

## **TEMPLE UNIVERSITY HEALTH SYSTEM CHIEF EXECUTIVE OFFICER POLICIES AND PROCEDURES**

**NUMBER:** 210.00  
**TITLE:** Release of Patient's Protected Health Information Policy  
**EFFECTIVE DATE:** October 14, 2003  
**LAST REVIEWED:** June 1, 2015  
**LAST REVISED:** June 9, 2014  
**REFERENCES:** (re-formatted & approved for transfer to Online Policy System)  
Record Retention (Policy # 215)  
Supplement "E" in Policy # 125  
Health Insurance Portability and Accountability Act of 1996  
(HIPAA) Title 35. Health and Safety Chapter 45  
Confidentiality of HIV-Related Information Act  
42 U.S.C. § 290 – Confidentiality of Records  
42 C.F.R 2.61- Confidentiality of Alcohol and Drug Abuse Patient  
Records  
Pennsylvania Drug and Alcohol Abuse Act of 1972 § 1690  
Pennsylvania Act 26 - 42 Pa. C.S. § 6152

**ATTACHMENTS:** Medical Record Copying Rates  
**ISSUING AUTHORITY:** Chief Executive Officer

### **SCOPE**

This policy and procedure shall apply to Temple University Health System, Inc. (TUHS) and any TUHS subsidiary corporation. Any references to TUHS shall mean TUHS and its subsidiaries.

### **PURPOSE**

TUHS complies with all applicable state and federal laws governing the control and access to patient protected health information including the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and its implementing regulations as may be amended. Reference should be made to the TUHS Health Information Security and Privacy Practices that is a supplement to the TUHS Billing Compliance Program. For HIPAA purposes, TUHS is considered an Organized Health Care Arrangement consisting of the following:

- Temple University Hospital (including Main, Episcopal and Northeastern Campuses)
- Temple University Physicians
- Temple University School of Dentistry
- Temple University School of Podiatry Medicine
- Temple University School of Medicine

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- Temple University College of Public Health
- Jeanes Hospital
- Temple Physicians Inc.
- Temple Health Transport Team
- Fox Chase Cancer Center Medical Group
- American Oncologic Hospital
- Institute for Cancer Research

The medical record and all information contained within are considered confidential. Although the patient has a legally recognized interest in the medical record, the record itself is the property of the TUHS facility, which treats that patient. It is that facility's responsibility to safeguard its medical records from unauthorized use, loss and/or destruction. For this reason, medical records may not be removed from the TUHS treating facility unless directed by appropriate legal authority (valid subpoena or court order) for use in a legal proceeding.

While all medical record information is considered confidential, the Commonwealth of Pennsylvania has classified the following medical information as subject to a higher degree of protection. This includes any information pertaining to psychiatric illness, drug/alcohol abuse, and HIV or AIDS related information, including positive or negative test results. (See Procedure #7 listed below)

### **DEFINITIONS:**

Medical Records are maintained for the benefit and protection of the patient. The medical record serves as a record of the patient's illness or chief complaint, and the care and treatment rendered each time he/she is treated at a TUHS facility. It also serves as a history of past illness to provide a guide for possible treatment of future illnesses. The medical record also benefits and protects the treating physicians as a record of treatment provided, and may guide future treatment or research. TUHS entities benefit from patient medical record information through evaluation and improvement of clinical services, accreditation documentation, and medical education and research.

Protected Health Information (PHI) is any information, whether oral or recorded in any form or medium, that relates to the past, present, or future physical or mental health or condition of an individual, or the past, present or future payment for the provision of health care to an individual.

Designated Record Set is a patient's record of any medical treatment s/he has received, which contains PHI. Such records may consist of inpatient/outpatient medical records, billing records for the provision of medical services, information relating to the enrollment of an individual for a health insurance program, healthcare payment information, or medical claims adjudication information.

