

POLICY REGARDING REQUESTS FOR RESTRICTIONS ON USES/DISCLOSURES OF PROTECTED HEALTH INFORMATION

Purpose: To set forth the policy and procedures of WVU Physicians of Charleston (WVUPC) regarding individual rights to request restrictions on uses and/or disclosures of protected health information (PHI) for treatment, payment and health care operations.

Standard: The Health Insurance Portability and Accountability Act of 1996 (HIPAA) permits an individual to request that a covered entity restrict its uses and/or disclosures of the individual's protected health information for treatment, payment or operational purposes, and to request restrictions on uses or disclosures to family members or others as permitted by 45 C.F.R. §164.519(b). WVUPC is not required to agree to the requested restrictions but is obligated by HIPAA to permit the individual to make such a request.

HIPAA requires covered entities such as WVUPC to accommodate reasonable requests by individuals to receive communications about the individual's PHI by alternative means or at alternative locations.

Policy:

1. WVUPC will allow an individual to request restrictions on the use and/or disclosure of the individual's PHI for treatment, payment or operational purposes.
2. WVUPC will comply with an individual's request for restrictions on the disclosure of his/her PHI if: (a) The disclosure would otherwise be made to a health plan; (b) the disclosure is for the purposes of carrying out payment or healthcare operations and is not otherwise required by law; and (c) The PHI pertains solely to a healthcare item or service for which the healthcare provider has been paid in full by the individual or person other than the health plan on the individual's behalf.
3. Except with respect to reasonable requests by an individual to receive communication by alternative means or at alternative locations which WVUPC shall accept, WVUPC is not otherwise obligated to agree to an individual's request for restrictions. If requested restrictions are agreed to, WVUPC may not use or make disclosures in a manner inconsistent with such request, unless such uses or disclosures are required by law.

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Procedure:

1. WVUPC will allow an individual to request restrictions on the use and/or disclosure of PHI.
2. WVUPC will comply with an individual's request for restrictions on the disclosure of his/her PHI if: (a) The disclosure would otherwise be made to a health plan; (b) the disclosure is for the purposes of carrying out payment or healthcare operations and is not otherwise required by law; and (c) The PHI pertains solely to a healthcare item or service for which the healthcare provider has been paid in full by the individual or person other than the health plan on the individual's behalf.
3. WVUPC will comply with reasonable requests by an individual to receive communications about PHI by alternative means or at alternative locations.
4. An individual's request for restriction shall be made by the individual, in writing, on a form provided by or approved for such use by WVUPC's Office of Health Information Management (HIM).
5. The request shall be submitted to the WVUPC HIM Director of and considered by said Director in collaboration and cooperation with the clinical department in which the individual who is the subject of the requested restrictions is being treated. Any questions regarding whether such requested restrictions are legally appropriate under HIPAA shall be submitted to the WVUPC privacy officer or WVUPC general counsel for review and resolution.
6. Any restrictions requested on the WVUPC approved form and agreed to by WVUPC shall be maintained within the individual's clinical record, and readily apparent to those members of WVUPC's faculty or staff who are involved in the individual's care.
7. Upon agreeing to such a restriction, WVUPC will not violate such restriction, unless otherwise permitted by this policy or relevant law.
8. WVUPC is not required to honor an individual's request for restriction on the use/disclosure of PHI in the following situations:
 - a) When the individual who requested the restriction is in need of emergency treatment and the restricted PHI is needed to provide such

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treatment;

b) If restricted PHI is disclosed to a health care provider for emergency treatment, WVUPC will request that such health care provider not further use or disclose the information.

9. If WVUPC agrees to an individual's requested restriction, the restriction does not apply to the following uses and disclosures:

a. To an individual accessing their own PHI;

b. To an individual requesting an accounting of disclosures of their own PHI;

c. Facility directories;

d. Instances for which consent, an authorization, or opportunity to agree or object is not required, such as: judicial and administrative purposes; health oversight; research; law enforcement; public health; to avert a serious threat to health and safety; cadaveric organ, eye or tissue donation; decedents; workers' compensation; victims of abuse, neglect or domestic violence; specialized governmental functions; and disclosures required by law.

10. WVUPC may terminate its agreement to a restriction in the following situations:

a. If the individual agrees to or requests the termination in writing;

b. If the individual orally agrees to the termination and the oral agreement is documented;

c. If WVUPC informs the individual that it is terminating its agreement to a restriction. Such termination is only effective with respect to PHI created or received after the organization has so informed the individual

11. WVUPC will document and retain the restriction for a period of at least six years from the date of its creation or the date when it was last in effect, whichever is later.

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References:

45 C.F.R. §164.522; 2013 HITECH Omnibus Rule, 78 Fed. Reg. 5,566
(1/25/2013)

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