

	<p align="center"><u>MOREHOUSE SCHOOL OF MEDICINE</u> <u>POLICIES AND PROCEDURES</u></p>	<p>POLICY NUMBER</p>	<p>Insert Here</p>
	<p align="center"><u>SUBJECT</u> Use and Disclosure of Protected Health Information</p>	<p>EFFECTIVE</p>	<p>5/1/2015</p>
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SECTION 1: PURPOSE

To provide governing principles and standards on the use or disclosure of protected health information (“PHI”) at Morehouse School of Medicine, Morehouse Healthcare, Inc. and its related entities (Collectively referred to herein as, “MSM”).

SECTION 2: POLICY STATEMENT

This policy establishes the requirements for the use or disclosure of PHI in accordance with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) in furtherance of the rights of privacy with respect to of individual identifiable health information. The use or disclosure of PHI is prohibited until Authorizations and/or Institutional Review Board (“IRB”) approvals are obtained.

SECTION 3: SCOPE OF POLICY

The requirements of this policy apply to all medical staff, faculty, staff, residents, interns, students, agents and consultants, and other individuals (Collectively referred to herein as “Workforce Members”) involved in use or disclosure of PHI at MSM. The scope of this policy includes the standards set for the protection of PHI under the Privacy Rule and those standards set under the Security Rule with respect to the maintenance of administrative, technical and physical safeguards designed to protect the confidentiality, integrity and availability of electronic PHI (“ePHI”). The scope extends to but is not limited to uses or disclosures in connection with the following activities:

- 1.) Research
- 2.) Marketing
- 3.) Fundraising
- 4.) Disclosures to third parties
- 5.) Sensitive PHI (i.e. genetic or mental health information, HIV-related information, and alcohol or drug abuse related information)

These examples require Authorizations and/or Institutional Review Board (“IRB”) approval. Workforce Members should refer to the MSM policy governing each purpose for further guidance, as applicable.

MSM will retain all Authorizations in the individual’s medical record or other designated location for a period of at least six (6) years.

SECTION 4: DEFINITIONS

Authorization – Is an individual's written permission to allow the use or disclosure of their specified PHI for a particular purpose. Except as otherwise permitted by the Privacy Rule, MSM may not use or disclose PHI for research purposes without a valid Authorization.

Business Associate – A person or entity who, on behalf of a covered entity, performs or assists in performance of a function or activity involving the use or disclosure of individually identifiable health information, such as data analysis, claims processing or administration, utilization review, and quality assurance reviews, or any other function or activity regulated by the HIPAA. A covered entity may be a business associate of another covered entity.

Data Use Agreement - An agreement by which the covered entity obtains assurances that the recipient of the Limited Data Set will use or disclose the PHI in the data set only for specified purposes.

De-identified Data – Health information that does not identify an individual and which there is no reasonable basis to believe that information can be used to identify an individual. For information to be considered de-identified, all 18 identifiers (defined under PHI below) must be removed. PHI may be permanently de-identified, or the code linking identifiers may be maintained by the institution disclosure accounting purposes, but may not be provided to the researchers.

Fundraising – Any activity undertaken to raise money or other things of value on behalf of MSM. It also includes, but is not limited to: requests for donations; request for special-purpose donations; requests for sponsorship of events or activities.

Health Care Operations – Activities compatible with and directly related to conducting quality assessments and improvement activities for a health care case management, coordination of care activities and credentialing and to communications between a patient and health care providers.

Institutional Review Board (“IRB”) – Is a standing committee of the Academic Policy Council of Morehouse School of Medicine that provides the primary review of all human subject research protocols and has the authority to approve, require modification, or disapprove all research activities, including proposed changes in previously approved human subject research.

Limited Data Set - A limited data set is a De-identified Data Set, except that the following data elements are permitted: zip code, city, and state, date of birth and other dates. If a limited data set is to be used a Data Use Agreement is required.

Marketing – A communication about a product or service that encourages recipients of the communication to purchase or use the product or service.

