

LAC+USC MEDICAL CENTER POLICY

Subject: PROTECTED HEALTH INFORMATION: RIGHT OF INDIVIDUAL TO AGREE OR OBJECT TO THE USE AND DISCLOSURE OF		Original Issue Date: 4/14/03	Policy # 203.2
		Supersedes: 8/23/19	Effective Date: 11/21/22
Departments Consulted: Privacy Committee Health Information Management Ethics Resource Committee Fetal/Infant/Child Ethics Committee	Reviewed & Approved by: Attending Staff Association Executive Committee Senior Executive Council	Approved by: (Signature on File) Chief Medical Officer	
		(Signature on File) Chief Executive Officer	

PURPOSE

To establish a policy pursuant to the Privacy Standards of the Health Insurance Portability and Accountability Act of 1996, 45 Code Federal Regulations, Parts 160 and 164 (HIPAA) to ensure that an individual has the right to agree or object to the uses and disclosures of his or her protected health information (PHI).

POLICY

It is the policy of LAC+USC Medical Center to ensure that an individual or surrogate/legal representative is provided an opportunity to agree or object before the Medical Center uses or discloses the individual's PHI:

- For inpatient facility directory;
- To family members and other persons, the individual indicated as involved in the individual's care or payment for the care; and
- For notification to family members and other persons responsible for the individual's care about the individual's general condition and location.
- For notification to family members or surrogate/legal representative of minors are subject to consent requirements.

This policy also allows disclosure of limited PHI for disaster relief purposes.

SCOPE

This policy applies to all personnel who interact directly with patients, their family members and others, including but not limited to, licensed or certified health care providers, admissions clerks, chaplains, house staff, and attending staff members.

DEFINITIONS

Protected Health Information (PHI)

Information that is created or received by a health care provider, health plan, employer, or health care clearinghouse; 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 identifies the individual (or for which there

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is a reasonable basis for believing that the information can be used to identify the individual).

Disclose or Disclosure

With respect to PHI, the release of, transfer of, provision of access to, or divulging in any manner PHI outside of the Medical Center's internal operations or to other than its workforce members.

Use or Uses

With respect to PHI, the sharing, employment, application, utilization, examination, or analysis of such information within the Medical Center's internal operations.

PROCEDURE

Provision of an Opportunity to Agree or Object

1. Before using or disclosing PHI, the Medical Center shall be responsible for providing an individual with an opportunity to agree or object to such use or disclosure described in the following sub-paragraphs, unless the individual surrogate/legal representative is not present and/or does not have the capacity to agree or object.
2. Agreements or objections may be made either orally or in writing. Oral agreements or objections must be documented in an individual's health record. The individual or surrogate/legal representative may be asked to complete the "Patient's Request for Restriction of Use and Disclosure of Protected Health Information" form and submit it to the HIPAA Compliance Office for review. The HIPAA Compliance Office shall respond to the individual in writing using the "Response to Request for Special Restriction on Use or Disclosure of Protected Health Information" form.
3. When an individual or surrogate/legal representative is present at the time and has the capacity to agree or object, the Medical Center may use or disclose PHI if: (1) the individual or surrogate/legal representative agrees; (2) the individual does not object to the requested disclosure after being given an opportunity to object; or (3) the Medical Center workforce member involved in the care of the individual reasonably infers, based on professional judgment, that the individual or surrogate/legal representative does not object to the use or disclosure. If the individual objects, the Medical Center will not use or disclose the PHI in the manner objected.
4. When an individual or surrogate/legal representative is not present or lacks the capacity to agree or object, the Medical Center may use or disclose PHI, if the Medical Center workforce member involved in the care of the individual determines, based on professional judgment, that the use or disclosure of the PHI is in the individual's best interest. If such use or disclosure is for patient directory purposes (described below), it must be consistent with the individual's or surrogate/legal representative most recent preference (if known).

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5. If the Medical Center workforce member involved in the care of the individual believes that an emergency exists, the Medical Center may use or disclose PHI if it is in the individual's best interest.
6. If PHI has been used or disclosed for inpatient facility directory purposes without first providing an opportunity to agree or object in an emergency or due to incapacity, the Medical Center must provide an opportunity to agree or object as soon as it is practicable to do so.
7. In a disaster situation, the above requirements apply only to the extent that the Medical Center workforce member involved in the care of the individual determines, based on professional judgment that such requirements do not interfere with the ability to respond to the emergency.

Inpatient Facility Directory

1. If an individual or surrogate/legal representative does not object, authorized workforce members may disclose the following patient directory information to anyone who asks for an individual by name:
 - The individual's name;
 - The individual's location within the facility;
 - The individual's condition described in general terms that do not reveal specific medical information (e.g., good, fair, serious, critical).
2. If an individual or surrogate/legal representative does not object, authorized workforce members may disclose to bona fide members of the clergy all of the above information and the individual's religious affiliation.

Involvement in an Individual's Care or Payment for the Care

1. If an individual or surrogate/legal representative does not object, the Medical Center workforce member involved in the care or patient account of the individual may use and disclose his or her PHI to a family member or any other person identified by the individual as involved in the individual's care or payment for the care.
2. PHI that is disclosed to family members or other persons involved in the individual's care or payment must be limited to PHI that is directly relevant to these persons' involvement in the individual's care or payment.

Notification to Family Members and Other Persons Responsible for an Individual's Care

1. If an individual or surrogate/legal representative does not object, the Medical Center workforce member involved in the care of the individual may use and disclose his or her PHI to a family member or any other person responsible for the individual's care for the purpose of notification (which includes assisting in the notification, identifying, or locating).

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2. For notification purposes, PHI that is disclosed to family members or other persons responsible for the individual's care must be limited to the individual's location, general condition, or death.
3. Notification to family members or surrogate/legal representative of minors are subject to consent requirements.

Disaster Relief Purposes

1. If an individual does not object, the Medical Center workforce member involved in the care of the individual may use and disclose his or her PHI to public or private disaster relief agencies to coordinate or assist in the notification (which includes assisting in the notification, identifying, or locating) of family members or other persons responsible for the individual's care.
2. For notification purposes, PHI that is disclosed to family members or other persons responsible for the individual's care must be limited to the individual's location, general condition, or death.
3. Notification to family members or surrogate/legal representative of minors are subject to consent requirements.

Documentation and Retention

All documents created pursuant to this policy shall be retained for at least six (6) years from the date of creation or the date when it was last in effect whichever is later.

RESPONSIBILITY

All Employees

REFERENCES

Medical Center Policy # 205 Consent for Care

Code of Federal Regulations 45 § 164.510.

DHS Policy # 361.7: "Right of An Individual to Agree Or Object To The Use And Disclosure Of Protected Health Information (PHI)"

REVISION DATES

April 10, 2007; September 10, 2013; August 23, 2019, November 21, 2022