

UNC Greensboro
HIPAA PRIVACY PROCEDURES

I. Accounting and Disclosure of Protected Health Information (EPI)

- A. UNCG requires documentation of certain PHI disclosures
- B. Disclosures of PHI that are documented include:
 - a. Disclosures required by law;
 - b. Disclosures to public health authorities;
 - c. Information relevant to child abuse or neglect;
 - d. Information relevant to victims of abuse, neglect, or domestic violence;
 - e. Disclosures to the FDA;
 - f. Disclosures regarding communicable diseases;
 - g. Information relevant to employee workplace medical surveillance;
 - h. Information relevant to health oversight activities
 - i. Responses to judicial and administrative proceedings;
 - j. Disclosures to law enforcement (see exceptions)
 - k. Disclosures to coroners and funeral directors;
 - l. Disclosures made for cadaveric organ, eye, or tissue donation purposes;
 - m. Disclosures made for research purposes;
 - n. Disclosures made to avert serious and imminent threat to health or safety;
 - o. Disclosures for specialized government function;
 - p. Disclosures relevant to workers' compensation; and
 - q. Unauthorized disclosures
- C. Documentation of disclosures should include:
 - a. Date of disclosure
 - b. Name of person or entity to whom disclosure is made (and address, if known)
 - c. Brief description of PHI that was disclosed;
 - d. Brief statement of reason for disclosure
- D. Documentation of the following disclosures is not required:
 - a. Disclosures required to carry out Treatment, Payment and Other Healthcare Operations (TPO);
 - b. Disclosures to the patient;
 - c. Disclosures which the patient authorizes;
 - d. Permitted "incidental" disclosures;
 - e. Disclosures which the patient authorizes;
 - f. Disclosures to persons, such as family and friends, who are involved in the patient's care;
 - g. Disclosures that are part of a permitted "limited data set;"
 - h. Disclosures relevant to national security or intelligence gathering;
 - i. Disclosures to correctional institutions or law enforcement officials;
 - j. Any disclosure that occurred prior to April 14, 2003.
- E. Patients have the right to request an accounting of any disclosures of their PHI that have been made as above. This accounting is as follows:
 - a. The request is made in writing;
 - b. UNCG responds to the request within 60 days of receipt of such request;
 - c. UNCG provides the first request within a 12-month period without charge. A reasonable cost-based fee may be assessed on subsequent requests for some individual within the 12-month period. The patient is advised of the fee in advance and has the opportunity to withdraw the request.

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- F. Suspension of the Right of Accounting of Disclosures:
 - a. UNCG may temporarily suspend a patient's right to receive an accounting of disclosures to a health oversight agency or law enforcement official if such agency or official provides UNCG with a written statement that such an accounting to the individual would be reasonably likely to impede the agency's activities. The statement must specify the time for which the suspension is required.
 - b. If the suspension request is made orally, the UNCG employee receiving the request must:
 - i. Document the statement, including the name of the agency or official making the suspension;
 - ii. Temporarily suspend the patient's right to an accounting of disclosures subject to the statement; and
 - iii. Limit the suspension to no longer than 30 days from the date of the oral suspension, unless a written statement from the suspending agency or official is submitted during the time period.

II. Notice of Privacy Practices

- A. Each UNCG Covered Entity publishes its Notice of Privacy Practices (NPP) in accordance with the HIPAA Act of 1006 and any future amendments
- B. The NPP is made available to all patients via:
 - a. Hard copy (upon request)
 - b. Website presence
 - c. Posted in CE locations
- C. The effective date of the Notice of Privacy Practices is clearly evidenced on all media
- D. The NPP includes the effective date and it is updated/revised when substantial changes to its content are made
- E. Patients are asked to verify receipt of a NPP annually

III. Patient Right to Amend PHI

- A. The original medical record is a legal document and cannot be altered
 - a. Hard or electronic copies of records may not be altered by any means in any manner
 - b. Electronic records may be amended internally after electronic signature and locking by the originating provider and/or appropriate clinical management personnel
 - i. The amendment must state exactly what the patient requests
 - ii. The individual entering the amendment must date, sign and lock the amendment
- B. A patient has the right to amend PHI for as long as it is maintained in a designated record set
 - a. The request must be in writing and provide a reason to support a requested amendment
 - b. The request must be addressed and acted upon by the CE no later than 60 days after receipt
 - c. If the CE is unable to act upon the requested amendment within 60 days, the CE may extend by no than 30 days, if:
 - i. The CE submits to the patient, in writing, the reason for the delay and when the request will be completed
 - ii. Only one extension per request may be made
- C. Only information contained in the medical record created by the CE or contracted agent

