

Administrative Policies & Procedures

Subject: Use and Disclosure of Protected Health Information		Section: Health Information	Policy #:
Cross Reference: Patient Care Policy: Use and Disclosure of PHI Administrative Policy: Patient Access to PHI Medical Records Policy: Disclosure of PHI Administrative Policy: Using, Disclosing & Requesting the Minimum Amount of PHI		Issued For: <input checked="" type="checkbox"/> Mayo Clinic, Jacksonville <input checked="" type="checkbox"/> St. Luke's Hospital	
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PURPOSE:

To provide guidance for workforce members at Mayo Clinic Jacksonville, St. Luke's Hospital and Mayo Primary Care Centers (collectively referred to as "Mayo") regarding the use and disclosure of Protected Health Information in accordance with applicable law.

POLICY:

It is the policy of Mayo that all Protected Health Information be used and disclosed in accordance with applicable Florida and federal law, and in the best interests of the patient.

DEFINITIONS:

"Designated Record Set" includes the medical record (as defined below) and related billing records. The designated record set does not include legal correspondence, quality assurance or other peer review information or documents.

"Disclose" and "Disclosure" means the release of, transfer of, provision of, access to, or divulging in any manner, of Protected Health Information outside of Mayo or to persons other than its workforce members. Disclosure means a release to persons or entities other than to the patient who is the subject of the information.

"Medical Record" includes information Mayo uses to make health care decisions about a patient. Each patient registered at St. Luke's Hospital will have a St. Luke's Hospital medical record. If the same patient has been registered at Mayo Clinic, the patient will also have a Mayo Clinic medical record.

"Protected Health Information" or "PHI" means information that (i) is created or received by a Health Care Provider, Health Plan, employer or Health Care Clearinghouse; (ii) relates to the past, present or future physical or mental health or condition of an individual; the provision of Health Care to an individual, or the past, present or future payment for the provision of Health Care to an individual; and (iii) identifies the individual (or for which there is a reasonable basis for believing that the information can be used to identify the individual).

"Superconfidential Information" is a subset of Protected Health Information and includes, but is not limited to, information relating to:

- Substance abuse and related treatment
- Human Immunodeficiency Virus (HIV) & Acquired Immunodeficiency Syndrome (AIDS)
- Psychotherapy notes documenting or analyzing conversations with individuals during any mental health evaluation and/or counseling session

Psychotherapy notes are not typically in the patient's medical record and shall be treated with caution as described in more detail in Section M of this policy.

“Use” or “Uses” means the sharing, employment, application, utilization, examination or analysis of Protected Health Information within Mayo's internal operations.

“Workforce” means all employees, students, volunteers and individuals working directly under the control of Mayo.

PROCEDURE:

A. Disclosures for Treatment. Requests for Protected Health Information by persons or entities other than the patient should be directed to Medical Records. Protected Health Information may be disclosed without a patient's permission for purposes of treatment, unless a patient expresses a desire not to have his or her information disclosed. There will be no charge for copies of medical records disclosed for purposes of treatment. For additional guidance in disclosing Protected Health Information for treatment purposes, please refer to the Patient Care Policy entitled “Use and Disclosure of Protected Health Information.”

B. Disclosures for Payment Purposes. Requests for Protected Health Information by persons or entities other than the patient should be directed to Medical Records. Protected Health Information may be disclosed for purposes of payment if the patient has signed the “Release of Protected Health Information” form that each patient is asked to sign upon admission or at registration. Payment purposes would include the reimbursement for the provision of health care, including determinations of eligibility or coverage, coordination of benefits, billing, claims management, collections, obtaining payment under a contract for reinsurance, and review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges.

C. Disclosures for Purposes of Health Care Operations. Requests for Protected Health Information by persons or entities other than the patient should be directed to Medical Records. Protected Health Information may be disclosed for purposes of health care operations if the patient has signed the “Release of Protected Health Information” form that each patient is asked to sign upon admission or at registration. Health care operations include activities that support treatment or payment, including quality assessment and improvement activities, reviewing the competence, qualifications or performance of health care professionals, training programs, accreditation, certification and licensing activities, legal services and auditing functions, business planning and development, general administration and management activities, and consumer services.

D. Disclosures Pursuant to an Authorization. Most disclosures for purposes other than treatment, payment and health care operations will require specific written patient authorization. Requests for Protected Health Information for purposes other than treatment, payment and health care operations should be directed to Medical Records, unless the requests fall within one of the categories designated in this policy. Medical Records will ensure that the appropriate patient authorization is obtained and placed in the patient's medical record. For more information on the process to obtain a patient authorization or for the authorization form, please contact Medical Records or your Privacy Officer.

E. Disclosures Required for Public Health Purposes.

Mayo may disclose protected health information for public health purposes. Release to appropriate agencies and authorities may occur for the following reasons:

- To prevent or control disease or injury
- For purposes of organ donation and procurement
- To report births and deaths
- To report abuse, neglect or domestic violence against a child or vulnerable adult;
- To report to the federal government adverse reactions to medication or safety problems with products
- To notify people of product recalls
- To notify a person exposed to certain types of disease or those at risk for contracting or spreading a disease
- To report suspected cases, carriers or deaths of specific diseases of public health significance
- To report immunizations
- To report conditions of moderate to severe brain or spinal cord injury
- To report certain health information related to the diagnoses and incidence of cancer
- To report known or suspected cases of tuberculosis
- To report sexually transmitted diseases

Reporting or notification for these purposes should be made in accordance with applicable policies and coordinated through your supervisor, Risk Management or Legal.

