

# USE and DISCLOSURE OF PROTECTED HEALTH INFORMATION – WHERE OPPORUNITY TO AGREE OR OBJECT IS NOT REQUIRED

**Policy:** For certain types of use and disclosure of protected health information (PHI), the University of Connecticut may make the disclosure without informing an Individual in advance of the use or disclosure or giving the Individual an opportunity to prohibit or restrict the use or disclosure.

**Rationale:** To maintain compliance with Title 45 CFR Part 164.512, Disclosure Without Authorization.

## I. **General Provisions:**

### For Public Health Activities

1. The University may disclose PHI without de-identification if it will be used for public health activities and purposes by:
  - A public health authority that is authorized to receive PHI for the purpose of preventing or controlling disease, injury, or disability. This includes but is not limited to the reporting of disease, injury, vital events (birth, death, etc.) and the conduct of public health surveillance;
  - A public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect;
  - A person responsible for tracking the quality, safety, or effectiveness of products or activities regulated by the Food and Drug Administration;
  - 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, if the University or a public health authority is authorized by law to notify such person;
  - An employer, if the Individual is a member of that employer's workforce and the PHI will be used to determine whether the Individual has a work-related illness or injury.

### For Victims of Abuse, Neglect, or Domestic Violence

2. The University may disclose PHI about an individual:
  - That the University reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority, including a social service or protective services agency, authorized to receive

reports of abuse, neglect, or domestic violence. If the University makes this disclosure, the University may inform the Individual that such a report has been made, but will not if:

- a) The University believes informing the Individual would place the Individual at risk of serious harm; or
  - b) The University would be informing a personal representative, and reasonably believes the personal representative is responsible for the abuse, neglect, or other injury.
- As required by law including laws that require the reporting of certain types of wounds or other physical injuries, or
  - In compliance with and as limited by the relevant requirements of:
    - A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;
    - A grand jury subpoena; or
    - An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that:
      - The information sought is relevant and material to a legitimate law enforcement inquiry;
      - The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and
      - De-identified information could not reasonably be used.

#### For Health Oversight Activities

3. The University may disclose PHI to a health oversight agency for oversight activities authorized by law, including audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight.

#### For Judicial and Administrative Proceedings

4. The University may disclose PHI in the course of any judicial or administrative proceeding:
  - In response to an order of a court or administrative tribunal, provided that the University discloses only the PHI expressly authorized by such order; or
  - In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative

tribunal, if the University receives satisfactory assurance from the party seeking the information:

- That reasonable efforts have been made to ensure that the Individual who is the subject of the PHI has been given notice of the request; or
  - That reasonable efforts have been made to secure a protective order that prohibits use of the PHI for any purpose other than the litigation and requires that the PHI be returned or destroyed at the end of the proceedings.
- If the University receives documentation demonstrating that:
- The party requesting the PHI of an Individual has made a good faith attempt to provide written notice of the request to the Individual (or, if the Individual's location is unknown, to mail a notice to the Individual's last known address);
  - The notice includes sufficient information, in the opinion of the Director, about the litigation or proceeding for which the PHI is requested to permit the Individual to raise an objection to the court; and
  - The time for the Individual to raise objections to the court or administrative tribunal has elapsed, and:
    - No objections were filed; or
    - All objections filed by the Individual have been resolved by the court and the PHI disclosures being sought are consistent with such resolution.
  - The parties to the dispute have agreed to an order that protects the PHI and have presented it to the court with jurisdiction over the dispute.

#### For Law Enforcement Activities

5. The University may disclose PHI in response to a law enforcement official's request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person. The University will disclose only the following information (if it is available):
- Name and address;
  - Date and place of birth;
  - Social security number;
  - Type of injury;
  - Date and time of treatment;
  - Other information that is less commonly kept by the University:
    - ABO blood type and rh factor;

- Date and time of death; and
  - Description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.
6. The University may disclose PHI in response to a law enforcement official's request for such information about an Individual who is a victim or is suspected to be a victim of a crime other than disclosures for public health activities or victims of abuse, neglect or domestic violence, if:
- The Individual agrees to the disclosure; or
  - The University is unable to obtain the Individual's agreement because of incapacity or other emergency circumstance, provided that:
    - The law enforcement official states that such information is needed to determine whether a violation of law by a person other than the victim has occurred, and such information is not intended to be used against the victim;
    - The law enforcement official states that waiting until the Individual is able to agree to the disclosure would materially and adversely affect immediate law enforcement activity that depends upon the disclosure; and
    - The disclosure is in the best interests of the individual as determined by the University.
7. The University will disclose PHI about an Individual who has died to a law enforcement official for the purpose of alerting law enforcement of the death of the Individual if the University has a suspicion that such death may have resulted from criminal conduct.
8. The University will disclose PHI to a law enforcement official when the University believes that the PHI constitutes evidence of criminal conduct that occurred on the premises of the University.
9. The University may disclose PHI to a law enforcement official if such disclosure appears necessary to alert law enforcement to:
- The commission and nature of a crime;
  - The location of such crime or of the victim(s) of such crime; and
  - The identity, description, and location of the perpetrator of such crime.

For Decedents

10. The University will disclose PHI to a coroner or medical examiner for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law.
11. The University may disclose PHI to funeral directors, as necessary to carry out their duties with respect to the decedent. If necessary for funeral directors to carry out their duties, the University may disclose the PHI prior to, and in reasonable anticipation of, the Individual's death.

#### For Threats to Health or Safety

12. The University is permitted to use and disclose PHI, if the University believes the use or disclosure:
  - Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and
  - Is made to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat; or
  - Is necessary for law enforcement authorities to identify or apprehend an individual.
13. The University is not permitted to use or disclosure the PHI, if the information is learned by the University:
  - In the course of treatment, counseling, or therapy to affect the propensity to commit the criminal conduct that is the basis for the disclosure; or
  - Through a request by the Individual to initiate or to be referred for the treatment, counseling, or therapy.

#### For Research

14. The University may use or disclose PHI for research, provided that the University adheres to University policies and procedures regarding use of human subjects data for research purposes. These policies are developed and monitored by the University's Institutional Review Board (IRB). The IRB applies the set of federal regulations, state laws, and other University policies that pertain to data used in human subjects research at the University of Connecticut. Additional information is available at the IRB's web site ([www.irb.uconn.edu](http://www.irb.uconn.edu)).

#### For Workers' Compensation Activities

15. The University may use or disclose PHI as necessary to comply with laws related to workers' compensation or similar programs that provide benefits for work-related injuries or illness.

#### For Specialized Government Functions

16. The University may disclose PHI as necessary for Individuals who are members of the U.S. Armed Forces when that information is needed to assure proper execution of military missions.
17. The University may use or disclose PHI as necessary to authorized federal officials for the conduct of national security activities that are authorized by the National Security Act.
18. The University may use or disclose PHI as necessary to authorized federal officials for the provision of protective services to the President of the United States or other heads of state as authorized by law.