



North Shore-LIJ Health System is now Northwell Health

POLICY TITLE: Release of Protected Health Information (e.g., Medical Record) for Living Skilled Nursing Facility Residents	ADMINISTRATIVE POLICY AND PROCEDURE MANUAL
POLICY #: 800.62	CATEGORY: Compliance and Ethics
System Approval Date: 3/16/17	Effective Date: New
Site Implementation Date: 4/28/17	Last Reviewed/Approved: NEW
Prepared by: Office of Corporate Compliance	Superseded Policy(s)/#/Notations: N/A

GENERAL STATEMENT of PURPOSE

The purpose of this policy is to establish general requirements for authorizing access to, or the use or disclosure of, Protected Health Information (“PHI”) for purposes of providing high quality care to skilled nursing facility residents of Northwell Health. The provisions contained in this policy and in all Northwell Health policies regarding PHI apply equally to the PHI of Northwell Health employees who also are, or have been, patients of Northwell Health.

POLICY

At the oral or written request of a resident or the resident’s personal representative (“resident”) who resides or resided at a Northwell Health skilled nursing facility, Northwell Health shall, subject to the provisions below, provide the resident with access to or a copy of such personal and medical records in the form requested by the individual making the request. Written requests for access to or the use or disclosure of the resident’s personal and medical records shall be made by fully executing and submitting Northwell Health’s “Authorization for Release of Protected Health Information Pursuant to HIPAA” form (“Authorization Form”).

SCOPE

This policy applies to all Northwell Health employees, as well as medical staff, volunteers, students, trainees, physician office staff, contractors, trustees and other persons performing work for or at Northwell Health; faculty and students of the Hofstra Northwell School of Medicine conducting research on behalf of the School of Medicine on or at any Northwell Health facility; and the faculty and students of the Hofstra Northwell School of Graduate Nursing and Physician Assistant Studies.

DEFINITIONS

Northwell Health Facility: For the purposes of this policy, Northwell Health Facility (“Facility”) shall mean a skilled nursing facility (SNF) or nursing facility (NF) as defined under the Social Security Act.

Patient/Resident: The terms “patient” and “resident” shall be used throughout this document to refer to a person residing, or having resided at a Northwell Health Facility.

Protected Health Information or “PHI”: Any oral, written or electronic individually identifiable health information collected or stored by a facility. Individually identifiable health information includes demographic information and any information that relates to the past, present or future physical or mental condition of an individual. The Health Insurance Portability and Accountability Act (“HIPAA”) details eighteen items that render PHI identifiable:

1. Names;
2. Geographic 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 in certain situations;
3. All elements of date (except year) for dates directly related to an individual, including birth date, discharge date, date of death; and all ages over 89 and all elements of dates indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older;
4. Telephone 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;
13. Medical Device Identifiers;
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.

Personal Representative: means the individual who, for decision-making purposes, will be treated as the patient. Depending upon the facts and circumstances of each case, a “personal representative” may be directly appointed by the patient or may be deemed to serve the role of “personal representative” under applicable laws and regulations.

Personal and Clinical Records: include all records kept by the facility pertaining to the resident, whether they are medical, social, fund accounts, automated or other; and includes trust

fund ledgers pertinent to the resident and contracts between the resident and the facility. The term “Clinical Records” and “Medical Records” shall be used synonymously.

PROCEDURE/GUIDELINES

Requesting Access to Personal and Medical Records

Northwell Health Facility will provide the resident or the resident’s personal representative with access to personal and medical records pertaining to him or herself, upon an oral or written request, if it is readily producible in such form and format requested by the individual or if not, in a readable hard copy format agreed to by the individual and the facility, within 24 hours, excluding weekends and holidays.

Requesting a Copy of Personal and Medical Records

Northwell Health Facility will provide the resident or the resident’s personal representative with a copy of personal or medical records (or any portions thereof requested) in the form or format requested by the resident upon request and two (2) working days advance notice. This includes an electronic form or format when such records are maintained electronically.

Requesting an Electronic Copy of the Medical Record

If the medical record is maintained electronically by Northwell Health Facility, the resident or the resident’s Personal Representative may request an electronic copy of the medical record by submitting a validly executed Authorization Form to the applicable Health Information Management department (“HIM”). HIM shall verify identification as an appropriate safeguard to ensure that the Authorization Form is delivered by the patient or the patient’s personal representative.

