Permitted Disclosures to Law Enforcement Under HIPAA Privacy Regulations

1. **Required by law?**
   - Yes → Disclose only health information required by law. See details at http://www.ohsu.edu/cc/hipaa (link to follow).
   - No → Disclose minimum necessary to person(s) able to prevent/lessen threat (including the target of the threat).

2. **Necessary to prevent/lessen an imminent threat to health or safety of a person or the public?**
   - Yes → Disclose minimum necessary.
   - No → May disclose minimum health information necessary to alert law enforcement.

3. **Necessary to identify or apprehend an individual where it appears that the person has escaped from custody or correctional institution?**
   - Yes → Only the following information may be disclosed:
     - Name & Address
     - Date & place of birth
     - Social Security Number
     - ABO blood type & rh factor
     - Type of injury
     - Date & time of treatment (does not include discharge date)
     - Date & time of death
     - A description of distinguishing physical characteristics, including: height, weight, gender, race, hair & eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.
   - No → Do not disclose information without patient’s written authorization.

4. **Constitutes evidence of criminal conduct on OHSU premises?**
   - Yes → May disclose only the following, unless patient has opted-out of facility directory (census):
     1) Patient’s location in the facility;
     2) One word condition report (e.g., good, fair, serious, or critical).
   - No → Disclose minimum necessary.

5. **To alert law enforcement of the death of a patient suspected to have died as a result of criminal conduct?**
   - Yes → The health information may only be disclosed if:
     1) The patient agrees to the disclosure; or
     2) If patient is unable to agree to disclosure because of incapacity or other emergency circumstances (all below are required):
        a) The law enforcement official represents that the information is needed to determine whether a violation has occurred and that the information is not intended to be used against the victim;
        b) The law enforcement official represented that immediate action is necessary;
        c) Provider determines in his/her judgment that the disclosure is in the patient’s best interest.
   - No → Do not disclose information without patient’s written authorization.

6. **Is law enforcement requesting disclosure for purpose of identifying or locating a suspect, fugitive, material witness, or missing person?**
   - Yes → If conditions are not met → Refer to HIS or staff responsible for releases as a result of legal process. See http://www.ohsu.edu/cc/hipaa (link to follow).
   - No → Disclose minimum necessary.

7. **Is law enforcement requesting disclosure about a victim or suspected victim of a crime?**
   - Yes → The disclosure may be necessary for any of the following:
     1) Provision of health care
     2) Health and safety of patient or other’s in custody
     3) Health and safety of officers
     4) Health and safety of persons responsible for transporting patient
     5) Law enforcement activities on the premises of the correctional institution; or
     6) The safety, security, and good order of the correctional institution.
   - No → Do not disclose information without patient’s written authorization.

8. **Is the disclosure necessary for any of the following:**
   - Yes → May disclose only the following, unless patient has opted-out of facility directory (census):
     1) Patient’s location in the facility;
     2) One word condition report (e.g., good, fair, serious, or critical).
   - No → Disclose minimum necessary.

9. **Does law enforcement know the patient’s name?**
   - Yes → Refer to HIS or staff responsible for releases as a result of legal process. See http://www.ohsu.edu/cc/hipaa (link to follow).
   - No → Do not disclose information without patient’s written authorization.

10. **Is patient in custody?**
    - Yes → Refer to HIS or staff responsible for releases as a result of legal process. See http://www.ohsu.edu/cc/hipaa (link to follow).
    - No → Do not disclose information without patient’s written authorization.

11. **Is requestor the official with custody of the patient?**
    - Yes → May disclose only the following, unless patient has opted-out of facility directory (census):
     1) Patient’s location in the facility;
     2) One word condition report (e.g., good, fair, serious, or critical).
    - No → Refer to HIS or staff responsible for releases as a result of legal process. See http://www.ohsu.edu/cc/hipaa (link to follow).

OHSU Integrity Office  Last Revised 12/15/2003