

	Ethics & Compliance Department	
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HIPAA: DISCLOSING PROTECTED HEALTH INFORMATION

SCOPE:

All Envision Healthcare teammates. For purposes of this policy, all references to “teammate” or “teammates” include temporary, part-time and full-time employees, independent contractors, clinicians, officers and directors.

PURPOSE:

Envision Healthcare Operating, Inc. and its subsidiaries and affiliates (“Envision” or “the Company”) has adopted this Disclosing Protected Health Information policy to inform teammates of the authority provided to them under HIPAA regarding the use and/or disclosure of protected health information (“PHI”).

POLICY:

Use for Treatment, Payment, or Healthcare Operations

PHI may be used or disclosed for the purposes of treatment, payment, or health care operations of the Company without the patient’s authorization in accordance with this policy.

Treatment means the provision, coordination, or management of health care and related services by one or more health care providers. Treatment includes not only the direct provision of medical treatment, services, or products, but also consultations between providers, the referral of a patient for health care from one health care provider to another, and the coordination or management of the patient’s health care by a health care provider and a third party.

Payment means activities related to obtaining payment or reimbursement for the provision of health care services, including, but not limited to, billing and collection activities, plan eligibility or coverage determinations, adjudicating claims, risk adjustments, and similar activities.

Health care operations means activities related to carrying out and monitoring the internal functions of the Company, including, but not limited to, quality assessment, review of care,

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records management, training and education, resolution of internal grievances, certification and licensing activities, business management, general administrative functions, planning and development, auditing of Company activities, conducting or arranging for legal services, patient satisfaction surveys, and similar activities.

A. Optional Consent to Use Health Information for Treatment, Payment, or Healthcare Operations

Except as required by state law, it is not mandatory to obtain written consent/authorization to use or disclose the patient’s PHI for treatment, payment, or health care operations purposes. (However, an “informed consent for treatment,” disclosing the risks and benefits of a proposed procedure, is still required.)

B. Minimum Necessary Access

PHI that is used and shared for treatment, payment, or health care operations purposes is subject to minimum necessary disclosure rules. Only those workforce members who have been granted appropriate authority are allowed to use or review PHI and may access only the information needed to carry out their duties.

C. Use of Business Associates for Healthcare Operations Purposes

Outside parties such as auditors, management companies, attorneys, accountants, and others may assist in carrying out the Company’s treatment, payment, or health care operations. If these parties use or disclose patient PHI when assisting the Company with treatment, payment, or health care operations, they must have a business associate contract in accordance with the Company’s separate policy on business associates.

D. Disclosures to Other Providers and Health Plans for Their Healthcare Operations Purposes

PHI may be disclosed for the health care operations purposes of other providers and health plans, provided that the following are met:

- 1) The other provider or health plan is covered by the HIPAA privacy regulations; and
- 2) The other provider or health plan has a current or prior relationship with the patient, and
- 3) The information is being sought for purposes related to quality assessment or

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evaluation of care and competence or is being sought for the purpose of health care fraud and abuse detection or compliance.

E. Disclosures to Outside Treatment Providers

Outside physicians and other health care providers involved in treating the patient, including hospitals, labs, pharmacies, nursing homes, and similar providers, may be given access to all PHI about the patient, including the complete record if requested. If the record is extensive, you may contact the treatment provider to see if he or she would prefer to receive only selected portions of the record. If the patient has requested and been granted a restriction on disclosures to a particular provider, do not release the information to that provider except in an emergency.

F. Purposes Related to Treatment

Patient information may be shared with treatment providers in accordance with this policy as necessary to arrange for appointments, referrals, diagnostic tests, consultations, management and coordination of care, determinations of suitability for services, and similar services directly related to treatment.

G. Verification of Treatment Relationship

If the health care provider requesting the PHI is not known to the Company, the provider’s identity must be verified and documented. This may be accomplished by calling the person back at an official phone number or asking the person to fax the request on official letterhead of the provider they are representing. If necessary, contact the patient directly to confirm that the requesting provider is involved in the patient’s treatment. If doubts still exist, contact the Privacy Official for a determination of further actions needed.

H. No Log of Disclosure Required

Disclosures for treatment, payment, or health care operations do not need to be recorded in the patient’s Protected Health Information Disclosure Log. For future reference, however, any treatment disclosures made to persons outside the Company should be noted in the patient’s record and should indicate what information was disclosed, by whom, to what person, how that person is involved in the patient’s treatment, and the date of disclosure.

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Disclosures Required by Law

State and federal laws and regulations may mandate certain uses or disclosures of patient PHI. For example, reports of child abuse are required under the laws of most states. If the law or regulation can be enforced by an official government agency, it is deemed to be required by law. (This does not include private contractual agreements between parties.) The Company may use or disclose patient information for purposes required by law in accordance with applicable state and federal laws.

