Originator:

Health Information

Coordinating Departments:

All Departments

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Chapter:

Management of Information

Regulatory References:

45 CFR §§ 164.308; 502 and 530

Other References:

OBJECTIVE:

It is the policy of Flagler Hospital to protect the privacy of protected health information (PHI) and only disclose it in accordance with Florida state statutes and/or federal HIPAA privacy provisions. The hospital has the responsibility of responding to legitimate demands for information while protecting the privacy rights of the patient.

DEFINITIONS:

1. **Protected Health Information (PHI)** is individually identifiable health information, held or maintained by a covered entity or its Business Associates acting for the covered entity that is transmitted or maintained in any form or medium (including the individually identifiable health information of non-U.S. citizens). This includes identifiable demographic and other information relating to the past, present, or future physical or mental health or condition of an individual, or the provision or payment of health care to an individual that is created or received by a health care provider, health plan, employer, or health care clearinghouse. For purposes of the Privacy Rule, genetic information is considered to be health information. PHI may also include such information as defined in Florida Information Protection Act of 2014 501.171(1)(g)(IV).
2. **Authorization:** A document that is required to be signed by the patient to use and disclose specified protected health information for specified purposes.
3. **Covered Entity:** A health plan; a health clearinghouse; or a health care provider who transmits any health information in electronic form in connection with a transaction covered by HIPAA.
4. **Disclosure:** The release, transfer, provision of access to, or divulging in any manner of PHI outside of Flagler Hospital.
5. **Minimum Necessary:** To make reasonable efforts to limit the use or disclosure of, and requests for, PHI to the least amount of PHI necessary to accomplish the intended purpose of the use or disclosure.
6. **Uses:** The sharing, employment, application, utilization, examination, or analysis of PHI within Flagler Hospital.
7. **Business Associate:** A business associate is defined as a person who, on behalf of the hospital, but other than as a workforce member, performs, or assists in performing a function or activity involving the use or disclosure of individual identifiable health information or provides legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for the hospital.

PROCEDURE:

Uses and Disclosures to Physicians and other Covered Entities for Treatment purposes

PHI may be used and disclosed without the patient's written authorization to physicians and other health care practitioners currently involved in the care and treatment of the patient.

Uses and Disclosures to group health plans/insurance companies for Payment purposes

The hospital may disclose PHI for the purpose of billing, claims, reimbursement, and utilization review without patient authorization. Consent for this is obtained within the Consent for Treatment signed during the registration process. This release includes third party reviewers (QIO/RAC/MAC) who request copies of records for review by an entity that determines the appropriateness of care provided, determines whether the care met quality expectations, or determines whether the care provided is accurately reflected on the claim that will be or has been paid by the organization that the review entity represents. If a patient pays out of pocket they can request that their records not be released to the insurance carrier.

Uses and Disclosure for Healthcare Operation purposes

Uses and disclosures of PHI for hospital operations do not require patient authorization. These activities include quality assessment and improvement activities, competency assurance activities, medical reviews, audits or legal services, business planning, development, management, and administrative activities. This includes disclosures to Business Associates when a valid Business Associate Agreement is in place.

Permitted Uses and Disclosure when consent or authorization is not required

1. Public Health Authorities for purposes of preventing or controlling disease, injury or disability; reporting vital events, such as birth or death; and conducting public health surveillance & investigations and investigations of work-related illnesses or injuries.
2. The Department of Children & Family Services for purposes of investigation of cases of abuse, neglect, or exploitation of children or vulnerable adults.
3. The Food and Drug Administration to report adverse events of food or dietary supplements; product defects or problems; biological product deviations; to track FDA regulated products; to enable product recalls, repairs or replacements; to conduct post marketing surveillance.
4. Health oversight activities authorized by law including audits, civil, administrative or criminal investigations or proceedings, inspections, licensure or disciplinary actions, or other government benefit or regulatory programs.
5. Judicial and administrative proceedings in response to an order of a court or administrative tribunal, a subpoena, discovery request or other lawful process.
6. Law enforcement purposes as described in *IM-048, Disclosure of PHI to Law Enforcement*.
7. The Agency for Health Care Administration upon receipt of a subpoena.
8. Decedents – Coroner, medical examiner and funeral directors to identify a deceased person, determine a cause of death, or other duties required by law.
9. Organ Procurement Organizations, tissue banks, and eye banks required to conduct death record reviews pursuant to FS 395.2050.
10. Specialized Government functions such as military and veterans activities, security and intelligence activities, protective services for officials, medical suitability and correctional institutions.
11. National Security and intelligence activities for conduct of lawful intelligence, counter intelligence, and other national security activities authorized by the National Security Act.
12. The Medicaid Fraud Control Unit in the Department of Legal Affairs pursuant to FS 409.920.
13. The Department of Financial Services or an agent, employee, or independent contractor of the department who is auditing for unclaimed property pursuant to chapter 717.
14. A regional poison control center for purposes of treating a poison episode under evaluation, case management of poison cases, or compliance with data collection and reporting requirements of FS 395.1027.
15. Workers Compensation: health information can be released to the employer, the carrier, rehab provider, or attorney for the employer or carrier in accordance with FS 440.13.

16. External Database reporting such as state cancer registries, core measure reporting, and state trauma registries.
17. Disclosures by whistleblowers.
18. Disclosures for disaster relief purposes to a public or private entity authorized by law or by its charter to assist in disaster relief efforts.

Verification of Identity prior to permitted disclosure of PHI

Prior to a permitted disclosure, reasonable efforts must be taken to verify the identity of the requestor by identification badge, letterhead on a written request, or written statement of legal authority.

Disclosures of Super-confidential Records

PHI which involves mental health, substance abuse treatment, HIV/AIDS, and/or sexually transmissible disease is subject to more stringent state and federal privacy rules and will only be used and disclosed in accordance with those rules which include:

- A special written authorization from the patient or the patient's representative that includes specific permissions for the super-confidential health information to be disclosed is required.
- Cannot be disclosed by subpoena alone - a court order or patient authorization is required.

Uses and Disclosures when authorization is required

Uses and disclosures not associated with treatment/payment/healthcare operations - PHI may not be used or disclosed without a written authorization from the patient or the patient's representative.

Disclosures when the individual is not present

- Verification of hospitalization, location, general condition may be given for directory purposes unless the patient requested confidential status and opted out of the hospital directory.
- The healthcare team may disclose information to family members and close friends who have been specifically identified by the patient or who are directly involved in the patient's care or payment for care unless the patient restricts such disclosures.
- If the patient is unable to object to such disclosure due to incapacity or emergency situation, Flagler Hospital may, in the exercise of professional judgment, determine if the disclosure is in the best interests of the patient and disclose the PHI relevant to the person's involvement in the patient's care or payment of care.

Removal of the Medical Record

Original medical records may be released or removed from the facility only in accordance with federal or state laws, court orders or subpoenas.

Re-disclosure of health information

Health Information received from another facility or provider which was used to make health care decisions about a patient may be released as part of the patient's record, if the patient specifically authorizes such release. HIPAA permits re-disclosure of medical information if needed for treatment purposes and the released information is limited to the minimum necessary to accomplish the intended purpose of the disclosure

Incidental use or disclosure of PHI

All Flagler Hospital staff members should use reasonable safeguards to minimize incidental releases of information. This includes following the policy IM-045, *Oral Communications with Patients*.

Deceased individuals

- PHI may be disclosed to the next of kin, personal representative, family members/others who were involved in the care or payment of care in the case of a deceased patient, unless doing so is inconsistent with prior expressed preference of the patient.
- Any retained records should be protected for 50 years following the death of the individual