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can be amended

- a. Amended information must meet the following criteria:
 - i. Is part of the designated record set
 - ii. Is reasonably considered to be accurate and complete
- b. Consultation with the Office of General Counsel may be sought prior to amending a record
- D. Any future authorizations to release or disclose PHI must include both the original document and the amended information, if such is included in the information to be released or disclosed

IV. De-Identified Information

- A. De-identification requires the elimination of not only primary or obvious identifiers, such as the patient's name, address, date of birth (DOB), and treating physician, but also of secondary identifiers through which a user could deduce the patient's identity. For information to be de-identified, the following identifiers of the individual (or of relatives, employers, or household members of the individual) must be removed or concealed;
 - a. Name;
 - b. Address information smaller than a state, including street address, city, county, zip code (except if by combining all zip codes with the same initial three digits, there are more than 20,000 people);
 - c. Names of relatives and employers;
 - d. All elements of dates (except year), including DOB, admission date, discharge date, date of death, all ages over 89, and all elements of dates, including year indicative of such age except that such ages and elements may be aggregated into a single category of age 90 or older;
 - e. Telephone numbers
 - f. Fax numbers;
 - g. Electronic mail address;
 - h. Student I.D. number;
 - i. Medical record numbers;
 - j. Health plan beneficiary numbers;
 - k. Account numbers;
 - l. Certificate/license numbers;
 - m. Vehicle identifiers and serial numbers, including license plate numbers;
 - n. Device identifiers and serial numbers;
 - o. Uniform Resource Locator (URL)
 - p. Internet Protocol (IP) address numbers;
 - q. Biometric identifiers, including finger and voice prints;
 - r. Full face photographic images and any comparable images;
 - s. Any other unique images and any comparable images;
 - t. Any other unique identifying numbers, characteristics, or codes; and
 - u. The covered entity does not have actual knowledge that the information could be used alone or in combination with other information to identify an individual who is a subject of the information
- B. PHI used for research, including public health research, should be de-identified at the point of data collection for research protocols approved by the IRB, unless the participant

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voluntarily and expressly consents to the use of their personally identifiable information or an IRB waiver of authorization is obtained.

V. Disclosure of PHI for Fundraising or Marketing

UNCG does not allow the use of PHI for purposes of fundraising or marketing

VI. Disposal of Protected Health Information

- A. PHI must not be discarded in trash cans, unsecured recycle bags, or other publicly accessible locations. All printed materials containing PHI is disposed of by shredding internally or with a HIPAA-compliant third-party vendor
- B. Vendor destruction must be documented with date and method of destruction, signature of service rep and staff witness to the entire process

VII. Storage of Protected Health Information (PHI)

- A. All work areas and file cabinets are properly secured at all appropriate times and all PHI is Stored or filed appropriately to ensure privacy and safety.
- B. All medical charts are stored in a secure designated location until the retention period is met.
- C. Laboratory/X-Ray, Accounting, Pharmacy, and Employee Health records are maintained in a secured, locked environment pending their retention period.
- D. Patient electronic records are inactivated from the electronic data base one semester after date of last registration.
 - a. Patients may be reactivated in the data base should they return to the University.
 - b. Patients seeking copies of inactivated records may have their records reactivated as necessary in order to obtain needed information.
 - c. Reactivation is by permission only and limited to specific staff.
- E. When not in use, PHI is protected from unauthorized access. When left in an unattended room, such information is appropriately secured.
- F. Identifiable PHI is prohibited from being stored on a hard drive, laptop, or other media.
- G. Desktop or laptop computers provide access only to PHI via the EHR which is stored and protected on University maintained servers.

VIII. Revocation of Authorization to Release Protected Health Information (PHI)

- A. All requests to revoke authorizations are referred to the individuals responsible for Health Information Management (HIM) in each Covered Entity.
- B. The Covered Entity obtains the revocation request from the patient or authorized legal representative.
- C. All requests must be submitted in writing.
- D. When processing a revocation of release of PHI, the original authorization to release or disclose is reviewed to verify what specific PHI is the subject of the revocation and if this revocation impacts other health care operations.
- E. The revocation will stop release of covered PHI as soon as the request is processed.
 - This revocation does not cover PHI previously released under the authorization.
- F. UNCG may not condition treatment, payment, enrollment, or eligibility for benefits on such authorizations, except as these actions are to be taken for the sole purpose of creatin PHI

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to be disclosed to a third party based on authorization for the disclosure of PHI to the third party.