Northwell Health Facility must provide the medical record, in the electronic format reasonably requested by the resident or the resident’s Personal Representative, if Northwell Health Facility maintains the record electronically. Where applicable and technologically and operationally feasible, the requested PHI will be saved onto an encrypted device, such as a flash drive, and password protected. If there are electronic links to data within the medical record, such data must also be provided to the resident or the resident’s Personal Representative.

If the electronic medical record is not readily producible in the electronic format requested by the resident or the resident’s Personal Representative, Northwell Health Facility must provide the medical record in a readable electronic format agreed to by the resident or the resident’s Personal Representative (e.g., Microsoft Word or Excel, text, HTML or text-based PDF). Northwell Health Facility may choose to provide a summary rather than the complete record, if acceptable to the resident or the patient’s personal representative. Northwell Health may reject the patient or the patient’s personal representative’s device and provide a hard copy if the patient or the patient’s personal representative rejects our proposed format.

Northwell Health Facility must transmit the medical record (whether paper or electronic) to a person or entity designated by the patient or the patient's Personal Representative pursuant to a patient or the patient's Personal Representative's request, if the request is in writing, signed by the patient or the patient's Personal Representative and clearly identifies the designated recipient (an electronic signature is acceptable).

Copying Costs

The patient or the patient's Personal Representative will be charged the reasonable cost of photocopying, not to exceed the community standard as defined by New York State, and mailing the medical record and/or providing the medical record in an electronic format. However, a resident or the resident's personal representative will not be denied access to their medical record based on inability to pay.

Special Provisions for Mailing PHI

The Privacy Rule requires that covered entities apply reasonable safeguards when making these communications to protect PHI from inappropriate use or disclosure to unauthorized persons. These safeguards will vary depending on the mode of communication used. The following items provide guidance on reasonable safeguards to protect patient information from being impermissibly disclosed. Safeguards include, but are not limited to:

- Carefully checking name and address of intended recipient. Many names are similar; make sure you have the correct name for the intended recipient on the envelope. Make sure the address on the envelope matches the correct address of the intended recipient.
- Carefully checking the contents of the envelope before sealing. Make sure the contents may be permissibly disclosed to the intended recipient or properly relate to the individual. Check all pages to make sure records or material related to other individuals are not mistakenly included in the envelope.
- Checking the information showing on the outside of the envelope or through the address window. Make sure identifying information that is not necessary to ensure proper delivery is not disclosed.
- When doing mass mailings, doing a test run to ensure the system is properly performing and check, at least a sample of the mailings, for the accuracy of name and address of the intended recipients and the correct contents, as indicated above, before sending.

Special Provisions Related to Faxing PHI

Prior to faxing or e-faxing PHI, all persons must ensure that reasonable and appropriate safeguards are in place to protect residents' privacy. When the communications are in writing, the resident information may be sent by mail, fax, or other means of reliable delivery. Safeguards include, but are not limited to:

- Carefully checking the fax number to make sure you have the correct number for the intended recipient. When manually entering the number, check to see that it has been entered correctly before sending.
- Confirming fax number with the intended recipient when faxing to this party for the first time or if the fax number is not regularly used.
- Programming regularly used numbers into fax machines. Checking to make sure you are selecting the preprogrammed number for the correct party before sending.
- Updating fax numbers promptly upon receipt of notification of correction or change. Have procedures for deleting outdated or unused numbers which are preprogrammed into the fax machine.

Special Provisions Related to Texting or Electronic Mailing (E-mailing) of PHI

No PHI shall be transmitted via text messaging. Prior to e-mailing PHI, all persons must ensure that they are sending such e-mail while using encryption technology, in accordance with Northwell Health Policy #900.11. There are two methods in which an encrypted e-mail may be sent when using the Northwell Health e-mail system:

By using the “Encrypt & Send” button, instead of the usual “Send” button; or
 By including the words “PHI” or “SECURE” in the subject line of the e-mail. For SIUH employees the word “XSecure” must be in the subject line of the e-mail. This will ensure encryption if the email is subsequently forwarded out of the network.

All individuals shall also ensure that other reasonable and appropriate safeguards are in place to protect residents’ privacy when e-mailing PHI. These safeguards are contained in other Northwell Health policies, and include, but are not limited to:

- Not forwarding business-related e-mails to personal e-mail accounts;
- Not including PHI content in e-mail subject lines;
- Confirming e-mail addresses before sending any e-mail, especially those containing any PHI; and
- Including in any e-mail only the minimum necessary amount of PHI required to accomplish the intended purpose.

Special Provisions Related to Telephone Messages that Include PHI

Northwell Health Facility personnel may leave the minimum necessary information on a voicemail system, answering machine, or with a person who answers the phone at a number provided by the resident or the resident’s Personal Representative.

