

HEALTH SCIENCE CENTER HANDBOOK OF OPERATING PROCEDURES

Chapter 11	Patient Privacy Policies	Effective:	April 2003
Section 11.2	Uses and Disclosures of Protected Health Information	Revised:	February 2006
Policy 11.2.1	Use and Disclosure of Protected Health Information Without Authorization	Responsibility:	Assistant Vice President for Regulatory Affairs & Compliance

USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION WITHOUT AUTHORIZATION

Policy

The Health Science Center may disclose protected health information without a patient authorization in the following circumstances:

1. when required by law, including:
 - a. for reporting abuse, neglect, or domestic violence,
 - b. to law enforcement officials for law enforcement purposes,
 - c. for judicial or administrative proceedings (See [Section 11.2.10](#) of the *Handbook of Operating Procedures* (HOP) "Use and Disclosure for Judicial or Administrative Proceedings");
2. for reporting public health activities;
3. for reporting health oversight activities;
4. to coroners and funeral directors when allowed by law;
5. for organ and tissue donation purposes;
6. to avert a serious and imminent threat to the health or safety of a person or the public;
7. for specialized government functions (See [Section 11.2.11](#) of the HOP, "Uses and Disclosures for Specialized Government Functions");
8. workers' compensation;
9. by whistleblowers; and,
10. by workforce members who are crime victims.

HEALTH SCIENCE CENTER HANDBOOK OF OPERATING PROCEDURES

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Definitions

DISCLOSURES: The release, transfer, provision of access to, or divulgence in any other manner, of information to any organization external to the Health Science Center.

PERSONAL PATIENT REPRESENTATIVE: An individual with decision-making capacity that is identified as the person who has the authority to consent to medical treatment on behalf of a patient in need of medical treatment. This includes an individual who has authority by law or by agreement from the individual receiving treatment to act in the place of the individual. This includes parents, legal guardians, or properly appointed agents, such as identified in a “Durable Power of Attorney”.

USE: With respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within the Health Science Center.

Required by Law

The Health Science Center personnel may use or disclose protected health information to the extent that such use or disclosure is required by law, and the use or disclosure complies with and is limited to the relevant requirements of such law.

Health Science Center personnel must meet the requirements pertaining to disclosures relating to: victims of abuse, neglect, or domestic violence; and disclosures for law enforcement purposes, described in the following sections of this policy; and judicial and administrative proceedings, described in [Section 11.2.10](#), of the HOP, “Use and Disclosure for Judicial or Administrative Proceedings”.

Abuse, Neglect, or Domestic Violence

The Health Science Center personnel may disclose protected health information about an individual whom the Health Science Center reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority, including a social service or protective services agency, as authorized or required by law:

HEALTH SCIENCE CENTER HANDBOOK OF OPERATING PROCEDURES

Chapter 11	Patient Privacy Policies	Effective:	April 2003
Section 11.2	Uses and Disclosures of Protected Health Information	Revised:	February 2006
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-
1. To the extent the disclosure is required by law and the disclosure complies with and is limited to the relevant requirements of such law;
 2. If the individual agrees to the disclosure; or,
 3. To the extent the disclosure is expressly authorized by statute or regulation, and:
 - a. The Health Science Center, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or other potential victims; or,
 - b. If the individual is unable to agree because of incapacity, a law enforcement or other authorized public official may receive the report if:
 1. the protected health information sought is not intended to be used against the individual; and,
 2. an immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.

In making a disclosure as permitted above, the Health Science Center personnel must promptly inform the individual, in the exercise of professional judgment, that such a report has been or will be made, except if:

1. The Health Science Center believes informing the individual would place the individual at risk of serious harm; or,
2. The Health Science Center would be informing a personal representative, and the Health Science Center reasonably believes the personal representative is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interests of the individual as determined by the Health Science Center.