IX. Complaint Documentation and Reporting

- A. Privacy-related complaints are to be made in writing to the CE HIPAA Compliance Officer and contain a description of acts or omissions believed to be in violation of privacy requirements.
- B. The complaint must be filed within 180 days of when the complainant knew or should have known that the act or omission complained of occurred.
- C. The HIPAA Compliance Officer documents receiving and the deposition of all complaints, and related documents are retained for a minimum of six years.
- D. The Notice of Privacy Practice in each Covered Entity advises patients of their rights to lodge complaints.
- E. Complaint Process
 - a. UNCG's Covered Entities attempt to obtain a written Notice of Complaint, authenticated by the individual;
 - b. Information from the Notice of Complaint is summarized and recorded on the HIPAA One Committee secure storage site.
 - c. The Covered Entities investigate the complaint.
 - i. If a complaint is found to be justified, the Covered Entity attempts to resolve or mitigate the complaint;
 - ii. The Covered Entity HIPAA Compliance Officer records the details of the results on the HIPAA Committee secure storage site
 - iii. If the Covered Entity is unable to resolve satisfactorily the complaint, is made to upper management and the UNCG Privacy Officer;
 - iv. The complainant is notified in writing of the actions taken by the CE
- F. UNCG ensures there is no retaliation or discrimination against any person reporting a violation or lodging a complaint.
- G. The following categories of complaints are documented under UNCG's reporting guidelines:
 - a. Unauthorized use or disclosure of PHI by a Covered Entity;
 - b. Re-disclosure of PHI by a Business Associate or other entity;
 - c. Complaints regarding a covered entity's refusal to:
 - i. Accept an individual's request to restrict the use and disclosure of PHI; or
 - ii. To accept an individual's request for access to an entire record when it has been determined that information contained within the record is potentially damaging to the individual or someone else.
 - d. Complaints in relation to use or disclosure of PHI that do not require authorization, such as:
 - i. Disclosures required by law;
 - ii. Disclosure required for public health activities;
 - iii. Disclosures of communicable diseases to public health authorities;
 - iv. Disclosures required by the Food and Drug Administration to track regulated products;
 - v. Disclosures regarding relevant employee workplace medical surveillance;
 - vi. Disclosure that respond to judicial and administrative proceedings;
 - vii. Disclosure about victims of child abuse, neglect or regarding victims of domestic violence;
 - viii. Uses and disclosures regarding health oversight activities;

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- ix. Disclosures for law enforcement purposes;
- x. Disclosure made for specialized government functions, such as benefit eligibility;
- xi. Disclosure relevant for workers' compensation claims;
- xii. Disclosures made for research purposes;
- xiii. Disclosures made for cadaveric organ, eye, or tissue donation purposes;
- xiv. Uses and disclosures about decedents to coroners and funeral directors;
- xv. Uses and disclosures to avert a serious threat to health and safety.
- e. Complaints in relation to what constitutes "minimum necessary";
- f. Complaints about what constitutes an emergency;
- g. Complaints alleging retaliatory actions by the covered entity against an individual who filed a Notice of Complaint;
- h. Complaints about disclosure of PHI for the purposes of treatment, payment or other health care operations (TPO);
- i. Complaints about a covered entity's failure to comply with procedural information contained in its Notice of Privacy Practices; and
- j. Complaints about a covered entity's failure to sanction an employee for non-compliance with its privacy policies and procedures.
- k. Complaints about a Covered Entity's attempt to resolve the complaint, mitigate any findings, or the reason for referral to the University Privacy Officer for further review.
- H. Documentation of complaints should include
 - a. A copy of any correspondence with the complainant is maintained;
 - b. A copy of the correspondence related to an unresolved complaint, any other summary information about the complaint, and a copy of the original Notice of Complaint form is included with complaints referred to the University Privacy Officer;
 - c. documentation of the University Privacy Officer's attempts to resolve the complaint and reports the status to the HIPAA Committee; and
 - d. documentation of notice to the Vice Chancellor for Student Affairs and the Vice Chancellor for Institutional Integrity and General Counsel if any privacy complaint has the potential for litigation.

