



Current Status: *Active*

PolicyStat ID: 4823245



**Origination:** 06/2016  
**Effective:** 06/2016  
**Last Approved:** 06/2016  
**Last Revised:** 06/2016  
**Next Review:** 06/2019  
**Owner:** *David Behinfar: HCS-Privacy Dir*  
**Policy Area:** *HIPAA - Privacy*  
**Policy Tag Groups:**  
**Applicability:** *UNC Medical Center*

## Alcohol and Drug Abuse Patient Records

### I. Description

Procedure for protecting the confidentiality of alcohol and drug abuse treatment records.

### II. Rationale

The University of North Carolina Health Care System (UNCHCS) recognizes its obligation to safeguard all Protected Health Information (PHI) against disclosure or use by unauthorized individuals, and specifically recognizes its additional obligations under the Federal law and regulations regarding confidentiality of alcohol and drug abuse patient records maintained by a federally-assisted program (42 U.S.C. § 290dd-2 and 42 CFR Part 2). This policy describes these requirements which specifically apply to alcohol and drug abuse patient records (defined below).

### III. Policy

#### A. Definitions

1. **Alcohol Abuse**

Alcohol Abuse means the use of an alcoholic beverage which impairs the physical, mental, emotional, or social well-being of the user.

2. **Drug Abuse**

Drug Abuse means the use of a psychoactive substance for other than prescribed medicinal purposes which impairs the physical, mental, emotional, or social well-being of the user.

3. **Patient**

Patient, for purposes of this policy, specifically means any individual who has applied for or been given diagnosis or treatment for Alcohol or Drug Abuse at UNCHCS and includes any individual who, after arrest on a criminal charge, is identified as an Alcohol or Drug Abuser in order to determine that individual's eligibility to participate in a Program.

4. **Program**

Program means:

- a. An individual or entity (other than a general medical care facility) who holds itself out as providing, and provides, Alcohol or Drug Abuse diagnosis, treatment or referral for treatment; or
- b. An identified unit within a general medical facility which holds itself out as providing, and provides, Alcohol or Drug Abuse diagnosis, treatment or referral for treatment; or
- c. Medical personnel or other staff in a general medical care facility whose primary function is the provision of Alcohol or Drug Abuse diagnosis, treatment or referral for treatment and who are identified as such providers.

## B. Generally

Generally, UNCHCS may NOT disclose the following information to any individual or entity outside UNCHCS:

1. the fact that a Patient attends a Program or is otherwise receiving services from a Program, either inpatient or outpatient, or
2. any information identifying a Patient as a participant in a Program or as an Alcohol or Drug Abuser or relating to services provided by a Program to a Patient, including diagnosis, prognosis or treatment, or
3. any information obtained by a Program for the purpose of treating Alcohol or Drug Abuse, making a diagnosis for that treatment, or making a referral for that treatment.

UNCHCS may disclose the above information under the following circumstances:

- a. The Patient consents in writing using the UNCHCS Authorization Form – MIM #710-S (see restrictions regarding minors below);
- b. The disclosure is made to medical personnel who have a need for information about a Patient for the purpose of treating a condition which poses an immediate threat to the health of any individual and which requires immediate medical intervention (in this case, the following information must be documented in the Patient's medical record immediately following disclosure: name of medical personnel to whom disclosure was made and his or her affiliation with any health care facility; name of individual making the disclosure; date and time of the disclosure; and nature of the emergency);
- c. The disclosure is made to medical personnel of the Food and Drug Administration (FDA) who assert a reason to believe that the health of any individual may be threatened by an error in the manufacture, labeling, or sale of a product under FDA jurisdiction (in this case, the following information must be documented in the Patient's medical record: name of medical personnel to whom disclosure was made and his or her affiliation with any health care facility; name of individual making the disclosure; date and time of the disclosure; and nature of the error);
- d. The disclosure is made for the purpose of conducting scientific research if the Program director determines that the recipient of the information: is qualified to conduct the research; has a research protocol under which the information will be maintained in accordance with relevant security requirements and will not be redisclosed in violation of law; has provided a satisfactory written statement that a group of three or more individuals who are independent of the research project has reviewed the protocol and determined that the rights and welfare of Patients will be adequately protected and the risks in disclosing the information are outweighed by the potential benefits of the research. The person conducting research may also only disclose the information obtained in accordance with law;
- e. The disclosure is made in the context of audit and evaluation activities where the person conducting the activities agrees in writing to comply with requirements set forth in the law, and the person

- conducting the activities may only disclose the information obtained in accordance with law;
- f. The disclosure is specifically authorized by a court order after application showing good cause for such disclosure and otherwise issued in accordance with law. Note that a court order authorizing disclosure does not **compel** such disclosure unless it is accompanied by a subpoena or similar legal mandate;
  - g. The disclosure only includes limited information (circumstances of the incident, including the Patient status of the individual committing or threatening to commit the crime, that individual's name and address, and that individual's last known whereabouts) about a crime committed by the Patient either on the premises of Program or against any person who works for the Program, or about any threat to commit such a crime, and is limited to disclosures by Program personnel to law enforcement officers; or
  - h. The disclosure is a report under State law to appropriate State or local authorities about suspected child abuse or neglect.

Many of these disclosures will also be required to be accounted for under UNC HCS Policy ADMIN 0051, "Accounting of Disclosures of Protected Health Information", such as disclosures made to the FDA, reports about suspected child abuse and those made pursuant to court orders. Refer to that policy for a detailed listing of those disclosures for which an accounting is required and the related procedures.

- 4. Except as ordered by a court, no Patient records or information can be used to initiate or substantiate any criminal charges against a Patient or to conduct any investigation of a Patient.
- 5. If a parent or legal guardian of a minor has consented to treatment for the minor under State law, the parent or legal guardian must consent in writing to the disclosure of the minor Patient records. Under North Carolina law, a minor has the ability, but not the requirement, to solely consent for substance abuse treatment (does not require parental consent). Thus, if the minor consented to the treatment, the minor must consent to all releases of PHI related to the treatment.
- 6. Each Patient, at the time of admission to a residential or inpatient Program or as soon thereafter as the Patient is capable of rational communication, shall be provided with the attached supplement to the notice of "Confidentiality of Alcohol and Drug Abuse Patient Records" (See Appendix 1). The supplement is required to be given to the Patient each and every admission.
- 7. All disclosures made with the Patient's consent shall be accompanied by the attached "IMPORTANT INFORMATION REGARDING DISCLOSURES OF ALCOHOL AND DRUG ABUSE PATIENT RECORDS" (See Appendix 2).
- 8. The restrictions in this policy will continue with respect to Patient information protected under these Federal regulations and this policy at all times, even if the Patient ceases to be a Patient of a Program.

## Attachments:

[Appendix 1: Confidentiality of Alcohol and Drug Abuse Patient Records](#)

[Appendix 2: Important Information Regarding Disclosures of Alcohol and Drug Abuse Patient Records](#)

## Applicability

---

UNC Medical Center

COPY