In most cases, it will not be appropriate to leave medical information. Northwell Health Facility personnel should verify with the resident or the resident’s Personal Representative how he or she prefers to receive information, or if it is acceptable to leave messages. If this is not possible, Northwell Health Facility personnel should use discretion, and should not disclose medical information.

Revocation of Authorization

A resident or the resident's personal representative may revoke an authorization to release PHI by submitting to his or her health provider or treating facility, at any time, a written instruction to this effect. This revocation will be granted except to the extent that Northwell Health Facility has taken action in reliance upon the resident or the resident's personal representative's validly executed Authorization Form, and except if the resident or the resident's Personal Representative's authorization was obtained as a condition of obtaining payment.

Training

The Office of Corporate Compliance will provide HIPAA training on, at least, an annual basis and as needed for any updates.

Sanctions

In compliance with HIPAA, violations of this policy will be subject to disciplinary action as outlined in the Human Resources Policy and Procedure Manual and in the Bylaws, Rules and Regulations of the Medical Staff.

Documentation

The Health System facility must document the medical record(s) that are subject to restriction.

Any documentation generated in compliance with this policy will be retained for a minimum of 6 years from the date of its creation.

Applicability of Policy to PHI of Northwell Health Facility Employees who are also Northwell Health Residents

The provisions contained in this policy, and in all Northwell Health policies regarding PHI, apply equally to the PHI of Northwell Health employees who also are, or have been, patients of Northwell Health.

Questions related to the approval or denial of requests for confidential communications or restrictions on access to, or the use or disclosure of PHI should be directed to the facility Privacy Officer.

REFERENCES to REGULATIONS and/or OTHER RELATED POLICIES

- Final HIPAA Omnibus Rule (78 Fed. Reg. 5566)
- Health Insurance Portability and Accountability Act, 45 CFR Parts 160 and 164
- Health Information Technology for Economic and Clinical Health (HITECH) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and

- Reinvestment Act of 2009 (ARRA), Pub. L. No. 111-5 (Feb. 17, 2009)
- NYS Mental Hygiene Law §33
 - NYS Public Health Law §18
 - Northwell Health Human Resources Policy and Procedure Manual, Part 5
 - Northwell Health Bylaws, Rules and Regulations of the Medical Staff
 - Northwell Health Policy #100.25 – Health Care Proxy, Health Care Agent, Patient Representative and Support Person Designation Policy
 - Federal Register Vol. 79 No. 25 Part II
 - Northwell Health Policy #800.02 – Release of Protected Health Information for Living Patients
 - Northwell Health Policy #800.42 – Confidentiality of Protected Health Information
 - Northwell Health Policy #800.47 - Disposal Policy for Protected Health and Confidential Health System Information
 - Northwell Health Policy #800.51 – Release of Protected Health Information for Deceased Patients
 - Northwell Health Policy #800.52 – Release of Protected Health Information for Living HIV AIDS Patients
 - Northwell Health Policy #800.53 – Release of Protected Health Information for Living Mental Health Patients
 - Northwell Health Policy #800.54 – Release of Protected Health Information for Minors
 - Northwell Health Policy #800.55 – Release of Drug and Alcohol Abuse Protected Health Information for Living Patients
 - Northwell Health Policy #800.56 – Special Provisions for the Release of Protected Health Information for Student Immunizations
 - Northwell Health Policy #900.00 – Computer Use Policy
 - Northwell Health Policy #900.03 – Cellular and Smart Phone Purchase Usage Policy
 - Northwell Health Policy #900.11 – Electronic Mail (E-Mail) Acceptable Use
 - Northwell Health Policy #900.11A – Email Communication with Patient’s Consent
 - Northwell Health Policy #900.01 – Internet, Cloud, Instant Messaging and Other Web Services Usage Policy
 - Northwell Health Policy #100.97 - Record Retention and Destruction
 - Northwell Health Policy GR094 - Access, Use and Disclosure of Protected Health Information for Research
 - Northwell Health Human Resources Policy Part 5-3 Conduct in the Workplace/Progressive Discipline

CLINICAL REFERENCES

N/A

ATTACHMENTS

N/A

FORMS

VD001 - Authorization to Release Protected Health Information Pursuant to HIPAA

<u>APPROVAL:</u>	
System Administrative P&P Committee	2/22/17
System PICG/Clinical Operations Committee	3/16/17

Standardized Versioning History:

*=Policy Committee Approval; ** =PICG/Clinical Operations Committee Approval