SECTION 3: USES & DISCLOSURES OF PHI

3.3. Patients’ Family Members and Friends

POLICY

1. **Use and Disclosure:** The University of Florida (UF) may, but is not required to, disclose limited, relevant, protected health information (PHI), without the patient’s written authorization to a family member or friend who has been specifically identified by the patient or who is directly involved in the care of the patient or the payment for care. Patients may also authorize disclosures of health information to specific family members or friends at any time, either verbally or in writing.

2. **Scope of Policy:**
   a. This policy pertains specifically to patients as they are being seen for care in UF medical, dental, and nursing clinics and departments, the Student Health Care Center, and the UF Counseling and Wellness Center.
   b. This policy pertains to limited verbal disclosures of PHI to persons directly involved in a patient’s treatment, for purposes of notifying such persons of a patient’s current location, general condition, or death, as specified in the Privacy Rule. It also applies to limited disclosures of PHI, which may be in printed, e-mail, or other written formats, to such persons for the purposes of making appointments, receiving appointment reminders, and making billing or payment inquiries on behalf of a patient.
   c. This policy does not apply to disclosures of health care information unrelated to the patient’s current condition, nor does it apply to the provision of copies of health records; in both cases, a written authorization must be provided by the patient or the patient’s representative.

3. **Application:**
   a. This policy applies in situations where the patient is present and able to make decisions as well as situations where the patient is not present and/or cannot give permission. In either case, the health care provider may share or discuss only the information that the person involved needs to know about the patient’s care or payment for care.
   b. If the patient is present and able to make decisions, reasonable efforts will be made to inform the patient in advance and allow the patient the opportunity to object to the disclosure.
      i. In most cases, the Notice of Privacy Practices will serve as notification to patients of their right to object to disclosures of their PHI to family members or friends, as described in this policy.
      ii. The patient may also be informed, and consent obtained, verbally.
   c. If the patient is not present and/or cannot give permission, the patient’s health care provider must use professional judgment to determine if sharing the patient’s PHI with family, friends, or others is in the patient’s best interest. When someone other than a friend or family member is involved, the health care provider must be reasonably sure that the patient has asked the person to be involved in the care or payment for care.

**DEFINITIONS**

1. **Family Member, with respect to an individual:**
   a. A dependent (as such term is defined in 45 CFR 144.103), of the individual; or
b. Any other person who is a first-degree, second-degree, third-degree, or fourth-degree relative of the individual or of a dependent of the individual. Relatives by affinity (such as by marriage or adoption) are treated the same as relatives by consanguinity (that is, relatives who share a common biological ancestor). In determining the degree of the relationship, relatives by less than full consanguinity (such as half-siblings, who share only one parent) are treated the same as relatives by full consanguinity (such as siblings who share both parents).

c. First-degree relatives include parents, spouses, siblings, and children.

d. Second-degree relatives include grandparents, grandchildren, aunts, uncles, nephews, and nieces.

e. Third-degree relatives include great-grandparents, great-grandchildren, great aunts, great uncles, and first cousins.

f. Fourth-degree relatives include great-great grandparents, great-great grandchildren, and children of first cousins.

2. **Personal Representative:** A person acting on behalf of the patient who must be treated as the patient for the purposes of the privacy regulations (See 3.9 Verification of Identity and Authority of Personal Representatives).

3. **Restriction:** A specifically defined limitation of use or disclosure of an element of PHI that would normally be available for use or disclosure by a health care provider in the normal course of business for treatment, payment or health care operations.

**PRIVACY REQUIREMENTS**

1. Uses and disclosures requiring an opportunity for the individual to agree or to object, specifically, involvement in the individual’s care and notification purposes: A covered entity (CE) may disclose to a family member or other relative, a close personal friend of the individual, or any other person identified by the individual, the PHI directly relevant to such person’s involvement with the individual’s health care or payment related to the individual’s health care.

a. Uses and disclosures with the individual present: If the individual is present for, or otherwise available, prior to a permitted use or disclosure and has the capacity to make health care decisions, the CE may use or disclose the PHI if it:

   i. Obtains the individual’s agreement;

   ii. Provides the individual with the opportunity to object to the disclosure, and the individual does not express an objection; or

   iii. Reasonably infers from the circumstances, based on the exercise of professional judgment that the individual does not object to the disclosure.

b. Limited uses and disclosures when the individual is not present: If the individual is not present, or the opportunity to agree or object to the use or disclosure cannot be provided because of the individual’s incapacity or an emergency circumstance, the CE may, in the exercise of professional judgment, determine whether the disclosure is in the best interests of the individual and disclose only the PHI that is directly relevant to the person’s involvement with the individual’s care or payment for care, or needed for notification purposes. A CE may use professional judgment and its experience with common practice to make reasonable inferences of the individual’s best interest in allowing a person to act on the individual’s behalf to pick up filled prescriptions, medical supplies, X-rays, or other similar forms of PHI.
c. Uses and disclosures when the individual is deceased: If the individual is deceased, a CE may disclose to a family member, or other persons identified above who were involved in the individual’s care or payment for health care prior to the individual’s death, PHI of the individual that is relevant to such person’s involvement, unless doing so is inconsistent with any prior expressed preference of the individual that is known to the CE.

2. Purpose of Disclosure: A CE may use or disclose PHI to notify, or assist in the notification of (including identifying or locating), a family member, a personal representative of the individual, or another person responsible for the care of the individual of the individual’s location, general condition, or death.

PROCEDURES:

1. Make reasonable efforts to verify the identity of any person requesting information about, or acting on behalf of the patient, prior to discussing the patient’s PHI with them. Ask the person to describe their relationship to the patient and their authority or need to receive the patient’s information (See 3.9 Verification of Identity and Authority of Personal Representatives).

   a. After a family member or friend’s identification and direct involvement in the patient’s care has been satisfactorily verified, the patient’s PHI, limited to whatever is directly relevant to the person’s involvement with the patient’s care or payment for care, may be discussed face to face, over the phone, or in writing with the verified person.

   b. Providers and staff may also reasonably rely on prior experiences, if a family member or friend is known by providers and staff and there is a history of information being shared with this person during past encounters, unless there is knowledge that the patient’s relationship with this person has changed.

   c. If a parent or legal guardian of a minor child or vulnerable adult (the patient) requests to establish a written list of people with whom health information may not be discussed, such requests may be accommodated within reason and at the clinic’s discretion. The list should also provide a method for reliably identifying the “restricted” individuals.

2. Authorizations: If the patient has authorized, verbally or in writing, limited verbal or written disclosures of PHI to another person:

   a. Document verbal authorizations in the patient’s health record, preferably with a signed authorization from the patient; review any ongoing agreements with the patient periodically and update any changes.

   b. When using written authorizations, check the expiration date and for any other specified limitations prior to disclosing information to the authorized person (See 3.4 Authorizations for Release of PHI).

3. Unique Identifier or Password: If appropriate, establish a method for uniquely identifying the family member or friend for use in telephone verification, such as a password, unique number identifier, or other agreed-upon indicator.

4. Minimum Necessary Applies: Use the “minimum necessary rule,” standard reasonable precautions, and professional judgment to protect the patient’s privacy rights.

REFERENCES:

1. HIPAA: 45 CFR §160.103 Definitions; §164.510(b) Uses and Disclosures – for involvement in the individual’s care and notification purposes

EXHIBITS

None