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

## Uses and Disclosure of PHI Requiring Authorization

### 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 will use and disclose protected health information (PHI) only as permitted or required by federal privacy regulations, HIPAA, other privacy-related federal laws, and relevant North Carolina state laws. More stringent state laws will preempt HIPAA.

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. **HIPAA Authorization required.** A signed UNC Health HIPAA Authorization Form is required to be signed by the patient (or his or her representative) to use or disclose PHI in the following circumstances:
1. For most marketing purposes. See UNC Health [Uses and Disclosures of PHI for Marketing](#) Policy for additional information.
  2. For a number of disclosures to the patient's employer including pre-employment or continuing employment determinations; and
  3. Requests under the Family and Medical Leave Act. (However, authorization is not required to release PHI for Workers' Compensation purposes. See UNC Health [Release of PHI for Worker's Compensation Purposes](#) Policy.
  4. For use or disclosure of psychotherapy notes, except when the use or disclosure is specifically permitted by law.
  5. For most research purposes approved by an authorized Institutional Review Board where patient authorization is required as part of the research.
  6. For most fundraising purposes. See UNC Health [Uses and Disclosures of PHI for Fundraising Purposes](#) Policy for additional information.
  7. For any sale of PHI. In this case, the authorization must specifically state that disclosure will result in remuneration to UNC Health. See UNC Health [Sale of PHI](#) Policy for additional details.
- B. **Requirements for Patient Directed Requests for Disclosures.** When a patient directs UNC Health to disclose the patient's information to a third party, UNC Health must release the records as directed. A *HIPAA-compliant written authorization (described below in paragraph C) is **NOT** required to release medical/billing records when the individual makes the request.*
- Please refer to UNC Health [Patient Right of Access to Inspect and Obtain a Copy of PHI](#) for the requirements associated with honoring a patient directed request for the release of PHI.
- C. **Requests to release PHI that Require a HIPAA Compliant Authorization.** When UNC Health requests that a patient disclose PHI to UNC Health or to another entity (such as for the marketing or fundraising purposes of UNC Health), the patient shall be provided with an [Authorization for Use or Disclosure of Protected Health Information Form](#).
- D. **Requirements of a valid HIPAA Authorization.** To be valid, an authorization must be written in plain language. In obtaining authorization, use the [Authorization for Use or Disclosure of Protected Health Information Form](#). The following are required elements of a HIPAA compliant Authorization:
1. A meaningful description of the health information to be used or disclosed;
  2. A description of each purpose of the use or disclosure in question;
  3. The name or specific identification of the person(s) or class of persons to whom the use or disclosure may be made;
  4. An expiration date or event (except when this is not required, such as in a research authorization);
  5. A statement of the patient/client's right to revoke the authorization in writing and the limitations on that right;
  6. A description of how the patient may revoke the authorization;

7. A statement acknowledging that the health information disclosed pursuant to the authorization may be re-disclosed by the recipient and no longer protected by the Privacy Rule;
8. A statement regarding remuneration, either direct or indirect, if the entity is to receive such remuneration for a use or disclosure for marketing purposes;
9. A statement on the ability or inability of UNC Health to condition treatment, payment, enrollment, or eligibility for benefits on the authorization;
10. Signature of the patient/client or the patient/client's legal representative and the date signed. The signature of a legal representative must be accompanied by a description of the representative's authority to act for the patient/client.

E. **Invalid Authorizations.** A HIPAA authorization is not valid if any of the following has occurred:

1. the expiration date has passed or the expiration event is known to have occurred;
2. the authorization has not been filled out completely;
3. the authorization is known to have been revoked; or
4. any material information in the authorization is known to be false.

F. **HIPAA compliant authorizations may not be used to limit treatment, payment or eligibility for health insurance.** The provision of treatment, payment, or eligibility for health services to a patient may not be conditioned on the provision of an authorization from the patient.

G. **Revocation.** A patient may revoke a HIPAA Authorization at any time in writing to UNC Health either of the patient's own accord.

1. The patient's revocation must be in writing.
2. Once the revocation is received, UNC Health shall promptly stop using or disclosing the patient's PHI based on the patient's revocation.
3. A patient is not entitled to revoke an authorization to the extent UNC Health has already taken action in reliance on the authorization.
4. PHI of a patient who has revoked his/her authorization may still be used or disclosed where such use and disclosure would otherwise be allowed.

H. **Documentation.** All signed authorizations and revocations shall be retained for six years.

I. **Compound Authorizations Not Permitted.** HIPAA Authorizations may not be combined with any other document to create a 'compound authorization.

J. **Fundraising and Marketing.** UNC Health must in certain circumstances obtain a HIPAA Authorization for any use or disclosure of PHI for fundraising or marketing.

### III. Definitions

None

### IV. References

45 C.F.R. §§ 164.502(a), 164.508

## V. Related Policies/Forms

[Uses and Disclosures of PHI Not Requiring Authorization](#)

[Uses and Disclosures of PHI for Marketing](#)

[Release of PHI for Worker's Compensation Purposes](#)

[Uses and Disclosures of PHI for Fundraising Purposes](#)

[Sale of PHI](#)

[Patient Right of Access to Inspect and Obtain a Copy of PHI](#)

[Release of Information \(Patient or Authorized Representative\) \(English\)](#)

[Release of Information \(Patient or Authorized Representative\) \(Spanish\)](#)

[Release of Information \(Requestor Other than Patient or Authorized Representative\) \(English\)](#)

[Release of Information \(Requestor Other than Patient or Authorized Representative\) \(Spanish\)](#)

### 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