SECTION 4: PATIENT RIGHTS

4.3. Request to Restrict Uses and Disclosures of PHI

POLICY

1. The University of Florida (UF) permits patients and personal representatives to request restrictions of uses and disclosures of protected health information (PHI) for treatment, payment, or health care operations. Such requests must generally be made in writing.

2. Review of Requests: Requests for Restrictions referred to the University of Florida (UF) Privacy Office will be reviewed within 30 days after receiving the written request.
   a. The Privacy Office will agree to or deny requests for restrictions only after consultation with appropriate personnel representing the patient care areas affected by the request, unless a restriction is specifically mandated by law.
   b. Written requests for restrictions of uses and disclosures of PHI will be reviewed individually and every effort made to accommodate reasonable requests. Completed request forms may be delivered in person, or by mail or fax; signed forms may also be scanned and e-mailed.

3. Certain Requests for Restrictions Required: UF must comply with a patient/representative’s request to restrict certain PHI if the disclosure is to a health plan for payment purposes and, the PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full.

4. Decisions to grant or deny a request for restriction of PHI, other than those specifically mandated by law, are coordinated and approved through the UF Privacy Office. No decision will be made unilaterally by a clinic or department manager or by the Privacy Office. Only clinic or department managers, with the approval of the Privacy Office, may grant or deny restrictions. Any restriction agreed to by any other person will not be valid.

5. Changes or Additions: Requests for changes in currently granted restrictions or for new restrictions in addition to ones already granted must be resubmitted on a new Request for Restriction of PHI form. The new form should include all restrictions requested, not just the most recent request, and will supersede all previous request forms of the same type.

6. Follow Up: The designated management representative must ensure that all records to which the restriction applies, including both health and financial records, are appropriately flagged.

7. Terms of Agreement: If UF voluntarily agrees to any request for restriction, it must adhere to the terms of the agreement until the agreement is terminated, either by the patient or by UF. A management representative must be designated to ensure that all the records, in all formats, to which restrictions apply, are appropriately flagged.

8. Termination of Restrictions:
   a. Restrictions may be terminated by the patient or
   b. UF may terminate its agreement to a restriction, if:
      i. The patient or representative agrees to or requests the termination in writing; or
ii. UF informs the patient or representative that it is terminating its agreement to a restriction. Such terminations are only effective with respect to PHI created or received after the patient has been informed.

DEFINITIONS

1. **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. **Right to Request Restrictions:** A covered entity (CE) must permit an individual to request that the CE restrict uses or disclosures of PHI about the individual to carry out treatment, payment, or health care operations, or related to disclosures that are allowed unless the patient objects, i.e., disclosures related to a facility directory and disclosures to family or friends involved in the patient’s care.

2. **Right to Deny Requests:** A CE is not required to agree to a restriction of PHI, unless the following conditions apply:
   a. The disclosure is to a health plan for purposes of carrying out payment or health care operations (and is not for purposes of carrying out treatment); and
   b. The PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full.

3. **Limitations:** A CE that agrees to a restriction may not use or disclose PHI in violation of such restriction, except in cases where the patient is in need of emergency treatment and the information is essential to the treatment.

4. **Terminating a Restriction:** A CE may terminate its agreement to a restriction, if:
   a. The individual agrees to or requests the termination in writing;
   b. The individual orally agrees to the termination and the oral agreement is documented; or
   c. The CE informs the individual of the termination; such termination is only effective for PHI created or received after the individual has been informed.

PROCEDURE

1. **Verify Identity and Authority:** Make reasonable efforts to verify the identity of the person requesting the restriction, and if not the patient, their relationship to the patient and authority to make the request (See also SECTION 3: Verification of Identity and Authority and Personal Representatives). If a patient or legal representative has documents to corroborate identity or authority, attach copies to the Request form.

2. **Provide Assistance:** Assist the patient or representative to complete a Request for Restriction of PHI form (see Forms). Give the requestor a copy of the completed form.

3. **Restrictions Requested for Out-of-Pocket Payments:** If a health care provider will be paid out of pocket in full by the patient, and the patient requests that no PHI be disclosed to the patient’s health plan for payment purposes, the provider’s department or unit must follow its process established for such a restriction. Completion of a Request for Restriction form is not required.

4. **Response Coordination:** Forward the completed Request form to the appropriate Privacy Office as soon as possible. Responses to these requests are the responsibility of the Privacy Office (see Privacy Office Role below)
a. If the request is denied, the denial of restriction and the reason(s) will be documented by the Privacy Office in a response letter. Place copies of the request and the response documentation in the patient's health record. (The original documents will be filed in the Privacy Office.)

b. If the request is granted, the response will be documented by the Privacy Office on the original request form. Place a copy of the completed Request for More Confidential Communications in the patient's health record. (The original document will be filed in the Privacy Office.)
   i. Place an alert/notification in the patient's chart to alert all staff to the restriction.
   ii. Notify all staff affected by the restriction to ensure its implementation in operational activities.
   iii. Notify your supervisor and/or the Privacy Office immediately if there are any difficulties in abiding by the restriction, or of any problems that occur as a result of the restriction.

c. Restrictions may be terminated by the patient or by UF:
   i. If a termination of restriction is requested by the patient or legal representative, the request may be received verbally or in writing by mail, email or fax; verbal requests must be documented by the Privacy office or the person receiving the request.
   ii. If UF intends to terminate a restriction, before doing so, contact the patient or representative, either in writing, by phone, or face-to-face, to explain the termination and the reasons for it.

d. If the restriction is terminated or changed, the Privacy Office will:
   i. Document the termination of a restriction. File the termination documentation with the original Request form and response documentation in the Privacy Office.
   ii. Notify the patient of the termination of restriction.
   iii. Send a copy of the termination documentation to the appropriate patient care area to be filed/scanned into the patient’s health record.
   iv. Notify all patient care areas affected by the termination.

5. Retain all documentation for at least six years after the date that it was last in effect.

1. Privacy Office Role:
   a. Review the completed Request for More Confidential Communications form to verify the scope of the requested restriction and to determine if UF is capable of effectively and consistently restricting the use or disclosure, as requested.
   b. Discuss the requested restriction with all patient care areas affected by the request, as needed.
   c. Document the decision to grant or deny the restriction.
      i. File the original Response documentation in the Privacy Office along with the original Request form.
      ii. Notify the requestor in writing of the response, or delegate this duty to a clinic manager or supervisor. Send a copy of the Response to the appropriate patient care area to be filed/scanned into the patient’s health record.
   d. Review restrictions agreed to by UF if notified of any difficulties in abiding by the restriction, or of any problems that arise as a result of the restriction.
e. Review requests for changes in restrictions submitted, following the same procedure outlined above.
   i. Each new request by the same individual makes all previous requests obsolete; the new form should contain all restrictions requested, not just the most recent request.
   ii. Responses to requests for changes must be very clear for both the requestor and the affected patient care areas, if any restrictions are changed or added.

f. Documentation: Retain all documentation regarding requests for restrictions of PHI for at least six years after the last effective date of a restriction of information or a termination of a restriction.

REFERENCES
1. HIPAA: 45 CFR §164.501 - Definitions; §164.522 - Right to Request Privacy Protections

EXHIBITS
1. UF Privacy Patient Rights Form Request for Restriction of PHI at, http://privacy.ufl.edu/uf-health-privacy/forms/.