F. Disclosures Required for Legal Purposes. All legally related requests, such as court orders, subpoenas, requests from the Florida Agency for Health Care Administration, the Florida Department of Health or Florida Board of Medicine, and all requests from attorney's offices should be directed primarily to Medical Records, with questions or concerns to the Legal Department. Requests for Protected Health Information maintained by St. Luke's should be sent to St. Luke's Release of Information at Medical Records. All requests for Protected Health Information maintained by Mayo Clinic should be sent to MCJ Medical Records Release of Information, who will coordinate with the Legal Department when appropriate. The requestor shall be responsible for the reasonable costs incurred to copy such information.

Additionally, disclosures may be made to law enforcement in the following circumstances:

- In response to a court order, subpoena, warrant or other type of process
- To identify a suspect, fugitive or missing person
- About the victim of a crime under certain limited circumstance;
- About a death believed to be a result of criminal conduct;
- About a crime committed on Mayo premises
- In emergency circumstances when necessary to maintain safety and security of Mayo personnel and patients
- To report gunshot wounds or life-threatening injuries indicating an act of violence
- To report second- and third-degree burns if the burns are believed to be caused by violence or unlawful activity

For questions related to legal requests, please consult with your supervisor, Medical Records or the Legal Department.

G. Other Disclosures Required by Law. Florida or federal law may require the reporting of protected health information by health care providers in the following circumstances:

- Florida law provides that health care providers may be required to disclose protected health information to the Division of Workers' Compensation, or to an employer, carrier, or authorized rehabilitation provider, when appropriate.
- Federal law may require the disclosure of protected health information to authorized federal officials for intelligence, counterintelligence or other national security activities authorized by law, including for example, disclosures to authorized federal officials so they may provide protection to the President or other designated individuals.
- If a patient is a member of the United States Armed Forces, Mayo may disclose protected health information as required by military authorities. Mayo may also be asked to disclose protected health information about foreign military personnel to the appropriate foreign military authority. When the military organization is sponsoring the medical evaluation, the patient's medical information may be shared with both the patient and the sponsoring organization.

If you have questions regarding whether a disclosure is required by law or the authority of an individual requesting protected health information in accordance with a legal demand, please contact your supervisor or the Legal Department for additional guidance.

H. Disclosures to Family or Friends Involved in Patient's Care. Staff may disclose to family members and friends who are involved in a patient's care only the information necessary to the family members' or friend's involvement. For more information regarding disclosure to family and friends involved in the patient's care, please refer to the Patient Care Policy on "Use and Disclosure of Protected Health Information."

I. Disclosures in Emergency Situations or To Avert a Threat to Health or Safety. If staff has a good faith belief that disclosing Protected Health Information would prevent or lessen a serious and immediate threat to the patient, another person or the public, such staff member should document the reason why and may make the disclosure. For more information regarding disclosure to family and friends involved in the patient's care, please refer to the Patient Care Policy on "Use and Disclosure of Protected Health Information."

J. Disclosures to Media. Any requests from the media regarding a patient must be directed to Marketing Communications. If the request from the media is made after regular business hours, the on-call Administrator will coordinate with the on-call Marketing Communications representative.

K. Disclosures from Patient List or Hospital Patient Census. Unless a patient has "opted-out" in writing from our hospital patient census or the patient has otherwise objected, staff may disclose the following information to persons who ask for an individual by name:

- a. Individual's name
- b. Location in our facility
- c. General medical condition of patient, such as "fair," "good," or "poor," but not including specific diagnosis

L. Disclosures to Clergy. Unless a patient has "opted-out" in writing from our patient list/facility directory or the patient has otherwise objected, staff may disclose the following information to clergy members:

- d. Individual's name

- e. Location in our facility
- f. General medical condition of patient, such as “fair,” “good,” or “poor,” but not including specific diagnosis
- g. Religious affiliation

M. Superconfidential Information.

1. Requests for Psychotherapy Notes. If psychotherapy notes or mental health records are requested, the patient’s mental health provider will be contacted and asked to complete a “Physician Superconfidential Release Form.” If the provider feels that release of the mental health records may not be appropriate or hinder care provided, the patient’s provider may provide a report of the examination and findings in lieu of a copy of the actual record. However, copies of psychotherapy notes must be provided directly to a subsequent treating physician upon the patient’s written request.
2. Other Superconfidential Information. Protected Health Information regarding HIV or AIDS status, genetic testing results, or substance abuse treatment must be specifically requested to be disclosed to a third party.

N. Verification of Requestor. The identity and authority of the person requesting Protected Health Information will be verified prior to disclosure. For more information regarding verification prior to disclosure, see the Medical Records Disclosure of Protected Health Information Policy.

O. Minimum Necessary. Staff must make reasonable efforts to limit the use and disclosure of Protected Health Information to the minimum necessary amount needed to accomplish the intended purpose of the use, disclosure or request. Uses, disclosures and requests specific to treatment purposes are not limited to minimum necessary. For additional guidance, refer to the Administrative Policy on “Using, Disclosing and Requesting the Minimum Necessary Amount of Protected Health Information”.

P. Removal of Medical Records. The medical record is the property of Mayo and shall not be removed except when required by law. Unauthorized removal of records or Protected Health Information will be subject to disciplinary action.

Q. Patient Access to Medical Records. For information regarding when and how patients may access Protected Health Information of which they are the subjects, please refer to the Administrative Policy on “Patient Access to Protected Health Information.”