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

Use and Disclosure of PHI of Deceased Individuals

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 protect the protected health information (PHI) of deceased individuals for as long as it is held by the UNC Health Facility.

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. **PHI of Decedents In General.** To the extent that UNC Health maintains health information regarding an

individual who has been deceased for at least 50 years, such information is no longer subject to HIPAA and may be used and disclosed as determined by UNC Health, subject to other applicable state or federal laws.

B. **Disclosure of PHI in General.** Disclosure of PHI of a decedent may only be made as follows:

1. To the Personal Representative of the Decedent (See UNC Health [Personal Representatives](#) Policy); or
2. The Executor of the Decedent's estate; or
3. The Decedent's next-of-kin (as defined by NC Statute; contact the UNC Health Privacy Office or your legal counsel for additional guidance for determining next-of-kin).
4. UNC Health may disclose a decedent's PHI to family members and friends who were involved in the care or payment for care of the decedent prior to death, in the same manner as when the patient was living. This means that PHI of a deceased individual may be disclosed to a family member, other relative, or a close personal friend of the individual, or any other person identified by the individual, who was involved in the individual's care or payment for health care prior to the individual's death, 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 UNC Health.

C. **Coroners and Medical Examiners.** PHI of a Decedent may be disclosed to a coroner or medical examiner for the following purposes:

1. Identifying a deceased individual;
2. Determining a cause of death;
3. Other duties as authorized by law.

D. **UNC Health Facilities performing coroner or medical examiner functions.** If a UNC Health Facility performs the duties of a coroner or medical examiner, that UNC Health Facility may also use PHI for the purposes described in this Policy.

E. **Funeral Directors.** PHI may be disclosed to funeral directors as necessary to carry out their duties with respect to the decedent as long as it is consistent with applicable law. If a provider believes, in his/her professional judgment, that a patient will inevitably die, such patient's PHI may be disclosed to funeral directors if it is deemed necessary in order for them to carry out their duties.

F. **Organ Procurement Organizations.** PHI may be disclosed to organ procurement organizations or other entities engaged in the procurement, banking, or transplantation of cadaver organs, eyes, or tissue in order to carry out organ, eye or tissue donation and transplantation.

G. **Disclosure of PHI of Decedents to Researchers.** PHI of a deceased person may be used or disclosed for research purposes without obtaining an authorization from a personal representative and without obtaining approval by the UNC IRB or Privacy Board if the following representations and disclosures are obtained in writing from the researcher:

1. The use or disclosure is sought solely for research on the PHI of deceased individuals;
2. Documentation of the death of the individuals who are the subjects of the PHI exists;
3. The PHI sought is necessary for the research; and
4. The researcher restricts further uses unless the PHI is de-identified

III. Definitions

None

IV. References

45 CFR 164.502(f), 164.510(b)(5), 164.512(f)(4), 164.512(g), and 164.512(h)

V. Related Policies/Forms

UNC Health [Personal Representatives](#) Policy

Attachments

No Attachments

Approval Signatures

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