X. Minimum Necessary Use and Disclosure

- A. HIPAA Compliance Officers ensure the use and disclosure of PHI is limited to the minimum amount and type necessary to satisfy job responsibilities.
- B. Instances where the Minimum Necessary Provision does not apply:
 - a. For treatment purposes;
 - b. For information requested by the individual to whom it belongs;
 - c. For information requested pursuant to a valid authorization by the individual;
 - d. For compliance with standardized HIPAA transactions;
 - e. For required disclosures to HHS for enforcement purposes; and
 - f. For instances required by law.
- C. Use and Disclosure Limitations regarding Requests for Uses or Disclosures of PHI
 - Except in emergency situations, any persons requesting PHI from the medical record custodian must include the requestor's name, unique identifier, and the type of information requested
- D. Audits
 - HIPAA Compliance Officers are responsible for facilitating random checks to ensure the minimum necessary standard is being applied when using and disclosing PHI.

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- E. Request for Use and Disclosure of Entire Medical Record
 - Medical record custodians do not release the entire medical record to internal departments or Business Associates unless necessary.
- F. Good Faith Reliance - The medical record custodian relies on the belief that the PHI requested is the minimum amount necessary to accomplish the purpose of the request when:
 - a. The information is requested by another person previously approved for access;
 - b. The information is requested by a professional (such as an attorney or accountant) providing professional services either as an employee or as a business associate;
 - c. Making disclosures to agencies or entities related to health-related purposes that do not require an authorization or opportunity to object and that official represents that the information is the minimum necessary or is required by law;
 - d. IRB documentation represents that proposed research meets the minimum necessary standard;
 - e. A requester asserts that the information is necessary to prepare a research protocol; or
 - f. A requester asserts the information is for research on decedents.
- G. Disclosures for Payment
 - Only the minimum necessary PHI is disclosed for payment functions, as provided through contractual agreement. Persons handling PHI in a payment context refrain from publicizing diagnosis information. This policy applies to checks collected, credit card paper receipts, and envelopes and invoices sent to patients.
- H. Disclosures Required by Law or Ordered by a court
 - The minimum necessary standard does not apply to disclosure ordered by order of a court. Only the information directly requested by such order is to be provided.
- I. PHI About a Victim of a Crime or Abuse
 - The minimum necessary standard applies to information releases to law enforcement regarding victims of crime or abuse. However, if the law requires information to be released, then the disclosure is in compliance with the court order, statute, or law.
- J. Disclosures to Family and Friends
 - i. Persons with access and authority to disclose PHI may only make disclosures in accordance with Policy Uses and Disclosures of PHI to Family and Friends.
- K. Minimum Necessary Use and Disclosure for Student Employees
 - Student employees and trainees adhere to the minimum necessary standard. Student employees and trainees are not exempt from the rules outlined in this policy. Student employees are considered to be part of the treatment process if they are actively involved in the patient's care, and therefore are not limited in their access or use of the patient's medical information. They are considered part of the UNCG workforce and are held to the same standards as employees in regard to confidentiality.
- L. Minimum Necessary Use and Disclosure for Educational Purposes
 - Faculty, staff, student employees, and trainees use de-identified information when in a classroom setting and the patient's identifying information (i.e. name, DOB, address, etc.) is not needed for the educational purpose.

