

**POLICY REGARDING DISCLOSURE OF PROTECTED HEALTH INFORMATION
FOR JUDICIAL/ADMINISTRATIVE and LAW ENFORCEMENT PURPOSES**

Purpose: To set forth the policy and procedures of WVU Physicians of Charleston (WVUPC) regarding disclosure of protected health information (“PHI”) as required by law for judicial and/or administrative proceedings and purposes.

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 pursuant to a judicial or administrative process without the written consent or authorization of the individual, or the opportunity of the individual to agree or object. This policy has been developed to provide guidance on this issue, and to ensure full compliance with such judicial or administrative processes, while also protecting patient health information in our possession.

Policy:

1. WVUPC may use or disclose PHI to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the requirements set forth in this policy as required by §164.512 of the HIPAA regulations.
2. WVUPC’s Privacy Officer and/or General counsel shall be consulted for guidance as necessary on requests for disclosures, without the authorization of the individual and pursuant to claimed legal authority as required by law, whenever there is any ambiguity in the document produced by the court, judicial or administrative officer who is seeking the release of records.

Procedure

A. Pursuant to §164.512 of the HIPAA regulations, WVUPC may disclose PHI in the course of any judicial or administrative proceeding as follows:

1. In response to an order of a court or administrative tribunal, as provided for in such order; OR
2. In response to a subpoena, discovery request or other lawful process, that is not accompanied by an order of a court or administrative

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tribunal, IF:

a. WVUPC receives satisfactory assurance from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the PHI has been given notice of the request, or

b. WVUPC receives satisfactory assurance by the party seeking the disclosure that reasonable efforts have been made by such party to secure a qualified protective order.

c. Satisfactory assurance as contemplated by HIPAA means that the party requesting such information provides written verification to WVUPC that the requesting party has made a good faith effort to provide written notice to the individual, the notice included sufficient information to enable the individual with the opportunity to object, the time for the individual to object has passed, and that objections to the release of the information, if any, have been resolved by the court or tribunal, and the disclosures being sought are consistent with such resolution.

B. Disclosures for Law Enforcement Purposes

1. WVUPC may disclose PHI as required by law, including laws that require the reporting of certain types of wounds or other physical injuries, in compliance with and as limited by the relevant requirements of

(a) a court order or court-ordered warrant, subpoena or summons issued by a judicial officer;

(b) a grand jury subpoena, or

(c) an administrative request, subpoena or summons authorized under law, provided that the information sought is relevant and material to a legitimate law enforcement inquiry; the request is specific and limited in scope in light of the purpose for which the information is sought, and de-identified information could not reasonably be used.

2. WVUPC may also disclose PHI in response to a law enforcement official's request for such information for the purpose of identifying or locating a suspect, fugitive, material witness or missing person, provided that WVUPC may disclose only the individual's name and address, place and date of birth, social security number, blood type, type of injury, date and time of treatment, date and time of death, if applicable,

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and a description of distinguishing characteristics such as gender, race, eye color, scars, tattoos and the like.

3. The HIPAA privacy regulations also set forth additional circumstances within §164.512 in which WVUPC may disclose PHI for law enforcement purposes where the individual is suspected to have been the victim of a crime, where the individual is a decedent whose death may have resulted from criminal conduct, or where there is a good faith belief that a crime may have occurred on the premises of WVUPC. Requests for such disclosures, in the absence of a valid authorization signed by the individual who is the subject of the PHI, must be directed to the WVUPC privacy officer for review and resolution.

REFERENCES:
45 C.F.R. § 164.512