

**UNIVERSITY POLICY**

<b>Policy Name:</b>	Requests for Restriction of Uses and Disclosures of Protected Health Information				
<b>Section #:</b>	100.1.8	<b>Section Title:</b>	HIPAA Policies	<b>Formerly Book:</b>	00-01-15-30:00
<b>Approval Authority:</b>	RBHS Chancellor/Executive Vice President for Health Affairs		<b>Adopted:</b>	1/23/2003	<b>Reviewed:</b> 3/11/2016
<b>Responsible Executive:</b>	Senior Vice President and Chief Enterprise Risk Management, Ethics and Compliance Officer		<b>Revised:</b>	6/22/2011, 7/1/2013; 3/11/2016	
<b>Responsible Office:</b>	Office of Enterprise Risk Management, Ethics and Compliance		<b>Contact:</b>	Office of Enterprise Risk Management, Ethics and Compliance: 973-972-8093	

**1. Policy Statement**

This policy covers the rights of patients to request a restriction relating to the use and disclosure of their individual health information. This policy applies to:

- I. The Rutgers Covered Entity and Covered Components within that entity including faculty, employees, students, volunteers, trainees, and other persons whose conduct, in the performance of work for Rutgers and/or its units, is under the direct control of such Entity, whether or not they are paid by Rutgers.
- II. Any Rutgers University workforce member of any Rutgers school, unit or department that bills federal and/or state programs for the provision of medical care to patients, or engages in human subject research sponsored by federal, state or private programs.
- III. Any Business Associate, independent contractor or other vendor providing services engaged by the Rutgers Covered Entity.
- IV. Other University departments that assist the Rutgers Covered Entity in certain activities including, but not limited to, the Office of Enterprise Risk Management, Ethics and Compliance, the Office of Information Technology and the Office of the Senior Vice President and General Counsel.

**2. Reason for Policy**

To establish guidelines for ensuring all Rutgers Covered Components, which create designated record sets containing Protected Health Information (PHI) have a process to respond to patient requests for restrictions on the use and the disclosure of their individual health information.

**3. Who Should Read this Policy**

- I. The Rutgers Covered Entity and Covered Components within that entity including faculty, employees, students, volunteers, trainees, and other persons whose conduct, in the performance of work for Rutgers and/or its units, is under the direct control of such Entity, whether or not they are paid by Rutgers.

- II. Any Rutgers University workforce member of any Rutgers school, unit or department that bills federal and/or state programs for the provision of medical care to patients, or engages in human subject research sponsored by federal, state or private programs.
- III. Any Rutgers University workforce member of any Rutgers school, unit or department that is engaged in the provision, coordination, or management of health care and related services among providers including third parties, consultations regarding a patient and patient referrals.
- IV. Any Business Associate, independent contractor or other vendor providing services engaged by the Rutgers Covered Entity.
- V. Other University departments that assist the Rutgers Covered Entity in certain activities including, but not limited to, the Office of Enterprise Risk Management, Ethics and Compliance, the Office of Information Technology and the Office of the Senior Vice President and General Counsel.

#### 4. Resources

- I. Code of Federal Regulations Title 45, Section 164, Part 522, Right to Request Privacy Protection for Protected Health Information
- II. 45 CFR 160 and 164 Modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules Under the Health Information Technology for Economic and Clinical Health Act and the Genetic Information Nondiscrimination Act; Other Modifications to the HIPAA Rules; Final Rule January 25, 2013
- III. Uses and Disclosures of Health Information With and Without an Authorization – Policy 100.1.8
- IV. Standards for Privacy of Individually Identifiable Health Information – Policy 100.1.9
- V. Access of Individuals to Health Information – Policy 100.1.4

#### 5. Definitions

- I. Protected Health Information (PHI): Protected health information means individually identifiable health information 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 for the provision of health care to an individual and identifies or could reasonably be used to identify the individual.
  - A. Except as provided in paragraph two (2) of this definition that is: a) transmitted by electronic media; b) maintained in electronic media; or c) transmitted or maintained in any other form or medium.
  - B. Protected health information excludes individually identifiable health information in: a) Education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g; b) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); and c) Employment records held by a covered entity in its role as employer.
  - C. Relevant individually identifiable health information of deceased individuals should be considered active PHI for 50 years after death.
- II. Designated record set: Medical or billing records about individuals maintained by or for a healthcare provider; the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or records used in whole or in part by or for the provider to make decisions about individuals.
- III. Workforce: Faculty, employees, students, volunteers, trainees, and other persons whose conduct, in the performance of work for Rutgers and/or its units, is under the direct control of such entity(ies), whether or not they are paid by Rutgers.