XI. Requests for Restricting Uses and Disclosures and Confidential Communications

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- A. Patients may request to restrict uses and disclosures of Protected Health Information (PHI) and to requests for confidential communications.
- B. Requesting Restrictions
 - UNCG permits an individual to request that UNCG restrict:
 - i. Uses and disclosures of PHI about the individual to carry out Treatment, Payment, or Other Healthcare Operations (TPO);
 - ii. Requests to restrict PHI for purposes of TPO may result in denial of service; and
- C. UNCG requires any request for restrictions to be in writing. UNCG is not required to agree to a restriction. If UNCG agrees, CE's may not use or disclose PHI in violation of such restriction, except that if the patient is in need of emergency treatment and the restricted PHI is needed for emergency care.
 - UNCG may use the restricted PHI itself or UNCG may disclose restricted PHI to a health care provider for emergency treatment, as outlined above. UNCG must request that the health care provider not further use or disclose the PHI.
- D. A restriction agreed to by UNCG is not effective to prevent:
 - a. Uses and disclosures from being made to the individual for inspection and copying his/her own PHI;
 - b. The individual from obtaining an accounting of disclosures of PHI; or
 - c. For uses and disclosure for which authorization or opportunity to agree or object is not required.
- E. Terminating a Restriction
 - a. UNCG may terminate its agreement to a restriction if:
 - i. The individual agrees to or requests the termination in writing;
 - ii. The individual orally agrees to the termination and the oral agreement is documented;
 - iii. UNCG informs the individual that it is terminating the restriction;
 - b. Any PHI created and received after the termination will not be restricted; and any PHI created or received before the termination will be restricted.
- F. Notification
 - Patients are notified in writing of the acceptance/denial of their request for restrictions/confidential communication of PHI within 7 to 10 days and starts on the date and time indicated.
- G. Alternative Means of Communication
 - a. Patients may request an alternative means to receive primary communications. UNCG permits patients to request reasonable accommodations to receive communications of PHI from UNCG by alternating means and locations.
 - b. UNCG requires the patient to make a request for confidential communication in writing. UNCG may condition the provision of a reasonable accommodation on:
 - i. When appropriate, information as to how payment, if any, will be handled; and
 - ii. Specifications of an alternative address or other method of contact.
- H. UNCG may not require an explanation from the individual as to the basis for the request as a condition of providing communications on a confidential basis.

XII. Revocation of Authorization to Release Protected Health Information (PHI)

- A. All requests to revoke authorizations are referred to the individuals responsible for Health Information Management (HIM) in each Covered Entity.
- B. The Covered Entity obtains the revocation request from the patient or authorized legal

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representative.

- C. All requests must be submitted in writing.
- D. When processing a revocation of release of PHI, the original authorization to release or disclose is reviewed to verify what specific PHI is the subject of the revocation and if this revocation impacts other health care operations.
- E. The revocation will stop release of covered PHI as soon as the request is processed.
- F. This revocation does not cover PHI previously released under the authorization. UNCG may not condition treatment, payment, enrollment, or eligibility for benefits on such authorizations, except as these actions are to be taken for the sole purpose of creating PHI to be disclosed to a third party based on authorization for the disclosure of PHI to the third party.

XIII. Patient Privacy Complaints

- A. Any privacy-related complaints are to be made in writing to the HIPAA Compliance Officer and:
 - a. Contain a description of acts or omissions believed to be in violation of privacy requirements.
 - b. The complaint must be filed within 180 days of when the complainant knew or should have known that the act or omission complained of occurred.
- B. The HIPAA Compliance Officer documents receiving and the deposition of all complaints, and related documents are retained for a minimum of six years.
- C. The Notice of Privacy Practice in each Covered Entity advises patients of their rights to lodge complaints.
- D. The HIPAA Compliance Officer notifies management, and the University Privacy Officer, who begins an investigation.
- E. UNCG ensures there is no retaliation or discrimination against any person reporting a violation or lodging a complaint.
- F. UNCG employees found having violated HIPAA requirements are subject to the disciplinary process of the University, as well as applicable legal sanctions.
- G. UNCG mitigates to the extent possible any harmful effect of use or disclosure in violation of our policy and procedures.

XIV. Permitted Uses and Disclosures:

A. Uses and Disclosures of Protected Health Information (PHI) Based on Patient Authorization

- a. General Rules of Authorizations: In order to use and disclose PHI, one of the following circumstances must exist:
 - i. The patient must have signed an Authorization of Release of PHI for any non-TPO use or disclosure; and
 - ii. PHI may be disclosed without an authorization if the law requires such disclosure
 - iii. The Covered Entity is the custodian of the medical record and shall have the sole authority to disclose PHI under this policy. The Covered Entity may consult other University resources in making a determination.
 - iv. If official custodians release PHI, they must comply with "Accounting and Disclosure of PHI" procedures, which mandate the tracking of disclosures of PHI.
 - v. All parties requesting the release of PHI from the medical record must

