



Corporate Compliance

POLICY TITLE: Patients’ Rights to Request Confidential Communications and Disclosure Restrictions of Protected Health Information	SYSTEM POLICY AND PROCEDURE MANUAL
POLICY #: 800.46	CATEGORY SECTION: Compliance and Ethics
System Approval Date: 6/18/18❖	Effective Date: 4/2003
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Prepared by: Office of Corporate Compliance	Notation(s): N/A

GENERAL STATEMENT of PURPOSE

The purpose of this document is to outline a process that ensures Northwell Health patients’ rights are respected when requesting restrictions on the access, use or disclosure of their Protected Health Information (“PHI”).

POLICY

It is the policy of Northwell Health that patients may request Northwell Health to communicate confidentially and restrict the access, use or disclosure of their PHI, including for purposes to carry out Treatment, Payment, and Health Care Operations unless otherwise required by law. The patient may also restrict disclosures made to their health plan if they pay out-of-pocket and in full for all medical services provided to them at the time of treatment, unless the disclosure is otherwise required by law. Depending on the circumstances, exceptions to the patient’s ability to restrict access, use or disclosures of their PHI may include psychotherapy notes, information compiled for use in civil, criminal, or administrative actions, and information that is subject to prohibition by the Clinical Laboratory Improvements Amendments. Northwell Health will evaluate and respond to all written requests related to this policy.

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 Donald and Barbara Zucker School of Medicine at Hofstra/Northwell conducting research on behalf of the Zucker 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

Designated Record Set (“DRS”): means:

1. A group of records maintained by or for a covered entity that is:
 - a. The medical records and billing records about individuals maintained by or for a covered health care provider;
 - b. The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
 - c. Used, in whole or in part, by or for the covered entity to make decisions about individuals.
2. For purposes of this paragraph, the term record means any item, collection, or grouping or information that includes protected health information and is maintained, collected, used, or disseminated by or for a covered entity.

Health Care Operations: means activities of Northwell Health as they relate to covered functions including, but not limited to, quality assessment and improvement activities, reviewing the competence or qualifications of health care professionals, activities related to contracting for health insurance or health benefits, conducting or arranging for medical review, legal review, or auditing functions, business planning and development, business management and administrative activities.

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.

Protected Health Information (“PHI”): Any oral, written, or electronic individually identifiable health information. PHI is information created or received by Northwell that (i) may relate 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 payment for the provision of health care to an individual; and (ii) identifies the individual who is the subject or based on which there is a

reasonable basis to believe that the individual who is the subject can be identified. The Health Insurance Portability and Accountability Act (HIPAA) further clarifies that PHI includes information that identifies the individual by one or more (depending on context) of the following 18 identifiers:

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.

Payment: means the actions taken by a health care provider or health plan to obtain or provide reimbursement for the provision of health care.

PROCEDURES

Request for Confidential Communications and/or Restrictions on PHI

1. Patients have the right to request confidential communications or restrictions on the access, use, and disclosure of PHI by submitting the “Request for Confidential Communications and/or Restrictions on Access, Use, or Disclosure of Protected Health Information” form. (See VD001A - Request for Confidential Communications and/or Restrictions on Access, Use, or Disclosure of Protected Health Information)
2. Northwell Health will consider all reasonable requests for confidential communications and/or or restrictions on the access, use, and disclosure of PHI. However, Northwell Health is not required to agree to requests for confidential communications, including,

for example, if they are not reasonable or would be a violation of the law.

