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Owner: *David Behinfar: HCS Exec Dir Privacy*
Policy Area: *HIPAA - Privacy*
Policy Tag Groups:
Applicability: *UNCHCS - All except Pardee*

Right to Request Restriction on Uses and Disclosures of PHI

APPLICABILITY:

This policy applies to the following entities (collectively referred to as "UNC Health" in this policy):

✓ UNC Health Care System / UNC Medical Center*	✓ Johnston Health
✓ UNC Physicians Network	✓ Lenoir Memorial Hospital
✓ UNC Physicians Network Group Practices / UNC Physicians Group Practices II	Margaret R. Pardee Memorial Hospital
✓ Rex Healthcare / Rex Hospital	✓ Nash Healthcare System/Nash Hospitals
✓ Chatham Hospital	✓ Wayne Memorial Hospital
✓ Caldwell Memorial Hospital	
✓ UNC Rockingham Health Care / UNC Rockingham Hospital	

***UNC Medical Center includes all UNC Hospitals' facilities and the clinical patient care programs of the School of Medicine of UNC-Chapel Hill (including UNC Faculty Physicians).**

I. Description

UNC Health shall permit patients to request restrictions on the use and/or disclosure of their PHI for any of the following reasons: for carrying out treatment, payment or health care operations; to persons involved in the patient's care; and/or for notification purposes.

UNC Health is not required to grant a patient's request for restriction on the use and/or disclosure of PHI unless the request is to restrict disclosure of the individual's PHI to a health plan for purposes of carrying out payment or healthcare operations (and is not for purposes of carrying out treatment) and the PHI pertains solely to a health care item or service which has been paid out of pocket in full.

Included within the scope of this policy are the patient care programs of the UNC School of Medicine (UNC SOM). As a result, this policy shall apply to all UNC SOM personnel, including but not limited to faculty, staff, students, trainees, interns and volunteers who may be full-time, part-time, paid or unpaid who create, store,

transmit, access or use any patient information in support of clinical purposes for UNC Health or any other healthcare entity.

II. Policy

- A. **Right to Request Restrictions.** All requests to restrict the use and/or disclosure of a patient's PHI must be considered and documented in writing, regardless of whether the patient makes the request verbally or in writing, using the [UNC Health Request for Restrictions for Use and Disclosure of PHI Form](#) available from HIM/Medical Records. Requests must be submitted to the appropriate UNC Health HIM personnel for review and final disposition.
- B. **Relevant Considerations.** HIM may consider a variety of factors in deciding whether to grant or deny a request for restriction, including, but not limited to: (1) the potential impact of the restriction on treatment, including coordination of care; and (2) UNC Health's ability to implement and comply with the requested restriction. Except for self-pay encounters as described in paragraph D below, UNC Health may deny a request for restriction for any reason.
- C. **Timeframe in which to Respond to Requests for Restrictions.** The patient shall be informed of the decision to approve or deny the request no later than sixty (60) days after receipt of the request using the UNC Health Response to Request for Special Restriction on Use or Disclosure of Protected Health Information Form available from HIM/Medical Records. If action cannot be taken within sixty (60) days, the deadline may be extended by an additional thirty (30) days if, within the initial sixty (60) days of receipt of the request, the patient is provided with a written statement describing the reasons for the delay and the date by which the patient will receive a response.
- D. **Requests for Restriction Not to Disclose PHI to a Health Plan That UNC Health Must Approve/Grant.** If the patient, or another individual on behalf of the patient, pays for a health care item or service out-of-pocket in full, and if the patient requests that UNC Health not disclose information about that health care item or service to the patient's health plan for purposes of payment or health care operations, UNC Health must grant the patient's request. Such a restriction is limited to the specific encounter during which the health care item or service was provided. To ensure that it complies with the restriction, UNC Health will take the following steps:
1. HIM will flag the restriction in the patient's health/billing records.
 2. HIM will notify the appropriate UNC Health Facility billing department (or revenue cycle areas) when a request to restrict the disclosure of PHI to the patient's health plan for a health care item or service for which UNC Health has received payment in full, out-of-pocket has been made and approved. This will allow the appropriate areas within the revenue cycle to implement the restriction in billing operations.
 3. No claim for payment will be issued to the health plan for the health care item or service and the restricted PHI will not be made available to the health plan for payment or health care operations, except as may be required by law (e.g., Medicare audits).
 4. The restriction will only apply to the individual health care item or service which was paid for in full. Follow-up care that relates to the self-pay item or service, but for which the patient does not also pay in full is not covered by the restriction and may be disclosed to the patient's health plan for payment purposes consistent with UNC Health's Minimum Necessary Policy.
 5. If UNC Health does not receive full payment for the health care item or service for which the patient has requested the restriction, UNC Health will make a reasonable attempt to resolve payment issues with the patient before disclosing any such PHI to the patient's health plan. If, after making a

reasonable attempt to obtain payment, UNC Health does not receive payment in full for the health care item or service, UNC Health may submit a claim for payment to the patient's health plan.

