Uses and Disclosures of Protected Health Information for Treatment, Payment, and Health Care Operations

1. SCOPE

1.1. System-wide

1.2. Facilities and departments included in the scope are further defined in the Scope Definition Resource Guide if not specifically outlined above.

2. DEFINITIONS & EXPLANATIONS OF TERMS

2.1. Abbreviations

- AODA: Alcohol and Other Drug Abuse
- CBRF: Community-Based Residential Facility
- HIPAA: Health Insurance Portability and Accountability Act
- MCHS: Marshfield Clinic Health System
- PHI: Protected Health Information

2.2. Definitions

- Patient: All references to the "patient" in this policy mean the patient or her/his Personal Representative as defined in the Personal Representatives of Patients policy.
- The HIPAA Privacy Rule establishes a national standard to protect individuals' medical records and other personal health information and applies to health plans, health care clearinghouses, and those health care providers that conduct certain health care transactions electronically. The Rule requires appropriate safeguards to protect the privacy of personal health information, and sets limits and conditions on the uses and disclosures that may be made of such information without patient authorization. The Rule also gives patients' rights over health information, including rights to examine and obtain a copy of their health records, and to request corrections.
- Treatment: Generally means the provision, coordination, or management of health care and related services among health care providers or by a health care provider with a third party, consultation between health care providers regarding a patient, or the referral of a patient from one health care provider to another.
- Payment: Encompasses the various activities of health care providers to obtain payment or be reimbursed for their services and of a health plan to obtain premiums, to fulfill their coverage responsibilities and provide benefits under the plan, and to obtain or provide reimbursement for the provision of health care. In addition to the general definition, the Privacy Rule provides examples of common payment activities which include, but are not limited to:

- ◊ Determining eligibility or coverage under a plan and adjudicating claims;
- ◊ Risk adjustments;
  - Billing and collection activities;
  - Reviewing health care services for medical necessity, coverage, justification of charges, and the like;
  - Utilization review activities; and
  - Disclosures to consumer reporting agencies (limited to specified identifying information about the individual, his or her payment history, and identifying information about the covered entity).

- Health Care Operations: Certain administrative, financial, legal, and quality improvement activities of a covered entity that is necessary to run its business and to support the core functions of treatment and payment. These activities, which are limited to the activities listed in the definition of "health care operations" at 45 CFR 164.501, include:
  - ◊ Conducting quality assessment and improvement activities, population-based activities relating to improving health or reducing health care costs, case management, and care coordination;
  - ◊ Reviewing the competence or qualifications of health care professionals, evaluating provider and health plan performance, training health care and non-health care professionals, accreditation, certification, licensing, or credentialing activities;
  - ◊ Underwriting and other activities relating to the creation, renewal, or replacement of a contract of health insurance or health benefits, ceding, securing, or placing a contract for reinsurance of risk relating to health care claims;
  - ◊ Conducting or arranging for medical review, legal, and auditing services, including fraud and abuse detection and compliance programs;
  - ◊ Business planning and development, such as conducting cost-management and planning analyses related to managing and operating the entity; and
  - ◊ Business management and general administrative activities, including those related to implementing and complying with the Privacy Rule and other Administrative Simplification Rules, customer service, resolution of internal grievances, sale or transfer of assets, creating de-identified health information or a limited data set, and fundraising for the benefit of the covered entity. See 45 CFR 164.508(a)(2).
- Protected Health Information (PHI): The Privacy Rule protects all "*individually identifiable health information*" held or transmitted by a covered entity or its business associate, in any form or media, whether electronic, paper, or oral. The Privacy Rule calls this information Protected Health Information.
  - ◊ Individually identifiable health information: information, including demographic data, that relates to:

- the individual's past, present, or future physical or mental health or condition; **or**
- the provision of health care to the individual; **or**
- the past, present, or future payment for the provision of health care to the individual; **and**
- that identifies the individual or for which there is a reasonable basis to believe it can be used to identify the individual (e.g., name, address, birth date, Social Security Number).

3. POLICY BODY

Purpose Statement: It is the policy of Marshfield Clinic Health System to maintain confidentiality of PHI in accordance with the Privacy Rule and other applicable federal and state laws. If MCHS wishes to use or disclose PHI for treatment, payment, or health care operations activities, it may do so without written authorization from patients as set forth in this policy and as permitted by the applicable federal and state privacy laws. However, this policy is subject to other MCHS policies pertaining to the use or disclosure of highly confidential information (such as HIV test results, AODA information, mental health information, or psychotherapy notes) that may require written authorization from patients.

The purpose of this policy is to establish guidelines for the uses or disclosures of PHI for treatment, payment, and health care operations purposes.

