



Policy Name:	Medical Records Confidentiality
Approval Authority:	Dean
Responsible Executive:	Associate Dean for Clinical Affairs
Responsible Office(s):	Dean's Office
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## Medical Records Confidentiality

### Policy Statement

#### Privacy & Security of Health Information (HIPAA)

Certain laws and regulations require that practitioners and health plans maintain the privacy of health information. In August of 1996, the U.S. Congress passed the Health Insurance Portability and Accountability Act - the privacy legislation we simply refer to as HIPAA. In general, privacy is about who has the right to access personally identifiable health information. The rule covers all individually identifiable health information in the hands of practitioners, providers, health plans, and healthcare clearinghouses. Intermountain facilities take HIPAA regulations very seriously.

*This means that **ANY** information we gather from the patient, or the patient's chart, is confidential and must not be released to, or discussed with, anyone other than the Patient or their Personal Representative.*

This includes **all** patient information, whether documented on paper, computer, or spoken aloud.

### Entities Affected by the Policy

Students  
Clinical Faculty  
Research Faculty  
Clinical Staff

### Policy Procedures

**Right of Privacy versus Duty to Know**

*An employee may only access or disclose a patient's PHI when this access is part of the employee's job duties.*

*If an employee accesses or discloses PHI without a job-related reason for doing so, the employee violates Intermountain Healthcare policy and HIPAA.*

### **Safeguarding Patient Information**

- Keep any patient information in secure areas when not in use
- Shred any patient information when no longer needed (demographics, insurance updates, schedules, etc.)
- Use containers or envelopes for transporting records
- Do not remove patient information from any Intermountain facility
- Lock Computer Key Boards when leaving your office (the flag and L key)
- Position computer monitors away from public view
- When e-mailing patient information, place "PHI" at the beginning of the subject line

### **Communication in Public Areas**

*Be aware of your surroundings when discussing Sensitive Information including PHI. Do not discuss sensitive information or PHI in public areas such as in cafeterias or restaurants, while walking on campus, or while riding the bus.*

*Avoid conducting sensitive conversations in:*

- semi-private rooms
- waiting rooms
- corridors
- elevators and stairwells
- open treatment areas

The following is considered identifiable information by HIPAA and requires approval from the IRB and Privacy Board to access for research:

1. Names;
2. All geographical subdivisions smaller than a state, including street address, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code, if according to the current publicly available data from the Bureau of the Census:
  - (1) The geographic unit formed by combining all zip codes with the same three initial digits contains more than 20,000 people; and
  - (2) The initial three digits of a zip code for all such geographic units containing 20,000 or fewer people is changed to 000;
3. All elements of dates (except year) for dates directly related to an individual, including birthdate, admission date, discharge date, date of death; and all ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older;

4. Phone numbers;
5. Fax numbers;
6. Electronic mail addresses;
7. Social Security numbers;
8. Medical record numbers;
9. Health plan beneficiary numbers;
10. Account numbers;
11. Certificate/license numbers;
12. Vehicle identifiers and serial numbers, including license plate numbers;
13. Device identifiers and serial numbers;
14. Web Universal Resource Locators (URLs);
15. Internet Protocol (IP) address numbers;
16. Biometric identifiers, including finger and voice prints;
17. Full face photographic images and any comparable images; and
18. Any other unique identifying number, characteristic, or code (note this does not mean the unique code assigned by the investigator to code the data)

**DO NOT access any patient information unless you need it the course of patient care. Ask yourself, “Do I really need to look at this to complete my job.”**

**DO NOT access your family members’ records for any reason. Also do not access friends or neighbors’ records.**

### **Special Requests**

HIPAA allows patients or their personal representatives to make special requests to receive communications of Protected Health Information.

In most situations, Case Managers are not responsible to determine if a request is or is not reasonable.

Request for information needs to go through Health Information Management (Medical Records).

### **Verification of Identity**

Because patient information can only be released to, or discussed with the Patient or their Personal Representative, it is necessary to verify the identity of the person requesting information.

### **Examples of When to Verify Identification**

If a Patient or their Personal Representative calls to request information, you cannot release any information without first verifying his/her identity.

If someone says he/she have a Power of Attorney you need to have a copy of the POA.

If someone asks for a copy of the demographic sheet as proof of his/her visit, you must verify his/her identity.

### **How to Verify Identity**

*Ask for any of the following:*

- *Social Security number*
- *Date of Birth*
- *Home phone number*
- *Home Address*

### **Treatment, Payment, and Health Care Operations (TPO)**

*Covered Entities may use/ disclose PHI to carry out essential health care functions, including:*

- Treatment
- Payment
- Health care operations

**Treatment** *means the provision, coordination, or management of health care by one or more health care providers, including:*

- consultation between health care providers, or
- patient referrals

**Payment** *means activities of:*

- Health care providers to obtain payment or be reimbursed for their services
- Health plans to obtain premiums, fulfill coverage responsibilities, or provide reimbursement for the provision of health care

**Health Care Operations** are administrative, financial, legal and quality improvement activities.

They are necessary to

- Run business and to support core functions of treatment and payment.
- Quality assessment and improvement activities.
- Training, accreditation, certification, credentialing, licensing, reviewing competence, evaluating performance.
- Fraud and abuse detection.
- Underwriting, rating, other activities relating to the creation, renewal or replacement of a contract of health insurance or benefits.
- Conducting or arranging for medical review, legal services, or auditing.

- Business planning and development.
- Business management and general administrative activities.