3. For any patient, the “Request for Confidential Communications and/or Restrictions on Access, Use, or Disclosure of Protected Health Information” form must be completed and submitted to the Office of Corporate Compliance. This procedure applies whether the patient is in an inpatient or outpatient setting, and even if the patient is not currently receiving inpatient or outpatient care, including, for example, a discharged patient.
4. For all patients, the Office of Corporate Compliance will consult the appropriate Director of Health Information Management in addition to the practice manager/supervisor and/or the affected hospital operational departments to determine whether the request will be granted or denied and to ensure that the request can be met. No other facility workforce member or Business Associate may process such a request unless specifically authorized by the Office of Corporate Compliance. If the request is accepted, the patient will be notified in writing. See attachment.
5. An individual’s PHI may only be accessed, used, or disclosed for research purposes after an investigator has obtained the approval of a Northwell Health authorized Institutional Review Board (“IRB”), per Northwell Health policy GR094: Access, Use and Disclosure of Protected Health Information for Research.
6. Northwell Health will not inquire as to why the patient is making a request for confidential communication and/or restriction on the access, use and disclosure of their PHI.

Providing the Requested Restriction

1. For all requests, the Office of Corporate Compliance will receive the written request and contact the requestor and the relevant facilities and/or sites. After receiving a notification from the Office of Corporate Compliance, the practice manager/supervisor and/or the affected hospital operational departments, in consultation with the Director of the Health Information Management Department, shall ensure that the restriction is communicated to the relevant departments and that the relevant areas of the DRS are documented pursuant to the Northwell Health procedure.
2. If Northwell Health agrees to a request for confidential communication and the patient or the patient’s Personal Representative does not respond in a timely manner to communication made to an alternate address or telephone number, or any correspondence is returned undeliverable, or the requested alternate phone is disconnected or out of service, Northwell Health will communicate with the patient or the patient’s Personal Representative via other means and/or at other locations.

Denial of the Requested Restriction

1. Northwell Health will consider all reasonable requests, if otherwise permitted by law. Northwell Health may deny any request that is not a required restriction.
2. If Northwell Health denies a patient or patient's personal representative's request for confidential communication or restrictions on the access, use, and disclosure of PHI, the patient must be notified of the denial by the Director of the Health Information Management Department or the Office of Corporate Compliance in writing. See attachment for a sample response.

Termination of a Requested Restriction

1. Northwell Health may initiate a modification to or terminate a restriction if the patient or a patient's personal representative agrees to or requests the termination in writing at any time by submitting the "Request to Revoke Agreed Upon Confidential Communications or Restrictions on the Access, Use and Disclosure of Protected Health information" form. (See VD017 - Request to Revoke Agreed Upon Confidential Communications or Restrictions on the Access, Use and Disclosure of Protected Health information). An agent of Northwell Health documenting a patient or a patient's personal representative's oral requests on the designated form is considered sufficient to meet this writing requirement. All other oral requests will be deemed insufficient.
2. Northwell Health also may terminate its agreement to a restriction if it informs the patient or the patient's personal representative in writing.
3. All modifications and/or the termination of a restriction, whether initiated by Northwell Health or by a patient or a patient's personal representative, are only effective with respect to PHI created or received after the patient or the patient's personal representative either makes the request or has been informed of the termination.
4. During an emergency situation, Northwell Health is not required to sustain a previous agreement to communicate confidentially and/or restrict the access, use or disclosure of PHI. If such information is shared during an emergency, Northwell Health will request that there be no further access, use or disclosure of the PHI after the emergency situation has ended.

Requests for Restrictions on Disclosure to Health Plans

1. Northwell Health may not deny a patient's request for restrictions or limitations for disclosures to the patient's health plan for Payment or Health Care Operations if the patient has paid out of pocket and in full for the health care item or service and the PHI pertains solely to that item or service, except as otherwise required by law.