- IV. HITECH ACT (2009): Section 13402 of the Health Information Technology for Economic and Clinical Health (HITECH) Act, part of the American Recovery and Reinvestment Act of 2009 (ARRA) that was enacted on February 17, 2009.
- V. HIPAA Omnibus Rule (2013): Enhancements to the HIPAA Privacy, Security, Enforcement and breach notification rules under HITECH and GINA. 45 CFR parts 160 and 164. See Federal Register, Vol 78 (17), Friday, January 25, 2013.
- VI. Covered Entity (CE): Either (1) A health care provider, (2) a health plan or (3) a health care clearinghouse who transmits any health information in electronic form in connection with a transaction covered by 45 CFR 160.103. Covered Entities must comply with the HIPAA Rules' requirements to protect the privacy and security of health information and must provide individuals with certain rights with respect to their health information.
- VII. Rutgers Covered Entity: The collective term referring to all units, schools or departments that meet the definition of a Covered Entity as put under 45 CFR 160.103 and are required to follow HIPAA regulation, including the HITECH Act (2009) and the Omnibus Rule (2013).
- VIII. Rutgers Covered Component: Refers to a single unit, school or department within the Rutgers Covered Entity.

## 6. The Policy

### I. Requirements:

- A. The Rutgers Covered Entities must allow an individual the opportunity to request that the university restrict:
  - 1. Uses and disclosures of PHI about the individual when the university carries out treatment, payment or health care operations (TPO); and
  - 2. Disclosures related to involvement in an individual's care.
- B. The Request for Restriction of Health Information form can be accessed at the Office of Enterprise Risk Management, Ethics and Compliance website.
- C. The Rutgers Covered Entities may, however, deny the request.

Exception: The Rutgers Covered Entity must agree to an individual's request for restrictions or limitations for disclosures to the individual's health plan for payment or health care operations purposes if the individual has paid out of pocket in full (or in part) for the health care item or service and the PHI pertains solely to that item or service.
- D. All requests for restrictions and termination of the agreement to restrict must be in writing.
- E. All requests made for restrictions to PHI must be made to the individual designated by the Department Chair, Dean, President/CEO of the Rutgers Covered Entity.

### II. Responsibilities:

- A. The Rutgers Covered Entity must review all requests that are made by individuals to restrict use and disclosure of the individual's PHI; however, the Rutgers Covered Entity is not required to agree to the restrictions requested if the Rutgers Covered Entity determines that the restrictions would interfere with legitimate treatment, payment or health care operations.
- B. If a Rutgers Covered Entity agrees to an individual's restriction request, the restriction must be appropriately documented and such documentation be retained. Also, the restriction must be communicated in a manner as to assure that anyone accessing the information becomes aware of the restriction. For example, clearly indicate the restriction on the face

of the chart or somewhere obvious to anyone accessing the chart.

- C. If the Rutgers Covered Entity agrees to an individual's restriction request, the Rutgers Covered Entity is not permitted to use or disclose the specified PHI in any manner, except in the event that the individual is in need of emergency treatment and the restricted PHI is needed to provide such treatment. In this case, the Rutgers Covered Entity may use the restricted PHI or disclose the PHI to a healthcare provider to provide such treatment to the individual. In this event, the Rutgers Covered Entity must request that such health care provider not further use or disclose the information.
  
- D. Rutgers Covered Entity may use or disclose protected health information without the written authorization of an individual, or the opportunity for an individual to agree or object in the following situations:
  - 1. Required by the Secretary of Health and Human Services to investigate or determine the ECU Health Care Components' compliance with HIPAA;
  - 2. Required by law;
  - 3. For public health activities;
  - 4. About victims of abuse, neglect or domestic violence;
  - 5. For health oversight activities;
  - 6. For judicial and administrative proceedings;
  - 7. For law enforcement purposes;
  - 8. About decedents requested by coroners, medical examiners and funeral directors;
  - 9. For cadaveric organ, eye or tissue donation purposes;
  - 10. For research purposes, subject to the conditions set forth in HIPAA Privacy Regulations;
  - 11. To avert a serious threat to health or safety;
  - 12. For specialized government functions, such as military activities and national security/intelligence activities; or
  - 13. For worker's compensation.
  
- E. A Rutgers Covered Entity may terminate its agreement to a restriction if:
  - 1. The individual agrees to or requested the termination in writing;
  - 2. The individual orally agrees to the termination and the oral agreement is documented; or
  - 3. The Rutgers Covered Entity informs the individual that it is terminating its agreement to restriction.
  - 4. In the event that a Rutgers Covered Entity, for any of the above mentioned reasons, terminates the agreement to restriction, the termination is only effective with respect to PHI created or received after it has so informed the individual.