

UNIVERSITY OF FLORIDA
INFORMATION PRIVACY POLICIES & PROCEDURES
PRIVACY MANAGEMENT

HIPAA: Disclosures for Judicial and Administrative Proceedings

□ POLICY

Rev: 06/01/2005

1. The University of Florida may disclose protected health information in the course of any judicial or administrative proceeding in response to:
 - a. An order of a court or administrative tribunal, in which the University will only disclose the protected health information expressly authorized by such order; or
 - b. A lawfully issued subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
 - 1) The University receives **satisfactory assurance** from the party seeking the information that reasonable efforts have been made to notify the patient who is the subject of the protected health information of the request; or
 - 2) The University receives **satisfactory assurance** from the party seeking the information that a **qualified protective order** has been secured.
2. The University of Florida may disclose protected health information in response to any lawful process described above without receiving satisfactory assurance if the University itself makes reasonable efforts to provide notice to the patient or to seek a qualified protective order.
3. Health information maintained by the University of Florida that is subject to specific state or federal laws (mental health, STD, HIV, etc.) will only be disclosed in accordance with those laws.
4. All disclosures of protected health information in response to subpoenas or court orders are recorded at the point of disclosure as well as in UF's On-Line Disclosure Tracking System.

□ DEFINITIONS

Lawfully Issued Subpoena means a subpoena issued by or under the jurisdiction of a Florida or federal court. Subpoenas issued by other state courts will not be honored.

Satisfactory Assurance (for the purposes of Policy paragraph 1.b.1) above) means receipt of a written statement and accompanying documentation demonstrating that:

- a. The party requesting information has made a good faith attempt to provide written notice to the patient (or, if the patient's location is unknown, to mail a notice to the patient's last known address);
- b. The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the patient to raise an objection to the court or administrative tribunal; and
- c. The time for the patient to raise objections to the court or administrative tribunal has elapsed, and:
 - 1) No objections were filed; or
 - 2) All objections filed by the patient have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

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Satisfactory Assurance (for the purposes of Policy paragraph 1.b.2) above) means receipt of a written statement and accompanying documentation demonstrating that:

- a. The parties to the dispute giving rise to the request for information have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute; or
- b. The party seeking the protected health information has secured a qualified protective order from such court or administrative tribunal.

Qualified Protective Order (for purposes of Policy paragraph 1.b.2) above) means an order of a court or of an administrative tribunal or a stipulation by the parties to the litigation or administrative proceeding that:

- a. Prohibits the parties from using or disclosing the protected health information for any purpose other than the litigation or proceeding for which such information was requested; and
- b. Requires the return to the covered entity or destruction of the protected health information (including all copies made) at the end of the litigation or proceeding.

PRIVACY REQUIREMENTS

The provisions of this section do not supersede other provisions of the federal privacy regulations or other state laws that otherwise permit or restrict uses or disclosures of protected health information.

PROCEDURES:

1. Forward all lawfully issued subpoenas and court orders requesting health information to the appropriate medical record custodian for processing in accordance with the required timelines of the subpoena and the following guidelines:
 - a. Subpoena from an attorney representing the patient, requesting health information concerning the patient:
 - 1) Must be accompanied by a valid authorization to disclose Protected Health Information, signed by the patient or the patient's representative.
 - 2) If no authorization is attached, contact the requesting attorney to request one. Provide a copy of the University's Authorization form, if necessary.
 - b. Subpoena issued by a Florida court from an attorney representing another party (i.e. insurance company, physician, hospital, etc.) requesting health information concerning a patient:
 - 1) Must be accompanied by one of the following documents before records may be released:
 - a) A certificate of compliance from the attorney that contains all of the requirements under HIPAA (see attached example);
 - b) A valid authorization to disclose Protected Health Information signed by the patient or the patient's personal representative; or
 - c) A court order for the release of the patient's information
 - 2) If none of the documents is attached, contact the requesting attorney or send an appropriately worded copy of the sample letter to the attorney to request an authorization, a certificate, or a court order.

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- c. Subpoenas issued by other state courts from an attorney representing another party (i.e. insurance company, physician, hospital, etc.) requesting health information concerning a patient:
 - 1) Do not honor subpoenas from other states unless they are “lawfully issued” (see definitions).
 - 2) Send the appropriately worded sample letter to the requesting attorney stating that the subpoena must be issued by or under the jurisdiction of a Florida court.
 - d. All other subpoenas or public records requests: Contact the University of Florida Health Science Center, Office of General Counsel for assistance.
2. Record the disclosure of any protected health information in response to a subpoena in the patient’s medical or financial record and also in the UF On-Line Disclosure Tracking System.

REFERENCES

HIPAA Regulations: § 164.512 (e) (Disclosures for Judicial and Administrative Proceedings)

EXHIBITS

Certificate of Compliance
Sample Letter Requesting HIPAA Documentation
Sample Letter: Invalid Authorization
Sample Letter: Invalid Subpoena