HEALTH SCIENCE CENTER HANDBOOK OF OPERATING PROCEDURES

Chapter 11	Patient Privacy Policies	Effective:	April 2003
Section 11.2	Uses and Disclosures of Protected Health Information	Revised:	February 2006
Policy 11.2.1	Use and Disclosure of Protected Health Information Without Authorization	Responsibility:	Assistant Vice President for Regulatory Affairs & Compliance

Law Enforcement Purposes

The Health Science Center may disclose protected health information, as required by law, including laws that require the reporting of certain types of wounds or other physical injuries. Disclosure will be made in compliance with and as limited by the relevant requirements of:

1. A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;
2. A grand jury subpoena; or,
3. An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that:
 - a. The information sought is relevant and material to a legitimate law enforcement inquiry;
 - b. The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and,
 - c. De-identified information could not reasonably be used. See [Section 11.2.9](#) of the HOP on “De-identification of Protected Health Information”.

Also, the Health Science Center may disclose protected health information in response to a law enforcement official’s request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that the Health Science Center discloses only the following information:

1. Name and address;
2. Date and place of birth;
3. Social security number;
4. ABO blood type and rh factor;

HEALTH SCIENCE CENTER HANDBOOK OF OPERATING PROCEDURES

Chapter 11	Patient Privacy Policies	Effective:	April 2003
Section 11.2	Uses and Disclosures of Protected Health Information	Revised:	February 2006
Policy 11.2.1	Use and Disclosure of Protected Health Information Without Authorization	Responsibility:	Assistant Vice President for Regulatory Affairs & Compliance

-
5. Type of injury;
 6. Date and time of treatment;
 7. Date and time of death, if applicable; and,
 8. A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair, scars, and tattoos.

Except as permitted in the above list, the Health Science Center may not disclose for these purposes any protected health information related to the individual's DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissue.

In addition, the Health Science Center may disclose protected health information in response to a law enforcement official's request for such information about an individual who is or is suspected to be a victim of crime, other than disclosures that are subject to this section, if:

1. The individual agrees to the disclosure; or,
2. The Health Science Center is unable to obtain the individual's agreement because of incapacity or other emergency circumstance, provided that:
 - a. The law enforcement official represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred, and such information is not intended to be used against the victim;
 - b. The law enforcement official represents that immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure; and,
 - c. The disclosure is in the best interests of the individual as determined by the covered entity, in the exercise of professional judgment.

HEALTH SCIENCE CENTER HANDBOOK OF OPERATING PROCEDURES

Chapter 11	Patient Privacy Policies	Effective:	April 2003
Section 11.2	Uses and Disclosures of Protected Health Information	Revised:	February 2006
Policy 11.2.1	Use and Disclosure of Protected Health Information Without Authorization	Responsibility:	Assistant Vice President for Regulatory Affairs & Compliance

The Health Science Center will disclose protected health information about a deceased individual to law enforcement officials for the purpose of alerting law enforcement of the death of the individual if the Health Science Center has a suspicion that such death may have resulted from criminal conduct.

Also, the Health Science Center may disclose to a law enforcement official protected health information that the Health Science Center believes, in good faith, constitutes evidence of criminal conduct that occurred on the Health Science Center premises.

Finally, a Health Science Center health care provider providing emergency health care in response to a medical emergency, other than such emergency on the Health Science Center premises, may disclose protected health information to a law enforcement official if such disclosure appears necessary to alert law enforcement to:

1. The commission and nature of a crime;
2. The location of such crime or of the victim(s) of such crime; and,
3. The identity, description, and location of the perpetrator of such crime.

If a Health Science Center health care provider believes that the medical emergency described in the above paragraph of this section is the result of abuse, neglect, or domestic violence of the individual in need of emergency health care, the above paragraph does not apply. Any disclosure to a law enforcement official for law enforcement purposes is subject to the policy on abuse, neglect, or domestic violence noted above.

