

**DEPARTMENT OF HEALTH SERVICES
COUNTY OF LOS ANGELES**



SUBJECT: RIGHT OF AN INDIVIDUAL TO AGREE OR OBJECT TO THE USE AND
DISCLOSURE OF PROTECTED HEALTH INFORMATION (PHI)

POLICY NO: 361.7

PURPOSE:

To establish a policy and procedure for individuals to agree or object to the uses and disclosures of their Protected Health Information (PHI).

POLICY:

It is the policy of DHS to ensure that each DHS facility provides an individual an opportunity to agree or object before DHS uses or discloses the individual's PHI: (1) for inpatient facility directory; (2) to family members and other persons the individual indicated as involved in the individual's care or payment for the care; and (3) for notification to family members and other persons responsible for the individual's care about the individual's general condition and location.

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

SCOPE:

This policy and procedure 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 and medical staff members.

DEFINITIONS:

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

Protected Health Information ("PHI") means information that (1) is created or received by a Health Care Provider, Health Plan, employer or Health Care Clearinghouse; (2) 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 (3) identifies the individual (or for which there is a reasonable basis for believing that the information can be Used to identify the individual).

Use or Uses" means with respect to PHI, the sharing, employment, application, utilization, examination or analysis of such information within DHS' internal operations.

APPROVED BY:

EFFECTIVE DATE: April 14, 2003

SUPERSEDES:

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PROCEDURE:

A. Provision of an Opportunity to Agree or Object

1. Before using or disclosing PHI, DHS shall be responsible providing an individual with an opportunity to agree or object to such use or disclosure described in Sections 2, 3 and 4, unless the individual is not present and/or does not have the capacity to agree or object.
2. Agreements or objections may be made either orally and in writing. Oral agreements or objections must be documented in an individual's chart.
3. When an individual is present at the time and has the capacity to agree or object, DHS may use or disclose PHI if: (1) the individual agrees; (2) the individual does not object to the requested disclosure after being given an opportunity to object; or (3) the DHS Workforce Member involved in the care of the individual reasonably infer, based on professional judgment, that the individual does not object to the use or disclosure. If the individual objects, DHS will not use or disclose the PHI in the manner objected.
4. When an individual is not present or lacks the capacity to agree or object, DHS may use or disclose PHI, if the DHS 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 in Section 2), it must be consistent with the individual's most recent preference (if known).
5. If the DHS Workforce Member involved in the care of the individual believes that an emergency exists, DHS 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 (described in Section 2) without first providing an opportunity to agree or object in an emergency or due to incapacity, DHS must provide an opportunity to agree or object in as soon as it is practicable to do so.
7. In a disaster situation (described in Section 5), the above requirements apply only to the extent that the DHS 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.

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B. Inpatient Facility Directory

1. If an individual 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 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.

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

1. If an individual does not object, the DHS Workforce Member involved in the care or patient account of the individual may use and disclose his/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 the person's involvement in the individual's care or payment.

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

1. If an individual does not object, the DHS Workforce Member involved in the care of the individual may use and disclose his/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).
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.

E. Disaster Relief Purposes

1. If an individual does not object, the DHS Workforce Member involved in the care of the individual may use and disclose his/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.
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F. Documentation and Retention

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

REFERENCES:

Code of Federal Regulations 45 § 164.510.

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