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- complete a UNCG Authorization Form or provide a letter of request that contains all the required elements.
- vi. UNCG's release of PHI must be consistent with the directives found in the authorization.
 - vii. The Covered Entity must document each disclosure and retain all signed authorizations.
 - viii. The Covered Entity will be responsible for retaining the signed authorization form for disclosure of PHI.
- b. Core elements of a valid authorization
- i. A valid authorization must contain at least the following elements and must be written in plain language:
 - ii. A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion;
 - iii. The name or other specific identification of the person, or class of persons, authorized to make the requested use or disclosure;
 - iv. The name or other specific identification of the person, or class of persons, to whom UNCG may make the requested use to disclosure;
 - v. An expiration date or event;
 - vi. Description of each purpose of the use or disclosure (if an individual initiates the authorization for his/her own purposes, the purpose may be described as "at the request of the individual");
 - vii. A statement of the individual's right to revoke the authorization in writing and the exceptions to the right to revoke, together with a description of how the individual may revoke the authorization;
 - viii. A statement that the information used or disclosed pursuant to the authorization may be subject to redisclosure by the recipient and no longer be protected by the HIPAA Privacy Regulations;
 - ix. Signature of the individual and the date; and
 - x. If a surrogate decision-maker of the individual signs the authorization, description of such surrogate decision-maker's authority to act for the individual should be documented.
 - xi. If questions exist as to the nature of the information requested to be disclosed, UNCG contacts the individual making the request and seeks clarification.
 - xii. Clarification is noted on the request form, dated and initialed.
 - xiii. Authorizations submitted by fax must contain a picture ID of the individual so a signature comparison can be made.
- c. The authorization may contain elements or information in addition to the required elements, provided that such additional elements or information is not inconsistent with the required elements.
- d. Additional Elements Required for Certain Types of Authorizations:
- i. If UNCG plans to use PHI for purposes other than TPO, an authorization must be obtained from the patient, with elements in addition to the core elements stated above. These elements are based on the type of entity receiving PHI.
 - ii. Authorization required by UNCG for its own uses and disclosures
 - iii. If an authorization is requested by UNCG for its own use or disclosure of PHI that it maintains, UNCG must comply with the following elements and provide a copy of the signed authorization to the individual:

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1. A statement that the UNCG will not condition treatment, payment, or enrollment in the health plan, or eligibility for benefits on the individual the authorization, unless an exception exists.
 2. UNCG may condition the provision of research-related treatment on provision of an authorization (see the “Permitted Use and Disclosure of PHI for Research” policy);
 3. UNCG may condition the provision of health care that is solely for the purpose of creating PHI for disclosure to a third party on provision of an authorization for the disclosure of the PHI to such third party; or
 4. UNCG may condition enrollment and eligibility on the provision of an authorization, but these rules are not included in this policy because those activities are outside the scope of UNCG’s operations.
 5. A description of each purpose of the requested use or disclosure.
 6. A statement that the individual may:
 - i. Inspect or receive a copy of the PHI to be used or disclosed, and
 - ii. Refuse to sign the authorization
 7. If use or disclosure of the requested of information will result in direct or indirect remuneration to UNCG from the third party, a statement of such remuneration is required.
- e. Authorizations by UNCG for disclosure to others. If UNCG requests an authorization be signed to obtain records from another covered entity for UNCG to carry out TPO, UNCG must comply with the following elements, in addition to the core elements, and provide a copy of the signed authorization to the individual:
- i. A description of each purpose of the requested use or disclosure.
 - ii. A statement that the UNCG will not condition treatment, payment, or enrollment in the health plan or eligibility for benefits on the individuals providing the authorization, except for an authorization on which payment may be conditioned.
 - iii. A statement that the individual may refuse to sign the authorization.
- f. Defective Authorizations
An authorization is considered defective and invalid if any material information in the authorization is known to be false by UNCG or its employees, or if any of the following defects exist:
- i. The expiration date has passed, or the expiration event is known by the covered entity to have occurred;
 - ii. The authorization has not been filled out completely;
 - iii. The authorization is known by the covered entity to have been revoked;
 - iv. The authorization lacks any one of the core elements previously described;
or
 - v. The authorization violates the exception allowing compound authorizations for research purposes.
- g. Authorizations and Psychotherapy Notes
- For specific rules regarding the use or disclosure of psychotherapy notes, see “Use and Disclosure of Psychotherapy Notes”, below”
- h. Authorizations for Marketing and Fundraising Purposes
- UNCG does not use PHI for marketing or fundraising.
- i. Research Authorization