**Public Health
Activities**

The Health Science Center may disclose health information for public health activities to:

1. A public health authority authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the

HEALTH SCIENCE CENTER HANDBOOK OF OPERATING PROCEDURES

Chapter 11	Patient Privacy Policies	Effective:	April 2003
Section 11.2	Uses and Disclosures of Protected Health Information	Revised:	February 2006
Policy 11.2.1	Use and Disclosure of Protected Health Information Without Authorization	Responsibility:	Assistant Vice President for Regulatory Affairs & Compliance

reporting of disease injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions; or, at the direction of a public health authority, to an official of a foreign government agency that is acting in collaboration with a public health authority;

2. A public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect;
3. A person subject to the jurisdiction of the Food and Drug Administration (FDA) with respect to an FDA-regulated product or activity for which that person has responsibility, for the purpose of activities related to the quality, safety, or effectiveness of such FDA-regulated product or activity. Such purposes include:
 - a. To collect or report adverse events (or similar activities with respect to food or dietary supplements), product defects or problems (including problems with the use or labeling of a product), or biological product deviations;
 - b. To track FDA-regulated products;
 - c. To enable product recalls, repairs, or replacement or look back (including locating and notifying individuals who have received products that have been recalled, withdrawn or are the subject of look back); or,
 - d. To conduct post marketing surveillance.
4. A person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition, if the Health Science Center or public health authority is authorized by law to notify such person as necessary in the conduct of a public health intervention or investigation; or,

HEALTH SCIENCE CENTER HANDBOOK OF OPERATING PROCEDURES

Chapter 11	Patient Privacy Policies	Effective:	April 2003
Section 11.2	Uses and Disclosures of Protected Health Information	Revised:	February 2006
Policy 11.2.1	Use and Disclosure of Protected Health Information Without Authorization	Responsibility:	Assistant Vice President for Regulatory Affairs & Compliance

-
5. An employer, about an individual who is a member of the workforce of the employer, if:
- a. The Health Science Center provided health care to the individual at the request of the employer to conduct an evaluation relating to medical surveillance of the workplace, or to evaluate whether the individual has a work-related injury;
 - b. The protected health information that is disclosed consists of findings concerning a work-related illness or injury or a workplace-related medical surveillance;
 - c. The employer needs such findings in order to comply with other federal regulations or other state law having a similar purpose, to record such illness or injury or to carry out responsibilities for workplace medical surveillance; and,
 - d. The Health Science Center provides written notice to the individual that protected health information relating to the medical surveillance of the workplace and work-related illnesses and injuries is disclosed to the employer:
 - 1. By giving a copy of the “[Notice of Privacy Practices](#)” to the individual at the time the health care is provided; or,
 - 2. If the health care is provided on the work site of the employer, by posting the “[Notice of Privacy Practices](#)” in a prominent place at the location where the health care is provided.

Health Oversight Reporting

The Health Science Center may disclose protected health information without an authorization to a health oversight agency for oversight activities authorized by law, including audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight of:

HEALTH SCIENCE CENTER HANDBOOK OF OPERATING PROCEDURES

Chapter 11	Patient Privacy Policies	Effective:	April 2003
Section 11.2	Uses and Disclosures of Protected Health Information	Revised:	February 2006
Policy 11.2.1	Use and Disclosure of Protected Health Information Without Authorization	Responsibility:	Assistant Vice President for Regulatory Affairs & Compliance

-
- The health care system;
 - Government benefit programs for which health information is relevant to beneficiary eligibility;
 - Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; or,
 - Entities subject to civil rights laws for which health information is necessary for determining compliance.

A health oversight activity does not include an investigation or other activity where the individual is the subject of the investigation or activity, and the investigation or other activity is not directly related to:

- The receipt of health care;
- A claim for public benefits related to health; or,
- Qualification for, or receipt of, public benefits or services when a patient's health is integral to the claim for public benefits or services.

If a health oversight activity or investigation is conducted in conjunction with an oversight activity or investigation relating to a claim for public benefits not related to health, the joint activity or investigation is considered a health oversight activity for purposes of this policy.