## **Notice of Privacy Practices**

*HIPAA requires that all healthcare providers make available to patients a Notice of Privacy Practices that describes the uses and disclosures made of their Protected Health Information (PHI).*

## **HIPAA/HITECH Mega Rule**

*Individuals have the right to prevent disclosure of records of any treatments they have personally paid for. Some individuals choose to pay out-of-pocket for care that they consider potentially embarrassing or compromising, such as mental health or drug and alcohol treatment, and they will be able to prevent the further release of any information regarding such care.*

## **Miscellaneous**

Patients have the right to access any information regarding their PHI, including progress notes.

## **Definitions**

**Protected Health Information (PHI)** - Individually identifiable health information in any form or medium that is created or received by a healthcare provider, health plan or healthcare clearinghouse, and which relates to the past, present or future physical or mental health of an individual or the payment of healthcare for the individual. PHI does not include education records, employment records, or records on individuals who have been deceased more than 50 years.

**PHI Disclosure Authorization (Authorization)** - A document that meets the requirements of the Privacy Rule, signed by an individual, that directs the Covered Entity to use or disclosure the individual's PHI, or requests another entity to provide the individual's PHI to a designated person or entity.

**Substance Use Disorder Program** - An individual or entity (other than a general medical care facility), or an identified unit within a general medical facility, who holds itself out as providing, and provides, substance use disorder diagnosis, treatment or referral for treatment; or staff in a general medical care facility who are specifically identified and whose primary function is the provision of substance use disorder diagnosis, treatment or referral for treatment.

**Consent** - To give assent, as to the proposal of another; agree. Informed consent is a legal and ethical precondition for medical treatment defined as the voluntary, uncoerced

acceptance of medical treatment by a patient after adequate disclosure by the physician of the nature of the proposed treatment along with its risks, benefits, complications, and alternatives. Express consent is that given by direct words either orally or in writing. Implied consent is that which is inferred from the conduct of the patient.

**Qualified Service Organization** - Business Associates and other providers of service for programs who use or disclose individually identifiable information about individuals enrolled in chemical dependency treatment covered programs.

**Genetic Test** - An analysis of human DNA, RNA, chromosomes, proteins, or metabolites, if the analysis detects genotypes, mutations, or chromosomal changes. Genetic test does not include an analysis of proteins or metabolites that is directly related to a manifested disease, disorder or pathological condition.

**Genetic Information** - Information about an individual, a family member of an individual, or a fetus or embryo related to the individual, in regard to genetic tests, the manifestation of a disease or disorder related to genetics, requests or receipts of genetic services, or clinical research that includes genetic services. Genetic information does not include the sex or age of individuals.

**Psychotherapy Notes** - Comments recorded by a mental health professional documenting conversation during counseling sessions and are kept separate from the rest of the individual's medical record. These notes do not include prescriptions, diagnosis, symptoms, or treatment plans.

**Health Oversight Agency** - An agency authorized by law to oversee health care systems or health- related government programs.

**Minor** - An individual under 18 years of age, unless considered legally emancipated.

**Mental Health Therapy Records** - Documents authored during a behavioral health treatment at an Intermountain facility specialized in behavioral health treatment (e.g. Dayspring; Psychiatry and Counseling, Avenues; Psychiatry and Counseling, Union Park; or Behavioral Health Institute, etc.), or the Employee Assistance Program (EAP), should be considered mental health therapy records. Mental health therapy notes also include notes in the clinical record that are created by Mental Health Providers providing behavioral health treatment as part of mental health integration program in primary care, ONLY if the notes are titled Mental Health Progress Note.

**Mental Health Providers** - An individual licensed in Utah as a psychiatrist; psychotherapist; physician, surgeon, or osteopathic physician engaged in the practice of mental health therapy as their primary service; an APRN specializing in psychiatric mental health nursing; an advanced practice registered nurse intern specializing in psychiatric mental health nursing, a psychologist qualified to engage in the practice of mental health therapy; or the following professions if licensed under state law to provide mental health therapy treatment: a clinical social worker, a certified social worker, a

marriage and family therapist, an associate marriage and family therapist, a clinical mental health counselor, an associate clinical mental health counselor, social service worker, or a substance use disorder counselor.

**Substance Use Disorder Records** - Protected health information (PHI) generated pursuant to a Substance Abuse Program.

## Policy Violations

*ANY violations may lead to written warnings and/or termination.*

## Interpreting Authority

Dean's Council

## Statutory or Regulatory References

45 Code of Federal Regulations 164.508  
Utah R432-100-33(l)(f)  
42 Code of Federal Regulations Part 2

## Relevant Links

*Centers for Medicare & Medicaid Services. (2013). HIPAA: General information. Retrieved April 2, 2014, from <http://www.cms.gov/Regulations-and-Guidance/HIPAA-Administrative-Simplification/HIPAAGenInfo/index.html>*

*Intermountain Healthcare. (2014). PHI Disclosure Select Health Policy. Retrieved April 4, 2014, from [https://my.intermountain.net/policy/Pages/home.aspx?ncid=520245734&title=PHI Disclosure Select Health Policy](https://my.intermountain.net/policy/Pages/home.aspx?ncid=520245734&title=PHI%20Disclosure%20Select%20Health%20Policy)*

*U.S. Dept. of Health & Human Services. (2003). Summary of the HIPAA Privacy Rule. Retrieved April 2, 2014 from <http://www.hhs.gov/ocr/privacy/hipaa/understanding/summary/index.html>*