



HIPAA Privacy Procedure #18

Effective Date: April 13, 2003
Reviewed Date: February, 2011
Revised Date: June, 2003
Scope: Radiation Oncology

Verbal/Inferred Agreement to Use or Disclose Protected Health Information

Policy Expectation:

Washington University (WU) has adopted this Policy to define the process and circumstances under which a verbal or inferred authorization is acceptable to disclose Protected Health Information (PHI). The health care team can provide PHI to family members and others involved in the patient’s care, while the Individual (patient) is present. In addition, PHI can be provided according to the provider’s best judgment, when the Individual (patient) is not present or is incapacitated.

Any exception, change, or deviation from this procedure must be reviewed and approved by the Privacy Office in consultation with the Office of General Counsel as needed. The Privacy Office will be available to answer any questions and to provide assistance and advice to Radiation Oncology work force concerning this procedure. Questions regarding specific terms, situations, or problems may be forwarded to the Privacy Office for assistance and advice.

Why is this important?

Every member of the work force is responsible for being aware of, and complying with, the HIPAA Privacy Policies and Procedures. Questions and issues regarding HIPAA Privacy shall be directed to the WU Privacy Office.

Failure to comply may result in penalties up to and including termination, imprisonment, and/or large fines.

What do you need?

- ✓ Copy of the HIPAA Policy on
 - Authorization Required to Use or Disclose PHI
 - Use or Disclosure of PHI in Research
 - Restrictions on Use or Disclosure of PHI
- ✓ Glossary of HIPAA terms

Steps:	Additional Information
<p>1. Determine the purpose of the request for information.</p>	<p>If PHI disclosure is for treatment, payment or operations you can provide the information without an authorization.</p>
<p>2. Inferred agreement is acceptable for Disclosure of PHI in the following situations:</p> <ul style="list-style-type: none"> ✓ To a person involved in the Individuals current Treatment to the extent that the PHI is directly relevant to this person’s involvement with the Individual’s Treatment or Payment; or ✓ To notify, or assist in notifying parties related to the Individual, regarding the Individual’s location, general condition or death. <p>Use professional judgments in determining the extent of Disclosure that will best serve the Individual (patient’s) best interest. Apply common sense, and experience to make reasonable assumptions in allowing someone to act on behalf of the Individual.</p>	<p>Examples: Family member or other relative, personal friend, or other person identified by the individual (girlfriend, home health nurse,)</p> <p>For example, if someone calls the front desk to ask if their aunt Mrs. Smith is there, as they are supposed to be picking her up. You can give them that (and only that) information.</p>
<p>3. Disclose PHI after obtaining verbal agreement whenever possible:</p> <ul style="list-style-type: none"> ✓ When the patient is present, fully alert and able to participate in treatment, give them an opportunity to object by informing them verbally in advance of the potential disclosure of PHI to persons involved in their care (family, close friends) (See script at right) ✓ NOTE: If the Individual is under 18 AND is pregnant, has had a child, lives apart from parents, and/or the treatment at issue is related to pregnancy, drug abuse or venereal disease, the minor may provide verbal authorization to Disclose PHI on behalf of him/herself. 	<p>If PHI is going to be discussed with the patient, and he/she is accompanied by others, state the following “We’re going to talk about your diagnosis/ treatment/ condition, shall I continue or should we speak privately?”</p>
<p>4. If the individual is under 18 and is NOT pregnant, does NOT live apart from his/her parents, and treatment is NOT related to pregnancy, drug abuse or venereal disease, than the patient’s parent or other legal guardian or person representing the parents (grandparent or adult sibling) may provide verbal authorization to disclose PHI on behalf of the minor patient.</p>	

<p>5. If the patient is non-English speaking, an interpreter must be provided.</p>	
<p>6. Perform reasonable verification of the identity of the party requesting information about the Individual when the patient is not present.</p> <ul style="list-style-type: none"> ✓ For example, it is not necessary to verify that a person who claims to be the spouse of a patient (or a parent, friend, etc) is in fact, that person. ✓ However, when in doubt, contact the patient before releasing anything over the phone. 	<p>For example, if a spouse calls and you know that the patient just now left with a woman you assumed to be his wife, you may want to call the patient to verify.</p>
<p>7. If restriction of information is requested by the Individual he/she must complete the Request for the Restriction of PHI and all procedures set forth under that Policy must be followed.</p>	<p>See Procedure for Requests for Restrictions on Use or Disclosure and Alternative Methods of Communication of PHI.</p>
<p>8. Deceased Individuals</p> <ul style="list-style-type: none"> ✓ Obtain verbal agreement from the Individuals next of kin before PHI is disclosed. Missouri and Illinois law recognize the following order as “next of kin” and this order should be followed whenever possible: <ul style="list-style-type: none"> 1. spouse 2. adult son or daughter 3. either parent 4. adult brother or sister 5. any adult grandchild of the patient; or 6. any other person authorized to provide consent 	
<p>9. Do not release an Individual’s PHI to an employer or fellow employees UNLESS:</p> <ul style="list-style-type: none"> ✓ Specifically authorized (in writing) by the Individual (patient) or legal guardian ✓ It is the worker’s compensation case manager. 	<p>Only the Minimum Necessary PHI related to the patient’s treatment should be released in any circumstances.</p>
<p>10. The Washington University staff or faculty member who obtains this verbal or inferred agreement should document it in the medical record.</p>	<p>For example, if a physician or nurse offers more privacy because other individuals or in the room and the patient declines, this should be noted in the chart.</p>

<p>11. PHI should NOT be disclosed staff not trained in HIPAA Policies and Procedures. Any staff member disclosing or using PHI inappropriately will face disciplinary action up to and including termination. Notify the Privacy Liaison.</p>	
<p>12. All PHI should be disposed of in an appropriate manner. PHI being used as part of the patients medical record should be stored in the medical record. PHI that is no longer useful (chart purges, etc) should be shredded.</p>	
<p>13. Radiation Oncology medical records are owned and maintained by Barnes-Jewish Hospital. Therefore, the Hospital will handle monitoring of this policy.</p>	