

ADMINISTRATIVE POLICY AND PROCEDURE

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Subject: VERIFICATION OF IDENTITY AND AUTHORITY OF INDIVIDUALS REQUESTING PROTECTED HEALTH INFORMATION (PHI) **Policy No.:** A150

Supersedes: March 9, 2016	Review Date: March 21, 2023
Origin Date: March 1, 2011	Revision Date: March 21, 2023

PURPOSE:

To clarify the process for verifying the identity and authority of individuals requesting Protected Health Information (PHI).

POLICY:

Rancho Los Amigos National Rehabilitation Center (Rancho) will verify the identity and authority of individuals requesting PHI, as provided by this policy and procedure if the identity or source of that individual is unknown to Rancho. In addition, Rancho must obtain statements or oral or written representations from the person requesting PHI when required as a condition of disclosure of the PHI.

DEFINITIONS:

Authorization means the signed authorization language used by DHS to obtain an individual(s) permission before using or disclosing that individual(s) PHI for purposes that do not fall within the definitions of Treatment, Payment, or Health Care Operations or other purposes that do not require the individual(s) permission.

Disclose or Disclosure means, concerning PHI, the release of, transfer of, provision of access to, or divulging in any manner of PHI outside of DHS internal operations or to others than its Workforce Members.

Personal Representative means a person who can act on behalf of an individual and exercise that individual's rights under the HIPAA Privacy Standards. See DHS Policy No. 361.17, Use and Disclosure of Protected Health Information (PHI) of Deceased Individuals and Minors and Making Disclosures to Personal Representatives.

Protected Health Information (PHI) means individually identifiable information relating to an individual's past, present, or future physical or mental health or condition, provision of health care to an individual, or the past, current or future payment for the health care provided to an individual.

Public Official means a person exercising governmental powers while performing their official duties. Such persons may include, for example, state and federal regulatory agency officials, judicial officials, and law enforcement officials.

Workforce or Workforce Members means employees, volunteers, trainees, and other persons who conduct, in the performance of work for the department, its office, programs, or facilities, under the direct control of the department, office, program, or facility, regardless of whether the entity pays them.

PROCEDURES:

I. Verification Requirements for Access by DHS Workforce

Revised: 3/16, 3/23
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Approved By:

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A. For any access to PHI, Rancho:

1. Establishes a level of staff that can approve or grant access to PHI.
2. Verifies the identity of any person who is unknown and determines the authority for access to PHI.
3. Obtains any required documentation, statement, or representations (oral/written) from the requestor i.e, driver's license. Any information received orally is documented for future reference.

II. Verification of Identity and Authority - Public Officials

A. Identity of Public Officials: Rancho must verify the identity of the public officials or person acting on behalf of the public officials requesting PHI using one of the following methods:

1. If presenting requests in person: Presentation of an agency identification badge, other official credentials, or proof of government status.
2. If the request is in writing and on appropriate government letterhead.
3. If the request is by a person acting on behalf of a public official. A written statement on appropriate government letterhead if the person presenting is operating under the government's authority or some other evidence or agency documentation (e.g., contract for services, Memorandum of Understanding (MOU), Purchase Order (PO) that establishes that the person is acting on behalf of the public official.

B. Authority of Public Officials. Rancho must verify the authority of the public official's authority or a person acting on their behalf by any of the following means.

1. A written statement of the legal authority under which the PHI is requested.
2. If a written statement would be impracticable, an oral account of such authority would only be required by law.
3. If a request is under a warrant, subpoena, order, or other legal process issued by a grand jury or a judicial or administrative tribunal.

C. Reliance on such means of verification is reasonable only if an average member of the public, placed in similar circumstances, would have no reason to question the validity or authenticity of proof regarding the authority of the person requesting PHI.

III. Verification of Identity and Authority - Other Persons in General

A. If the identity of a person requesting PHI is unknown, Rancho Los Amigos National Rehabilitation Center must verify the person's identity and authority.

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- B. The verification requirement applies to any person requesting PHI if that person(s) identity or authority is unknown, including, for example, a person requesting their own PHI.
- C. DHS may rely on any of the following means for verification of identity and authority:
 - 1. Photo identification (e.g., a driver's license).
 - 2. Certain personal information (e.g., date of birth, social security number, policy number);
 - 3. Calling back the patient at the patient's telephone number on file.
 - 4. Calling back at the primary organization call center (rather than a direct telephone number).
 - 5. An authorization signed by the subject of PHI was requested.
 - 6. Any other means appropriate and reasonable under the circumstances.
- D. Reliance on such means of verification is reasonable only if an average member of the public, placed in similar circumstances, would have no reason to question the validity or authenticity of proof regarding the identity or authority of the person requesting PHI.

IV. Verification of Identity and Authority - Personal Representatives

- A. If the authority of a person requesting PHI as a Personal Representative is unknown to DHS, Rancho must verify the authority of the person to act on behalf of the subject of PHI by any of the following means:
 - 1. A power of attorney signed by the subject of the PHI.
 - 2. A court document appointing the person as a guardian.
 - 3. Documents showing the death of the subject of PHI, the person's relationship to the subject, and the legal basis for the claim of authority (e.g., wife requesting decedent husband's PHI as heir to his estate).
 - 4. An adult(s) knowledge of personal information about an unemancipated minor to determine the requisite relationship (e.g., parent-child).
 - 5. Any other means appropriate and reasonable under the circumstances.
- B. Refer to DHS Policy No. 361.17, Use and Disclosure of Protected Health Information (PHI) of Deceased Individuals and Minors and Making Disclosures to Personal Representatives to determine whether the person qualifies as a Personal Representative.
- C. Reliance on such means of verification is reasonable only if an average member of the public, placed in similar circumstances, would have no reason to question the validity or authenticity of proof regarding the identity or authority of the person requesting the PHI.

V. Verification of Conditions for Disclosures

- A. In Addition to verification of the identity and authority of a person requesting PHI, if disclosure of the PHI under the HIPAA Privacy Standards is conditioned on obtaining certain statements or representations from the person asking it, DHS must ensure that it receives the required information before disclosing PHI.

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- B. If the required statements or representations were made orally, DHS must promptly document such oral statements or representations.
- C. As a condition before the disclosure of PHI, the HIPAA Privacy Standards require, for example:
 - 1. Business Associate Contract, for disclosing PHI to a Business Associate of another covered entity.
 - 2. Data Use Agreement for disclosing limited data set PHI.
 - 3. A waiver of authorization by IRB, for disclosing PHI for research without an individual's authorization.
 - 4. Presentation of a court order for disclosing PHI for law enforcement purposes.
 - 5. Satisfactory assurances, accompanying a subpoena, that the recipient will protect PHI before disclosing PHI for judicial proceedings.

VI. Documentation and Retention

- A. All documents created or obtained under this Policy shall be scanned in the individual's medical record.
- B. Documentation required or completed under this Policy shall be retained for at least six years after its last in effect.

REFERENCES:

45 Code of Federal Regulations: Parts 160 and 164; Section 164.514 (h) Other Requirements Relating to Uses and Disclosures of Protected Health Information -Verification requirements

DHS Policy No. 361.17, Use and Disclosure of Protected Health Information (PHI) of Deceased Individuals and Minors and Making Disclosures to Personal Representatives.

Adopted from DHS Policy 361.16