Required by law includes, but is not limited to, court orders, court ordered warrants; subpoenas or summons issued by a court, grand jury, or governmental or tribal inspector general, or an administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to healthcare providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought by a government program providing public benefits.

Before disclosing PHI to a law enforcement officer or agency, the officer’s or agency’s identity must be verified and documented. If the person is a police officer, ask to see his or her badge and record the badge number. For persons who do not have a badge, obtain their business card or other proof of their credentials. All requests received in writing should be on official letterhead. If any doubt exists regarding the validity of a request, contact the Privacy Official for further determination.

All disclosures required by law must be logged in accordance with the separate policy regarding accounting of disclosures (see Policy 26 – Patient Right to Request).

Allowable Disclosures to Government Authorities

If, in the documented professional opinion of a licensed professional affiliated with the Company, an adult patient reasonably appears to be the victim of abuse, neglect, or domestic violence, the Company may disclose PHI to a government authority, such as a social service or protective service agency, that is authorized by law to receive such reports, only if one of the following circumstances applies:

- A) The disclosure is required by law and only that information required by and relevant to the law is disclosed.

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- B) The patient or the patient’s personal representative has agreed to the disclosure.
- C) The disclosure is expressly permitted by law, and either (i) in the exercise of professional judgment by a licensed professional, the disclosure is necessary to prevent serious harm to the patient or other potential victims, or (ii) the patient is unable to agree to the disclosure and a law enforcement or other public official represents that the PHI is not intended to be used against the patient and that an immediate enforcement activity that depends on the disclosure would be materially and adversely affected by waiting until the patient is able to agree.

Law Enforcement Agencies and Officials

Law enforcement agencies and officials may be provided with PHI only in accordance with this policy.

A “law enforcement official” includes any officer or employee of a city or municipality, a state, the United States, or an Indian tribe, who is empowered to investigate a potential violation of a law or to prosecute or conduct a judicial proceeding arising from an alleged violation of law. Law enforcement officials include, but are not limited to, local police, state troopers, FBI agents, and representatives of the federal Office of the Inspector General who are investigating a potential Medicare fraud violation. They also include grand juries, district attorneys, US attorneys, other prosecuting entities who are investigating or prosecuting a crime, military police (“MPs”) who are conducting an investigation into a crime committed by a member of the military, and judges who issue court orders for the disclosure of information needed in an investigation.

Informing the Patient

The patient must be informed promptly, either verbally or in writing, when a report has been or will be made, except under the following circumstances:

- A) A licensed professional affiliated with the Company, in the exercise of professional judgment, believes informing the patient would place him or her at risk of serious harm; or

The patient is not capable of being informed, and his or her personal representative may be

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responsible for the abuse, neglect, or other injury, and therefore informing the personal representative would not be in the best interests of the patient, as determined by a licensed professional affiliated with the Company, in the exercise of professional judgment.

Research

In general, the Company will only use or disclose PHI created for the purposes of research, with the patient’s authorization. However, the Company may use or disclose PHI collected for the purposes of research without patient authorization provided that:

- 1) The Company obtains documentation that an alteration to or waiver, in whole or in part, of authorization has been approved by either an Institutional Review Board (IRB), or a privacy board.
- 2) The Company obtains from the researcher representation that use or disclosure is sought solely to review PHI as necessary to prepare a research protocol or for similar purposes preparatory to research; no PHI is to be removed from the covered entity by the researcher in the course of the review; and the PHI for which use or access sought is necessary for the research purposes.
- 3) In the case of a deceased patient, the Company obtains from the researcher representation that the use or disclosure is sought solely for research on the PHI of the decedent, and representation that the PHI is necessary for the research purposes. The Company may request documentation of the death of the patient, from the researcher.

Disclosing PHI for which an Authorization or Opportunity to Agree or Object is Not Required

PHI may be disclosed to a public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions. “Public health authority” means a federal, state, or local agency, or any person or entity acting under a grant of authority from such public agency that is responsible for public health matters as part of its official mandate.

PHI may be disclosed to a public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect.

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PHI may be disclosed to persons responsible for an FDA-regulated product or activity, for purposes related to the quality, safety, or effectiveness of the FDA-regulated product or activity.

PHI may be disclosed to a person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition. Except in an emergency, it is preferable to notify the appropriate public health authority, which will then be responsible for notifying the person who may have been exposed.

PHI may be disclosed to the patient’s employer in order to allow the employer to comply with federal or state laws, including OSHA, that require reports of work-related illnesses or injuries so long as requirements are met.

