

HIPAA: Acceptable Disclosures of Protected Health Information (PHI)

As you know, the HIPAA privacy standards provide protections for PHI. What does this mean for how we share PHI **outside** of OHSU?

Use vs. Disclosure

USE

By definition, a *use* of PHI is something that happens *within* OHSU. Examples of uses are:

- PHI is sent from our Emergency Department to Radiology so that an x-ray can be taken;
- An OHSU student accesses PHI as part of an inpatient rotation;
- A bill containing PHI is sent from Orthopedics to Patient Business Services (PBS) for processing;
- OHSU Quality Management personnel call an OHSU health care provider and discuss PHI to assess a case.

In each situation, information is shared within OHSU. According to HIPAA, we may use PHI for the purposes of treatment, payment, and health care operations (TPO) without patient authorization. TPO is explained in our Notice of Privacy Practices, which is provided to all of our patients. Sometimes we may wish to use PHI for purposes other than TPO; examples of this are human subjects research, fundraising, and marketing. In order to use PHI for these purposes, we must first obtain patient authorization. There are limited exceptions to this for research, but all research must be pre-approved by an Institutional Review Board.

DISCLOSURE

A *disclosure* is when we release PHI to people or organizations *outside of* OHSU. Examples of disclosures are:

- PHI is sent to the Emergency Department at another institution to facilitate treatment of an OHSU patient that has been taken there;
- PHI is sent to a state cancer registry;
- PHI is released to a medical examiner;
- PHI is released to an attorney due to a subpoena.

In each situation, PHI is sent *from* OHSU *to* an outside destination.

Acceptable Disclosures of PHI

What if a person or an organization outside of OHSU requests PHI?

Two special cases:

All requests from the media should be directed to University News and Publications.

All requests from law enforcement personnel should be directed to the Department of Public Safety.

What about other requests for PHI?

First, keep in mind that only certain people within OHSU are authorized to release patient information. If this is not part of your job responsibilities, you should not disclose PHI. A few examples of people who are authorized to disclose patient information are Health Information Services (HIS) personnel, medical records staff in outpatient practices, and billing staff.

Most disclosures fall into two categories: those to other “covered entities” (health care providers, health plans, and health care clearinghouses) and those to non-covered entities.

In the case of other covered entities, we may disclose PHI without patient authorization:

- To another health care provider for their treatment activities;
- To another covered entity for the payment activities of the entity that receives the information;
- To another covered entity for the health care operations of the receiving entity, if both OHSU and the receiving covered entity has or had a relationship with the patient, the health information disclosed pertains to such relationship, and the disclosure is for one of the following activities:
 - Conducting quality assessment and improvement activities (including outcomes evaluation and development of clinical guidelines)
 - Case management or care coordination
 - Professional performance review, health care provider training, accreditation, certification, licensing, or credentialing activities
 - Health care fraud and abuse detection or compliance

When disclosing PHI to other covered entities, we may assume that they are following the minimum necessary standard—that is, they are only asking for the PHI necessary to fulfill the purpose of their request.

Disclosures to non-covered entities, such as attorneys, regulatory agencies, insurance companies, etc., are subject to other specific standards. One rule of thumb is this: if a patient has authorized a disclosure of their PHI, as long as the authorization form is valid, the information may be released. Disclosures to non-covered entities that have not been authorized by the patient must be assessed according to the minimum necessary standard. For more information about minimum necessary disclosure standards, as well as detailed guidance about disclosures not authorized by the patient, please see <http://www.ohsu.edu/integrity/ips>