

POLICY REGARDING DISCLOSURES ABOUT VICTIMS OF ABUSE, NEGLECT OR DOMESTIC VIOLENCE

Purpose: To set forth the policy and procedures of WVU Physicians of Charleston (WVUPC) regarding disclosures about victims of abuse, neglect or domestic violence.

Standard: For most disclosures other than in the usual course of treatment, payment and/or health care operations, WVUPC must obtain individual authorization before using or disclosing the individual's PHI. However, PHI may be disclosed to a public health or governmental authority authorized by law to receive reports of child abuse or neglect without patient consent or authorization. Additionally, WVUPC may also disclose PHI under certain other circumstances in which there is a reasonable belief that a person may be a victim of abuse, neglect or domestic violence. This policy has been developed to provide guidance on this issue, and to ensure full compliance with WVUPC's reporting obligations, while also protecting patient health information in our possession.

Policy:

1. WVUPC may disclose PHI about an individual whom it reasonably believes to be a victim of abuse, neglect, or domestic violence to a governmental authority, including a social service or protective services agency authorized by law to receive such reports
2. Any questions regarding disclosures of PHI under this policy must be directed to the WVUPC Director of Health Information Management (HIM) or to the WVUPC Privacy Officer. Guidance shall be sought from legal counsel whenever necessary.

Procedure

A. Pursuant to §164.512 HIPAA, WVUPC may disclose PHI about an individual who is reasonably believed to be a victim of abuse, neglect or domestic violence:

1. to the extent the disclosure is required by law and the disclosure complies with and is limited to the relevant requirements of such law; or
2. if the individual agrees to the disclosure (agreement may be oral); or
3. to the extent the disclosure is expressly authorized by statute or

POLICY REGARDING DISCLOSURES ABOUT VICTIMS OF ABUSE, NEGLECT OR DOMESTIC VIOLENCE
--

regulation; and

a. WVUPC, in the exercise of professional judgment, believes the disclosure to be necessary to prevent serious harm to the individual or other potential victims; or

b. If the individual is incapacitated and unable to agree to the disclosure of their PHI, a law enforcement or public official authorized to receive the report must represent that the PHI for which disclosure is sought is not intended to be used against the individual. The official must also represent that immediate enforcement activity is dependent upon the disclosure and would be adversely affected by waiting until the individual is able to agree to the disclosure.

B. If WVUPC discloses PHI about an individual in accordance with paragraph A above, WVUPC will promptly inform the individual that such a disclosure has been or will be made, except when WVUPC:

1. In the exercise of professional judgment, believes informing the individual would place him/her at risk of serious harm; or

2. Would be informing a personal representative, and WVUPC reasonably believes the personal representative is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interests of the individual as determined by WVUPC in the exercise of professional judgment.

C. WVUPC will report child abuse and/or neglect without restriction to public health authority or other appropriate governmental authority authorized by law to receive reports of child abuse or neglect.

D. Personnel will follow appropriate policies and procedures for verifying the identity and authority of individuals requesting PHI under this policy.

E. Once it is determined that use or disclosure is appropriate, HIM personnel with appropriate access clearance will access the individual's PHI using proper access and utilization procedures.

F. The requested PHI will be delivered to the designated authority/recipient in a secure and confidential manner.

G. HIM personnel will appropriately document the request and delivery

POLICY REGARDING DISCLOSURES ABOUT VICTIMS OF ABUSE, NEGLECT OR DOMESTIC VIOLENCE
--

of the PHI.

H. In the event that the identity and legal authority of an individual or entity requesting PHI cannot be verified, HIM personnel will refrain from disclosing the information until such time as directed to do so by legal counsel.

I. Knowledge of a violation or potential violation of this policy must be reported directly to the WVUPC Director of HIM or the Privacy Officer.

REFERENCES:
45 C.F.R. § 164.512