2. Northwell Health will require that the patient pay in full for all services rendered at the time of treatment when the patient requests a restriction or limitation on the disclosure to the patient's health plan for a particular service.
3. Upon making such a request, all patients will be informed that the following restrictions apply to their request and they will acknowledge acceptance of these terms by signing either the "Private Payor Authorization Form" for Northwell Health facilities or the "Private Payor Authorization Form for Physician and Ambulatory Network Services" where applicable (See VD018 - Private Payor Authorization Form and VD019 – Private Payor Authorization Form for Physician and Ambulatory Network Services):
 - a. The patient accepts full financial responsibility for all services rendered to them by the facility where they receive medical treatment and by the physicians that provide medical treatment on behalf of the facility.
 - b. The patient agrees to pay for all services, in full, at the time the services are provided and to assume responsibility for all subsequent charges associated with their care.
 - c. The patient understands that by choosing to restrict disclosures made to their health plan, HMO or other third party payer they may be prohibiting the filing of an available insurance claim, and as a result, they will not qualify for financial assistance for the services provided or any follow-up services that the patient may subsequently need.
 - d. The patient understands that Northwell Health will disclose information about medical services provided to the patient to their health plan if the patient is no longer willing to assume full financial responsibility for the medical services provided to them or for any follow-up care they receive. Northwell Health will disclose information about services rendered to the patient to the patient's health plan to the extent necessary to substantiate payment.
 - e. The patient understands that Northwell Health is NOT required to notify other health care providers of this requested restriction and it is their responsibility to request a similar restriction and pay out of pocket for care rendered by other health care providers.
4. To accommodate the patient's request, the patient encounter must be registered in Northwell Health's information systems using the appropriate billing code.
5. Northwell Health will make efforts to contact the patient in cases where there are charges pending. Northwell Health will contact the patient's health plan only after reasonable efforts have been made to secure payment from the patient.

6. To end the restriction, the patient or the patient's personal representative must fill out the "Request to Revoke Agreed Upon Private Payor Restrictions on Disclosure of Medical Treatment Information" form and submit that form to the Office of Corporate Compliance (See VD020 - Request to Revoke Agreed Upon Private Payor Restrictions on Disclosure of Medical Treatment Information). If the patient wants to submit an insurance claim for any remaining sums owed, they must submit this form at least 30 days prior to the end of the filing period for their insurance plan. Patient Accounts will attempt to file an insurance claim on the patient's behalf, with the understanding that if the claim is denied in whole or in part, the patient will still be financially responsible for any sums owed on their account. Patient Accounts will notify any relevant departments of the termination of the restriction, including but not limited to the Health Information Management Department.

Training

The Office of Corporate Compliance will provide training on HIPAA on, at least, an annual basis.

Sanctions

In compliance with the HIPAA Privacy Rule, 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.

Document Retention

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

ENFORCEMENT

All violations of this policy shall be reported to the appropriate manager/supervisor/director or to the Office of Corporate Compliance (516.465.8097) for appropriate resolution of the matter. You can also make an anonymous report to the Compliance Help-Line, 24 hours a day, 7 days a week, by calling (800) 894-3226 or by visiting www.northwell.ethicspoint.com online.

Questions related to the access, use, disclosure of PHI will be directed to the Privacy Officer, Office of Corporate Compliance 516.465.8097.

CLINICAL REFERENCES/PROFESSIONAL SOCIETY GUIDELINES

N/A

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)

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 – Patient’s Personal Representative – Fundraising Northwell Health Policy #100.97 – Record Retention and Destruction

Northwell Health Policy #800.42 – Confidentiality of Protected Health Information Northwell Health Research Policy GR021 – Research Data Ownership

Northwell Health Research Policy GR088 – PI Exit Process

ATTACHMENTS

Sample Response to request for confidential communications or restriction on the use, access or disclosure of protected health information

FORMS

- VD001A - Request for Confidential Communications and/or Restrictions on Access, Use, or Disclosure of Protected Health Information
- VD017 - Request to Revoke Agreed Upon Confidential Communications or Restrictions on the Access, Use and Disclosure of Protected Health information
- VD018 - Private Payor Authorization Form
- VD019 - Private Payor Authorization Form for Physician and Ambulatory Network Services
- VD020 - Request to Revoke Agreed Upon Private Payor Restrictions on Disclosure of Medical Treatment Information

APPROVAL:	
Northwell Policy Committee	6/18/18❖
System PICG/Clinical Operations Committee	6/18/18❖

Standardized Versioning History:

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❖ Expedited Approval Granted by:
Winifred Mack, SVP/Operations – Chair, Northwell Policy Committee
Morris Rabinowicz, MD, Co-Chair, - System PICG/Clinical Operations Committee