Minimum Necessary – The collection, use or disclosure of no more health information than is required to accomplish the intended purpose of a request for use or disclosure of PHI.

Payment – Activity undertaken by a health care provider or plan to obtain premiums, to fulfill responsibility for the provision of benefits under the health plan, and to obtain or provide reimbursement for the provision of health care.

Personal Representative – A person who may legally act with authority on behalf of another person in making decisions about health care.

Privacy Rule – Sets national standards to protect individuals’ medical records and other personal health information and applies to health plans, health care clearinghouses, and those health care providers that conduct certain health care transactions electronically. The Rule requires appropriate safeguards to protect the privacy of personal health information, and sets limits and conditions on the uses and disclosures that may be made of such information without patient authorization. The Rule also gives patient’s rights over their health information, including rights to examine and obtain a copy of their health records, and to request corrections.

Protected Health Information (“PHI”) – Individually identifiable health information created or received by MSM. Health information includes any information, whether oral or recorded in any form (including electronic), that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment of health care to an individual.

PHI is identifiable if it contains one or more of the following 18 identifiers:

1. Names
2. All geographic subdivisions smaller than a State, including:
 - street address
 - city
 - county
 - precinct
 - zip codes and their equivalent geocodes, except for the initial three digits of a zip code if, according to the current publicly-available data from the Bureau of the Census: (1) the geographic unit formed by combining all zip codes with the same three initial digits contains more than 20,000 people, and (2) the initial three digits of a zip code for all such geographic units containing 20,000 or fewer people is changed to 000.
3. Telephone numbers
4. Fax numbers
5. E-mail addresses
6. Social Security numbers
7. Medical record numbers
8. Health plan beneficiary numbers
9. Account numbers
10. All elements of dates (except year) for dates related to an individual, including:
 - birth date
 - admission date
 - discharge date
 - date of death
 - all ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older
11. Certificate/license numbers
12. Vehicle identifiers and serial numbers, including license plate numbers
13. Device identifiers and serial numbers
14. Web Universal Resource Locators (URLs)
15. Internet Protocol (IP) address numbers
16. Biometric identifiers, including finger and voice prints
17. Full face photographic images and any comparable images
18. Any other unique identifying numbers, characteristics, or codes

Research – A systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.

Security Rule – Sets national standards to protect individuals’ electronic personal health information that is created, received, used, or maintained by a covered entity. The Security Rule requires appropriate administrative, physical and technical safeguards to ensure the confidentiality, integrity, and security of electronic protected health information.

Treatment – The provision, coordination, or management of health care and related services among health care providers or by a health care provider with a third party, consultation between health care providers regarding a patient, or the referral of a patient from one health care provider to another.

Waiver or Alteration of Authorization - The documentation that MSM obtains from a researcher or the IRB that states that the IRB has waived or altered the Privacy Rule's requirement that an individual must authorize MSM to use or disclose the individual's PHI for research purposes.

SECTION 5: POLICY

Workforce Members may use and disclose Protected Health Information (“PHI”):

- for Treatment, Payment and Health Care Operations;
- to the patient or pursuant to the patient’s valid Authorization;
- to a legal Personal Representative of the patient;
- to family and friends involved in the patient’s care and for notification purposes as permitted by law;
- to Business Associates subject to a Business Associate Agreement;
- to create information that is not individually identifiable health information (known as De-Identified Data) or Limited Data Sets;
- for Research, Marketing or Fundraising purposes as permitted by law; or

as otherwise permitted or required by state or federal laws or regulations, for example, to a public health authority for public health activities or in response to a subpoena, discovery request or other lawful process.

Workforce Members must disclose PHI:

to the patient or the patient's Personal Representative in response to a request for access or a request for an accounting of disclosures in accordance with MSM policy; and
as required to comply with investigations and compliance reviews by the U.S. Department of Health and Human Services or as otherwise required by state or federal laws or regulations.