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A subpoena, for purposes of this policy, shall be considered as any written document that is issued by a clerk of a court of competent jurisdiction directing the production of documents for a judicial proceeding.

A Warrant is a court order or writ empowering an authorized agent to seize identified records or perform a search for those records.

## **PROCEDURES**

1. All requests for information from patient medical records should be referred to the TUHS facility's Medical Records Department or the appropriate department responsible for the retention of the requested record. The Medical Record Department of each TUHS facility is responsible for all inpatient, Short Procedure Unit, Emergency Department, and Psychiatric Services records. The respective department providing clinical services may also maintain outpatient/ambulatory medical records.
2. All patient information contained in the medical record is confidential and may only be released upon appropriate presentation and verification of proper authorization. Authorization of release is not required for access to a health care practitioner actively treating a patient or in an emergency situation. Access to patient information may also be granted for facility quality monitoring activities.
3. The medical record is the property of the treating facility, which has an obligation to restrict the removal of the record from the facility's premises, and determine who may have access. In addition to protecting records from unauthorized access, the treating facility must also take reasonable safeguards to protect their records from loss and destruction.
4. It is not permissible to remove a medical record from the treating facility property unless compelled by appropriate legal authority such as a properly executed subpoena or court order for use in judicial proceedings. A subpoena for purposes of this policy shall be considered as any written document that is issued by a clerk of a court directing the production of documents in a judicial proceeding. Medical records may also be the subject of a warrant, which is a court order or writ empowering an authorized officer to seize identified records or perform a search for those records. (See Paragraph # 9 below regarding medical information which may require specific authorization)
  - a. Questions concerning the validity of a subpoena or court order (e.g. issued from a jurisdiction other than the Commonwealth of Pennsylvania) should be directed to the TUHS Office of Counsel.
5. TUHS entities' Medical Records Departments will accept only valid subpoenas and court orders for medical records. Anyone attempting to serve a subpoena or warrant will verify

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his or her credentials with the appropriate TUHS Security Office by signing in at the respective TUHS entity's security desk.

6. Requests for medical records from patients, patient representatives (attorneys) or subpoena for records, *duces tecum*, are subject to a copying fee in compliance with Pennsylvania Act 26, although facility departments may reduce or waive the fees related to requests for records of continuity of medical care or hardship. Requests from insurers to verify medical services for which reimbursement is sought and requests from agencies of the state or federal government are exempt from the copying fee schedule (attached).

## **AUTHORIZATIONS FOR RELEASE**

7. Requests for medical information from hospitals and health care providers which are directly involved in the treatment of a patient may be honored without specific patient authorization. Appropriate steps should be taken to verify that the requesting party is directly treating the patient.
8. Authorizations for release of protected health information shall be documented by a written statement granting permission for disclosure and contain the name of the patient, the name of the person or entity to whom the protected health information is to be disclosed, dated within 90 days of presentation, and signed by the patient.
  - a. If the patient is a minor, the authorization must be signed by one of the parents, or legally appointed guardians. A minor may provide effective consent if he/she is a high school graduate, is, or has been married, is, or has been pregnant, or has been emancipated by Court Order.
  - b. If the patient has died, the authorization must be signed by the administrator or executor of the descendant's estate with proof of authority in the form of a "short certificate", or a letter of administration issued by the Registrar of Wills. In the absence of an executor, the next of kin responsible for the disposition of the remains may have access to all medical records of the deceased.
  - c. In the event the patient is unable to sign an authorization by reason of physical or mental disability, the authorization may be signed by the next of kin or legally appointed guardian.
9. Release of medical information regarding records of patients with a history of mental illness, alcohol or drug abuse, and or HIV/AIDS, may not be provided unless additional required authorization is provided as follows:
  - a. The consent form for any of these categories must contain:

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- A time limit on validity reflecting starting and ending dates;
  - Statement of purpose for which records will be used;
  - Specific identification of information to be released;
  - Signature of consenting party with date signed;
  - Statement indicating that consenting party understands the nature of the release;
  - Signature of person obtaining the release;
  - Statement of revocation;
  - Statement of limitation of further disclosure.
- b. A patient who is 14 years of age or older and suffers from one of the above-listed illnesses may control the release of his/her records unless adjudicated incompetent. In such a case, a parent or legal guardian shall exercise control over the release of records respectively.
- c. If a patient is under 14 years of age and has consented to his/her own treatment without parental consent, only the patient (regardless of age) may consent to authorize release of protected health information.
- d. If any of these highly protected medical records are subpoenaed, the subpoena must not be accepted and the record may only be released pursuant to a court order or the patient's consent following the above-listed procedures.
- e. Disclosure made with the patient's consent regarding information pertaining to HIV/AIDS must be accompanied by the following written statement:

This information has been disclosed to you from records protected by Pennsylvania law. Pennsylvania law prohibits you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or is authorized by the Confidentiality of HIV-Related Information Act. A general authorization for the release of medical or other information is not sufficient for this purpose.

10. Insurance companies and other third parties which may be responsible for the payment of a patient's medical treatment, will be permitted access to protected

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health information only upon presentation of a signed authorization from the patient. This authorization may be a general release of patient information executed as a condition of providing insurance coverage. Such authorizations may be honored, however, by providing only the information which is necessary to complete a patient's claim.

- a. A general release from a patient's insurance company will not suffice to release any patient protected health information relating to mental health, HIV/AIDS, or substance abuse. Such requests must comply with the requirements described above.

## **PATIENT'S RIGHTS AND CONTROL OF THEIR MEDICAL RECORDS**

11. Patients may request access to their medical records for review upon written request. Photocopies of the record may also be provided upon written request and verification of proper identification.
  - a. Facilities will provide access to personal medical records following a reasonable time to locate and prepare the record.
  - b. Any medical record containing psychiatric information may not be released to the patient until the psychiatrist has an opportunity to review the record in order to determine if it is clinically appropriate for the patient to review his/her record. If, in the treating psychiatrist's opinion it would be clinically detrimental for the patient to review his/her record, the patient's request may be denied in writing in a timely fashion.
  - c. The attending physician and Nurse Manager should always be notified of such a request and preferably be present when the record is reviewed.
  - d. The patient may be charged a fee for a copy their record as described in paragraph 6 above.
12. Requests from the patient's family to review a medical record cannot be honored if the patient has specifically restricted access to his/her medical record. In the absence of such an affirmative restriction by the patient, the patient's family may inspect the medical record after the patient has signed an authorization permitting them to do so.
  - a. A physician should always be present during a review of a patient's medical record to answer any questions

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concerning the care provided to our patients.

13. A patient may request an accounting of any disclosures of their medical record within a six-year period for any purpose other than treatment, billing, health system operations or those authorized by the patient's consent. There will be no charge for the first accounting, but subsequent requests will be charged the usual copying fee as described above in paragraph 6.
14. Any request for information from the media should be referred to the Department of Public Relations. No information may be provided directly unless the patient has specifically consented in writing to such a release to the requesting media.
15. Any medical record which cannot be located, should be reported to TUHS Risk Management for the purpose of certifying the record as lost.

## **ATTACHMENT 1**

### **MEDICAL RECORDS COPYING RATES**

- Per Page Charge for pages 1-20: Not to Exceed \$1.44
- Per Page Charge for pages 21-60: Not to Exceed 1.06
- Per Page Charge for pages 61-end: Not to exceed .35
- Search and Retrieval of records not to exceed \$21.33
- Charges for copying of microfilm copies not to exceed \$2.12
- Flat fee for production of records for Social Security claims or other federal or state needs based benefit program: \$27.02
- Flat fee for supplying records requested by the Philadelphia Office of District Attorney; \$21.33

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**Note: The signed original of this policy is on file with the Policy Coordinator for the Office of Counsel.**

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