E. **Approving a Restriction (other than a Self-Pay Restriction to a Health Plan).** If approved, HIM shall inform the patient in writing that the request has been approved.

1. **Letter.** When sending the patient written notice of the approval of the patient's request for a restriction HIM will use the "Sample Letter of Approval of Request for Restriction" unless otherwise approved by the HIM director/designee.
2. **Disclosure to the patient.** In the approval letter, HIM shall inform the patient that, regardless of the restriction, UNC Health may use and/or disclose the PHI: (1) as required by law, or (2) if the PHI is needed to provide emergency treatment to the patient

F. **When a Request for a Restriction is Denied.** HIM will communicate the denial to the patient in writing.

1. **Letter.** When sending the patient written notice of the denial of the patient's request for a restriction HIM will use the "Sample Letter of Denial of Request for Restrictions" unless otherwise approved by the HIM director/designee.
2. **Reason Not Required.** HIM is not required to provide a reason for denial, but may choose to do so.
3. **Modification Communication.** If HIM believes it would grant a patient's request for restriction if the patient modifies the request, HIM may make reasonable efforts to assist the patient in modifying the request for restriction in a manner that would result in approval of the request.

G. **Documenting an Approved Request in the Medical Record.** If the request for a restriction is granted, HIM shall consider whether the restriction should be conspicuously documented with a flag or other marker in the UNC Health electronic medical record (if applicable).

H. **Informing others of a Restriction.** A UNC Health Facility may inform others of the existence of a restriction, when appropriate, so long as it doesn't result in the disclosure of the restricted information. A restriction that is agreed to between an individual and a UNC Health Facility is binding on the UNC Health Facility and on UNC Health Facility's business associates.

I. **Using Restricted PHI for Emergency Treatment.** PHI that is the subject of an approved request for restriction may be used or disclosed in emergency treatment situations where the PHI is needed to provide the emergency treatment. If PHI is disclosed for purposes of providing the patient with emergency treatment, UNC Health will request that the health care provider to whom the PHI was disclosed not further disclose the PHI.

J. **Use of PHI subject to an Agreed Upon Restriction.** UNC Health may use or disclose PHI that is the subject of an agreed to restriction in non-emergency situations as follows:

1. Inclusion in the facility directory (unless the patient has opted out of inclusion in the facility directory).
2. For certain public health activities.
3. For reporting abuse, neglect, domestic violence or other crimes.
4. For health agency oversight activities or law enforcement investigations.
5. For judicial or administrative proceedings.
6. For identifying decedents to coroners, medical examiners, or funeral directors, or for determining a cause of death.
7. For organ procurement.

8. For certain research activities.
9. For workers' compensation programs.
10. To avert a serious threat to health or safety.
11. To the Secretary of Health and Human Services.
12. For specialized government functions.
13. For uses or disclosure otherwise required by law.

K. **Terminating a Restriction.** Except as noted in Section C above, a restriction that was previously agreed to may be terminated if:

1. The patient agrees to or requests the termination in writing;
2. The patient orally agrees to the termination and the oral agreement is documented; or
3. The patient is informed by UNC Health that the agreement to restrict PHI is being terminated, except that the termination of a restriction will only be effective as to any PHI created or received after the patient is informed of the termination of the restriction. Note: This method of termination is not effective as to restrictions granted to self-pay patients who request a restriction on disclosure to their health plan.
4. When terminating an agreed upon restriction, notify the patient using the Termination of Special Restriction Form available from HIM/Medical Records.

III. Definitions

None

IV. References

45 C.F.R. § 164.522 Rights to request privacy protection for protected health information

V. Related Policies/Forms

[Minimum Necessary](#)

[Request for Restrictions for Use and Disclosure of PHI \(English\)](#)

[Request for Restrictions for Use and Disclosure of PHI \(Spanish\)](#)

Attachments

No Attachments

Approval Signatures

Step Description	Approver	Date
	Jerylyn Williams: Chief Audit & Compliance Ofcr	06/2020

Step Description	Approver	Date
SYSTEM Site Administrator	Emilie Hendee: HCS Attorney Sr	06/2020
	David Behinfar: HCS Exec Dir Privacy	06/2020

Applicability

Caldwell Memorial Hospital, Chatham Hospital, Johnston Health, Nash UNC Health Care, UNC Health Care System, UNC Lenoir Health Care, UNC Medical Center, UNC Physicians Network, UNC Rex Healthcare, UNC Rockingham Health Care, Wayne Memorial Hospital

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