Uses or disclosures of PHI that are not permitted by state or federal laws or regulations may only be used or disclosed subject to a patient's written Authorization.

All applicable uses and disclosures of a decedent's PHI will be in compliance with these policies for a period of fifty (50) years following the death of the individual.

MSM will limit uses, disclosures or requests for PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.

State and federal laws require additional safeguards for the release of information that is deemed to be especially sensitive such as genetic or mental health information, HIV-related information, and alcohol or drug abuse related information. In most situations, a special authorization is required before releasing any of this type of information.

Workforce Members are prohibited from uses or disclosures of PHI using any non-MSM owned cloud storage provider/network without authorization of the Office of Information Technology and a Business Associate agreement wherein MSM is the Covered Entity.

Workforce Members should consult the applicable policy and procedure before using or disclosing a patient's PHI for purposes other than Treatment, Payment or Health Care Operations. In such cases, a Research subject generally must sign a valid Authorization giving permission for the use and disclosure of PHI for the specific Research project. PHI may not be used or disclosed in connection with any Research purpose until the appropriate Authorizations and/or Institutional Review Board ("IRB") approvals are obtained, including Waiver or Alteration of Authorization.

Procedure

In conjunction with MSM policies and procedures regarding patient information and confidentiality, and as set forth in the MSM IRB Guidelines, Policies and Procedures Workforce Members must ensure that their use or disclosure of PHI complies with the following:

1. Obtain the appropriate individual's Authorization for the use or disclosure of PHI. See also the *Use and Disclosure of PHI for Research Purposes* and *Use and Disclosure of PHI for Marketing* for further guidance.
2. Only use and disclose PHI in accordance with the Authorization.
3. Verify the validity of the Authorization prior to using or disclosing any PHI. Do not use or disclose PHI if the Authorization form is invalid or defective. An Authorization Form is considered invalid or defective if any material information is missing or is known to be false, including the following:
 - the Authorization is not signed or dated,
 - the expiration date or event has passed,
 - the Authorization is not completely filled out, or
 - the Authorization is known by MSM to have been revoked.

4. If the Authorization Form is for the physical release of records (i.e., copies), they will be provided within ten (10) days of receipt of the signed Authorization. Except, a request for Authorization for use or disclosure by an attorney/law firm must be in writing and reviewed by the Office of Compliance and Corporate Integrity and MSM Legal Department for validation prior to release for use or disclosure.
5. Do not include sensitive PHI, unless specifically authorized by the individual. This includes: genetic or mental health information, HIV-related information, and alcohol or drug abuse related information.
6. Workforce Members must document and retain the signed Authorization in the patient's medical record or other designated location for a period of at least six (6) years.
7. If a patient is requesting that their authorization be revoked, Workforce Members will direct the patient to submit a request for revocation in writing. All revocations must be documented and retained in the patient's medical record or other designated location for a period of at least six (6) years.

SECTION 6: RELATED POLICIES

Related Documents

- Minimum Necessary Standard for Uses and Disclosures of PHI
- IRB Guidelines, Policies & Procedures for the Protection of Human Subjects
- Use and Disclosure of PHI for Marketing
- Use and Disclosure of PHI for Research Purposes

Legal Reference

- 45 C.F.R. §160 and 162
- 45 C.F.R. §164.501
- 45 C.F.R. §164.502
- 45 C.F.R. §164.506
- 45 C.F.R. §164.508
- 45 C.F.R. §164.510
- 45 C.F.R. §164.512
- 45 C.F.R. §164.514

SECTION 7: REPORTING AND SANCTIONS

Improper access to or disclosure of patient information may result in the loss of access to PHI and may result in disciplinary action, up to and including termination and/or revocation of clinical privileges, faculty appointment or employment.

Call your institution's Privacy Officer if you suspect that PHI might have been lost, stolen, or improperly accessed or disclosed.

SECTION 8: CONTACT INFORMATION

Privacy Officer, Keith L. Henderson, khenderson@msm.edu