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- For specific rules regarding the use of PHI for research purposes, see the “Permitted Use and Disclosure of PHI for Research”, below.
- j. Compound Authorizations
 - An authorization for use and disclosure of PHI may not be combined with any other document to create a compound authorization.
- k. Conditioning of Authorizations
 - UNCG may not condition the provision of treatment, payment, and enrollment in the health plan or eligibility for benefits on the provision of an authorization, except in cases where:
 - i. UNCG provides research treatment on provision of an authorization for use or disclosure of PHI for such research; and/or
 - ii. UNCG provides health care that is solely for the purpose of creating PHI for disclosure to a third party.
- l. Revocation of an Authorization
 - An individual may revoke an authorization at any time. The revocation must be in writing. The revocation is effective except to the extent UNCG has taken action in reliance on the original authorization.
- m. Surrogate Decision-makers, Minors, and Deceased Individuals
 - For information regarding who is the proper person to sign authorizations for release of information about incapacitated individuals, minors, or deceased individuals, see “Uses and Disclosures of PHI for Personal Representatives, Minors, and Deceased Individuals, below.

B. Uses and Disclosures of Protected Health Information (PHI) Requiring an Opportunity for the Patient to Agree or to Object

- a. Family and friends.
 - If patient is present, UNCG may disclose to family members, other relatives, close personal friends of the patient, or any person identified by the patient (hereafter referred to as “family” and “friends”), PHI that is directly relevant to the patient’s care or payment related to the patient’s health care.
 - UNCG may use or disclose PHI to notify or assist in the notification of family and friends regarding the patient’s location, general condition, or death.
- b. If the patient is present and able to make health care decisions, UNCG may disclose PHI to family and friends if one of the following is done:
 - The patient’s permission is obtained;
 - The patient has the opportunity to object and does not object; or
 - It may be reasonably inferred (based on professional judgment) from the circumstances that the patient does not object to the disclosure.
- c. Patient is not present.
 - If the patient is not present or is incapacitated, or in case of an emergency, UNCG may, in the exercise of professional judgment, disclose to family and friends PHI that is directly relevant to the person’s involvement in the patient’s health care.
 - UNCG may use professional judgment and experience with common practices to make decisions regarding the person’s authority to pick up filled prescriptions, medical supplies, x-rays, or similar forms of PHI.
- d. Disaster Relief:

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- UNCG may use or disclose PHI to public or private authorities authorized to assist in disaster relief efforts in order for the relief agencies to locate family or friends to advise them of the patient's location, general condition, or death.
- Conditions listed above that are relevant to disclosure still apply.

C. Permitted Use and Disclosure of PHI for Public Health and Safety

The University of North Carolina at Greensboro (UNCG) may disclose PHI without patient authorization under the following circumstances only:

a. Required by Law

- UNCG personnel may use or disclosure PHI to the extent that such use or disclosure complies with and is limited to the relevant requirements of such law.
- UNCG personnel must meet the requirements pertaining to disclosures to:
 - i. victims of abuse, neglect;
 - ii. domestic violence;
 - iii. judicial and administrative proceedings; and
 - iv. disclosures for law enforcement purposes.

b. Public Health Activities: To avert a serious or imminent threat to the health or safety of a person or the public UNCG may use and disclosure PHI for the following Public Health activities:

- To any agency authorized by law to collect or receive such information for the purpose of preventing or controlling disease. This includes, but is not limited to, the reporting of:
 - i. Disease;
 - ii. Injury;
 - iii. Vital events (births and deaths);
 - iv. Conduct of public health surveillance, investigation, or intervention; or
 - v. At the direction of a public health authority to an official of a foreign government agency that is acting in collaboration with the public health agency.
- To a public health or government agency authorized to receive reports of child abuse or neglect.
- For activities related to the quality, safety, or effectiveness of FDA-regulated products or activities. This includes:
 - i. To collect or report adverse events, products defects or problems, or biological product deviations;
 - ii. To track FDA-regulated products;
 - iii. To enable produce recalls, repairs, replacements, or lookback; or
 - iv. To conduct post-marking surveillance.
- To a person who is authorized by law to notify a person who may have been exposed to a communicable disease or is at risk of contracting or spreading a disease or condition.
- To a UNCG employer about a UNCG employee, if:
 - i. The information is needed by the employer to:
 - a. Conduct an evaluation relating to medical surveillance of the workplace; or
 - b. Evaluate whether the individual has a work-related illness or injury.

