



RUTGERS POLICY

Section: 100.1.8

Section Title: HIPAA Policies

Policy Name: Requests for Restriction of Uses and Disclosures of Protected Health Information

Formerly Book: 00-01-15-30:00

Approval Authority: RBHS Chancellor

Responsible Executive: Chief Healthcare Compliance Officer

Responsible Office: RBHS Office of Ethics Compliance and Corporate Integrity

Originally Issued: 1/23/2003

Revisions: 6/22/2011, 7/1/2013

Errors or changes? Contact: RBHS Office of Ethics Compliance and Corporate Integrity: 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

- a. Rutgers University employees who are employed within covered entities that are a part of Rutgers Biomedical and Health Sciences ("RBHS"), RBHS researchers as well as any independent contractors engaged by RBHS; and
- b. Any Rutgers University employees who are employed by a Rutgers school, unit or department that is a covered entity and that bills federal and/or state programs for the provision of medical care to patients, any researchers in the school, unit or department as well as any independent contractors engaged by the affected school, unit or department.
 - i. For purposes of this policy, the groups and entities described in (a) and (b) above shall be referred to as "RBHS Covered Entity" or "RBHS Covered Entities."

2. **Reason for Policy**

To establish guidelines for assuring that all RBHS Covered Entities that 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**

This policy shall apply to health information that is generated during provisions of health care to patients in certain patient care units, patient care centers or faculty practices as well as Human Subjects research including:

- a. Covered entities and their employees who are a part of Rutgers Biomedical and Health Sciences (“RBHS”), RBHS researchers as well as any independent contractors engaged by RBHS; and
- b. Any Rutgers University covered entities and their employees who bill federal and/or state programs for the provision of medical care to patients as well as any independent contractors engaged by the affected school, unit or department.
 - i. For purposes of this policy, the groups and entities described in (a) and (b) above shall be referred to as “RBHS Covered Entity” or “RBHS Covered Entities.”
- c. Business Associates of the RBHS Covered Entities.
- d. Other University departments that assist the RBHS Covered Entities in certain activities including, but not limited to, the Office of Information Technology and the Office of the Senior Vice President and General Counsel.

4. **Related Documents**

- A. Code of Federal Regulations Title 45, Section 164, Part 522, Right to Request Privacy Protection for Protected Health Information
- B. Uses and Disclosures of Health Information With and Without an Authorization – Policy 100.1.8
- C. Standards for Privacy of Individually Identifiable Health Information – Policy 100.1.9
- D. Access of Individuals to Health Information – Policy 100.1.4

5. **Contacts**

RBHS Office of Ethics, Compliance and Corporate Integrity: 973-972-8093

6. **The Policy**

100.1.8 REQUESTS FOR RESTRICTION OF USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

Definitions

- A. 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.
 - 1. 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
 - 2. 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.
- B. 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.

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A. Requirements:

1. The RBHS Covered Entities must permit an individual to request that it restrict:
 - uses and disclosures of PHI about the individual to carry out treatment, payment or health care operations (TPO); and
 - disclosures related to involvement in an individual's care.

The Request for Restriction of Health Information form can be accessed at the website RBHS Office of Ethics, Compliance and Corporate Integrity website.

2. The RBHS Covered Entities may, however, deny the request.
3. All requests for restrictions and termination of the agreement to restrict must be in writing.
4. All requests made for restrictions to PHI must be made to the individual designated by the Department Chair, Dean, President/CEO of the RBHS Covered Entity and/or the Privacy Officer/Privacy Liaison.

B. Responsibilities:

1. The RBHS Covered Entity must review all requests that are made by individuals to restrict use and disclosure of the individuals PHI; however, the RBHS Covered Entity is not required to agree to the restrictions requested if the RBHS Covered Entity determines that the restrictions would interfere with legitimate treatment, payment or health care operations.
2. If a RBHS 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.
3. If the RBHS Covered Entity agrees to an individual's restriction request, the RBHS 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 to emergency treatment and the restricted PHI is needed to provide such treatment. In this case, the RBHS 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 RBHS Covered Entity must request that such health care provider not further use or disclose the information.
4. A RBHS Covered Entity may terminate its agreement to a restriction if:
 - the individual agrees to or requested the termination in writing;
 - the individual orally agrees to the termination and the oral agreement is documented; or
 - the RBHS Covered Entity informs the individual that it is terminating its agreement to restriction.

5. In the event that a the RBHS 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.

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