3.1. MCHS physicians and staff may use or disclose PHI without written authorization from the patient for treatment, payment, or health care operations under the following circumstances:

a. Treatment, Payment, and Health Care Operations of MCHS. MCHS may use or disclose PHI for its own treatment, payment, and health care operations activities. Examples of treatment, payment, and health care operations activities within this category include:

- Physicians and staff may use PHI to set up appointments or schedule surgery or other procedures for patients referred to them for the first time. They may also send appointment reminder letters to patients.
- A pharmacist may use PHI to fill a prescription that was telephoned in by a patient's physician.
- A health care provider may disclose PHI about a patient as part of a claim for payment to a health plan.
- A health plan may use PHI to provide customer service to its members.
- Exception to disclosure for MCHS payment purposes:
  - Restrictions on Disclosures to Insurance Company under HITECH Law: If a patient requests restrictions on disclosure of PHI to their health plan and the disclosure is for the purpose of payment or health care operations and the PHI pertains solely to a health care item or service for which the patient or person on behalf of the patient, other than the health plan has paid for the item or service in full, MCHS must honor this request and may not release PHI to the health plan for the specified health care item or service.

b. Treatment Activities of Others. MCHS may also disclose PHI for the treatment activities of a health care provider. MCHS may disclose protected health information, received in the form of a verbal request, for purposes of treatment. Such verbal requests may originate from the patient or a health care provider. Examples of treatment activities in this category include:

- A physician or other health care provider may send a copy of a patient's medical record to a non-MCHS provider specialist who needs the information to treat the patient.
- A hospital may send a patient's health care instructions to a nursing home to which the patient is transferred.
- A physician or other health care provider may send a copy of a patient's active medication information to a CBRF that needs the information to treat the patient.

c. Payment Activities of Others. MCHS may also disclose PHI for the payment activities of another Covered Entity or any health care provider. When disclosing PHI to another covered entity or when requesting PHI from another covered entity for payment purposes, MCHS must make reasonable efforts to limit PHI to the minimum necessary. Examples of a payment activity in this category include:

- A physician may send an individual's health plan coverage information to a laboratory which needs the information to bill for services it provided to the patient.
- A hospital emergency department may give a patient's payment information to an ambulance service provider to bill for the ambulance service provider's services.

d. Health Care Operations Activities of Others. MCHS may also disclose PHI for the Health Care Operations activities of another Covered Entity. All of the following conditions must be met. When disclosing PHI to another covered entity or when requesting PHI from another covered entity for purposes of health care operations, MCHS must make reasonable efforts to limit PHI to the minimum necessary.

- Both MCHS and the receiving entity either have or had a relationship with the patient who is the subject of the PHI being requested;
- The PHI pertains to such relationship; and
- The disclosure is either:
  - For the purpose of health care fraud and abuse detection or compliance; or
  - For any of the following quality-related activities:

    Conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with

information about treatment alternatives; and related functions that do not include treatment.

Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, health plan performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of non-health care professionals, accreditation, certification, licensing, or credentialing activities.

4. ADDITIONAL RESOURCES

4.1. References:

- HIPAA Regulations 45 CFR 164.506, 164.501, and 164.508.
- Wisconsin Statute Section 146.82 and 146.81
- Uses and Disclosures of Psychotherapy Notes and Mental Health Treatment Records
- Patient's Right to Request Restrictions on Certain Uses and Disclosures of Protected Health Information
- Disclosures of HIV Test Results
- Confidentiality of AODA Program Records
- Limiting the Uses and Disclosures of Protected Health Information to Minimum Necessary

5. DOCUMENT HISTORY

Version No.	Revision Description
1.0	Policy #2183 converted to new Document Control System
2.0	Annual Review. Updated Scope and MC to MCHS.
3.0	Updated Scope and logo.
4.0	Updated Scope and logo. Updated formatting, added abbreviations, updated setting metadata field, updated header
5.0	Annual review. No changes.
6.0	Last paragraph indented in Section 3.1.d.
7.0	Updated Section 3.1.b and added policies under references.
8.0	Annual review (August 2020). Minor change in adding "provider" to "non-MCHS provider specialist" in Section 3.1.b, first bullet. Added Minimum Necessary policy to References.
9.0	DCS checklist, AO to republish

6. DOCUMENT PROPERTIES

Primary Author: Schilling, Stacy
Co-Author(s):
Approver(s): This document has been electronically signed and approved by: Schilling, Stacy on: 8/2/2021 12:28:37 PM
This document has been electronically signed and approved by: Andrew, Donna J. on: 8/2/2021 12:59:54 PM