The Company may, under certain circumstances, disclose the PHI of deceased patients. The health information of a deceased patient is subject to the same privacy protections as the health information of living patients until the person has been deceased for fifty (50) years. After fifty (50) years, it is NOT considered PHI. The executor or administrator of the patient’s estate has the right to exercise the privacy rights of the patient. This includes the right to inspect and obtain copies of the patient’s health records, request amendments, and obtain an accounting of disclosures.

Specialized Government Functions

- A) The Company may use and disclose the PHI of patients who are Armed Forces personnel for activities deemed necessary by appropriate military command authorities to assure the proper execution of the military mission, as permitted by the Armed Forces under a published notice in the Federal Register, which includes the appropriate military command authorities and the purposes for which the PHI may be used or disclosed.
- B) The Company may disclose PHI to authorized federal officials for the conduct of lawful intelligence, counterintelligence, and other national security activities authorized by the National Security Act (50 U.S.C. §401, *et seq.*) and implementing authority (e.g., Executive Order 12333).
- C) The Company may disclose PHI to authorized federal officials for the provision of

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protective services to the President or other persons authorized by 18 U.S.C. §3056, or to foreign heads of state or other persons authorized by 22 U.S.C. §2709(a)(3), or to for the conduct of investigations authorized by 18 U.S.C. §871 and §879.

Logging of Disclosure

All disclosures for purposes other than for treatment, payment, health care operations, or as authorized by the patient’s personal representative must be logged in accordance with the separate policy regarding accounting of disclosures.

Restrictions of Use or Disclosure

The Company will provide patients an opportunity to request a restriction on the use or disclosure of their PHI. The Company does not guarantee that it will agree to restrict the use or disclosure as requested. A restriction must be requested in writing to the Privacy Official (See “Request for Restriction on Uses and Disclosures of Health Information” form attached below). Working with the appropriate Office Manager or Director(s), the Privacy Official will take steps to provide or deny the restriction.

The Company will always agree to the patient’s request to restrict disclosure if the disclosure would be for payment or operations purposes and the PHI at issue only relates to a health care item or service for which the patient (or another individual on behalf of the patient) has made complete payment upfront before services are provided.

If the Company does agree to a request for restriction, the Company will not use or disclose the PHI unless the patient terminates the restriction, or the use or disclosure of the PHI is required for purpose of providing emergency treatment to the patient. If PHI is disclosed to another provider for emergency treatment, the Company will request that the provider not further disclose the information.

A restriction may be terminated by the patient in written or oral form. If the patient terminates the restriction orally, the termination must be documented by appropriate Company staff. The Company may also terminate a restriction and must notify the patient. If the Company initiates the termination of restriction, the termination is only effective with respect to PHI created or received after it has notified the patient.

The Company will document any restrictions, denial of restrictions, and terminations of

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restrictions, and will notify the patient of these actions.

Finally, a restriction agreed to by the Company is not effective to prevent uses or disclosures permitted for the following reasons:

- 1) When required for any investigation to determine the Company's compliance;
- 2) Use and disclosure for facility directories; or
- 3) Uses and disclosures for which authorization or the opportunity to agree or object is not required.

Minimum Necessary Disclosures

All disclosures made under this policy must be limited to the minimum amount necessary to carry out the purpose of the disclosure.

POLICY REVIEW

The Ethics & Compliance Department will review and update this Policy, when necessary, in the normal course of its review of the Company's Ethics & Compliance Program.



REQUEST FOR RESTRICTION ON USES AND DISCLOSURES OF HEALTH INFORMATION

1. Name of requesting individual: _____
2. Date of Birth: _____
3. Date of request: _____
4. Describe the restriction on the Organization's uses and disclosures of your health information that you are requesting and for which *service dates*:

Information on Your Rights to Request a Restriction

You have the right to ask us to restrict how the Organization uses and discloses your health information for purposes of treatment, payment or health care operations (See Notice of Privacy Practices for more information on these types of uses and disclosures). You also have the right to ask us to restrict disclosures that we make to those family members or others involved in your care or involved in payment for your care or for notification purposes. We are *not* required to agree to your request. If we do agree, we will put it in writing and will abide by the agreement except when you require emergency treatment. If we do not agree to your request we will notify you of our decision in writing.

By submitting this form, I hereby request the Organization to restrict uses and disclosures of my health information as described above. I understand that the Organization is *not* required to agree to my request.

Printed Name: _____

Signature: _____

Date: _____

Name of Teammate Who Received This Form: _____

Date Form Received: _____

Date Sent to Privacy Official for Approval or Denial of Restriction: _____