**Coroners and
Funeral Directors**

The Health Science Center may release protected health information on decedents to:

1. Coroners and medical examiners for the purpose of identifying a deceased person, determining the cause of death, or other duties as authorized by law.
2. Funeral directors, consistent with applicable law, as necessary to carry out their duties with respect to the decedent. If necessary,

HEALTH SCIENCE CENTER HANDBOOK OF OPERATING PROCEDURES

Chapter 11	Patient Privacy Policies	Effective:	April 2003
Section 11.2	Uses and Disclosures of Protected Health Information	Revised:	February 2006
Policy 11.2.1	Use and Disclosure of Protected Health Information Without Authorization	Responsibility:	Assistant Vice President for Regulatory Affairs & Compliance

for funeral directors to perform their duties, the Health Science Center may disclose the protected health information prior to, and in reasonable anticipation of the individual's death.

Organ and Tissue Donation Purposes

The Health Science Center may use or disclose protected health information to organ procurement organizations or other entities engaged in the procurement, banking, or transporting of cadaveric organs, eyes, or tissue for the purpose of facilitating donation or transportation.

Avert a Serious Threat to Health or Safety

The Health Science Center may, consistent with applicable law and standards of ethical conduct, use or disclose protected health information, if:

1. The Health Science Center, in good faith believes the use of disclosure:
 - a. Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and,
 - b. Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat; or
2. It is necessary for law enforcement authorities to identify or apprehend an individual:
 - a. Because of statement by an individual admitting participation in a violent crime that the Health Science Center reasonably believes may have caused serious physical harm to the victim; or,
 - b. Where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody.

HEALTH SCIENCE CENTER HANDBOOK OF OPERATING PROCEDURES

Chapter 11	Patient Privacy Policies	Effective:	April 2003
Section 11.2	Uses and Disclosures of Protected Health Information	Revised:	February 2006
Policy 11.2.1	Use and Disclosure of Protected Health Information Without Authorization	Responsibility:	Assistant Vice President for Regulatory Affairs & Compliance

A use or disclosure may not be made:

- If the information described above is learned by the Health Science Center in the course of treatment which is designed to alter or change the individual's desire to commit the criminal conduct, which would be the basis of making the disclosure; or,
- When an individual initiates or is referred to the Health Science Center for treatment, counseling, or therapy.

Finally, the Health Science Center may only release the statement relating to the serious threat and the protected health information related to the serious threat. If the Health Science Center acts in good faith upon its belief, then the Health Science Center will be protected for disclosures related to the serious threat.

Workers' Compensation

The Health Science Center may disclose protected health information as authorized by and to the extent necessary to comply with laws relating to workers' compensation or similar programs, established by law, that provide benefits for work-related injuries or illnesses with regard to health.

Whistleblowers

The Health Science Center is not considered to have violated the requirements of this policy if a member of its workforce or a business associate discloses protected health information, provided that:

1. The workforce member or business associate believes in good faith that the Health Science Center has engaged in conduct that is unlawful or otherwise violates professional or clinical standards, or that the care, services, or conditions provided by the Health Science Center potentially endangers one or more patients, workers, or the public; and,
2. The disclosure is to:
 - a. A health oversight agency or public health authority authorized by law to investigate or otherwise oversee the

HEALTH SCIENCE CENTER HANDBOOK OF OPERATING PROCEDURES

Chapter 11	Patient Privacy Policies	Effective:	April 2003
Section 11.2	Uses and Disclosures of Protected Health Information	Revised:	February 2006
Policy 11.2.1	Use and Disclosure of Protected Health Information Without Authorization	Responsibility:	Assistant Vice President for Regulatory Affairs & Compliance

relevant conduct or conditions of the Health Science Center or to an appropriate health care accreditation organization for the purpose of reporting the allegation of failure to meet professional standards or misconduct by the Health Science Center; or,

- b. An attorney retained by or on behalf of the workforce member or business associate for the purpose of determining the legal options of the workforce member or business associate with regard to the conduct described above.

Workforce Crime Victims

The Health Science Center is not considered to have violated the requirements of this policy if a member of its workforce who is the victim of a criminal act discloses protected health information to a law enforcement official, provided that:

1. The protected health information disclosed is about the suspected perpetrator of the criminal act; and,
2. The protected health information disclosed is limited to name and address, date and place of birth, social security number, ABO blood type and rh factor, type of injury, date and time of treatment, date and time of death, if applicable, and a description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.