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- ii. The PHI that is disclosed consists of findings concerning a work-related illness or injury, or a workplace-related medical surveillance.
- iii. The employer needs such findings to comply with its obligations to record such illness or injury, or to carry out responsibilities for workplace medical surveillance.
- iv. The UNCG provider provides written notification to the patient that the PHI relating to the medical surveillance of the workplace and work-related illnesses and injuries is disclosed to the employer:
 - a. By giving a copy of the notice to the patient at the time of the healthcare visit; or
 - b. By posting a sign at the worksite, if appropriate.
- c. Abuse, Neglect, or Domestic Violence
 - To the extent the disclosure is required by law and the disclosure complies with and is limited to the relevant requirements of such law.
 - If the individual agrees to the disclosure.
 - To the extent the disclosure is expressly authorized by statute or regulation, and:
 - i. UNCG, in exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or other potential victims; or,
 - ii. If the individual is unable to agree because of incapacity, a law enforcement or other public official may authorize to receive the report if:
 - a. The PHI sought is not intended to be used against the individual; and,
 - b. An immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.
- d. Informing the Individual. In making a disclosure permitted in Paragraph C.a UNCG personnel must promptly inform the individual, in the exercise of professional judgment, that such report has been or will be made, except if:
 - UNCG believes informing the individual would place the individual at risk of serious harm; or
 - UNCG would be informing a personal representative and UNCG reasonably believes the personal representative is responsible for the abuse, neglect, or other injuries and that informing such person would not be in the best interests of the individual, as determined by UNCG.
- e. Law Enforcement Purposes
 - Only the individuals responsible for Health Information Management (HIM) within the Covered Entities can disclosure PHI pursuant to a court order or subpoena, as required by law, including laws that require the reporting of certain types of wounds or other physical injuries, except for laws pertaining to public health or domestic abuse; or
 - In compliance with and as limited by the relevant requirements of:
 - i. A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;
 - ii. A grand jury subpoena; or

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- iii. An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that:
 - a. The information sought is relevant and material to a legitimate law enforcement inquiry;
 - b. The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and
 - c. De-identified information could not reasonably be used.
- f. Identification and Location Purposes
 - UNCG may 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 UNCG only discloses the following information:
 - i. Name and address;
 - ii. Date and place of birth;
 - iii. ABO blood type or Rh factor;
 - iv. Type of injury;
 - v. Date and time of treatment;
 - vi. Date and time of death, if applicable; and
 - vii. A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair, scars, and tattoos.
 - Except as permitted in the paragraph above, UNCG may not disclose for the purposes of identification or location under that paragraph of this section, any PHI related to the individual's DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissue.
- g. Victims of a Crime
 - UNCG may disclose PHI in response to a law enforcement official's request for such information about an individual who is, or is suspected to be a victim of a crime, if:
 - i. The individual agrees to the disclosure; or
 - ii. UNCG is unable to obtain the individual's agreement because of incapacity or another emergency circumstances, provided that:
 - a. The law enforcement official represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred and such information is not intended to be used against the victim;
 - b. The law enforcement official represents that immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure; and
 - c. The disclosure is in the best interests of the individual, as determined by the covered entity, in the exercise of professional judgment.
 - d. UNCG discloses anonymous information regarding specific crimes (sexual assaults and others) to UNCG Campus Police in order to comply with Title IX requirements and Clery Reporting.

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- h. Deceased Individuals
 - UNCG will disclose PHI about a deceased individual to law enforcement officials for the purpose of alerting law enforcement of the death of the individual if UNCG has a suspicion that such death may have resulted from criminal conduct.
- i. Crimes on Premises
 - UNCG may disclose to a law enforcement official PHI, that UNCG believes in good faith, constitutes evidence of criminal conduct that occurred on UNCG premises.
 - Reporting Crime in Emergencies
 - i. A UNCG health care provider providing emergency health care in response to a medical emergency, other than such emergency on UNCG premises, may disclose PHI to a law enforcement official if such disclosure appears necessary to alert law enforcement to:
 - a. The commission and nature of a crime;
 - b. The location of such crime or of the victim (s) of such crime; and
 - c. The identity, description, and location of the perpetrator of such crime.
 - ii. If a UNCG health care provider believes that the medical emergency described in the above paragraph of this section is the result of abuse, neglect, or domestic violence of the individual in need of emergency health care, the paragraph above this section does not apply and any disclosure to a law enforcement official for law enforcement purposes is subject to the policy of abuse, neglect, or domestic violence section of this policy.
- j. Serious Threat to the Health or Safety of the Public
 - UNCG may, consistent with applicable law and standards of ethical conduct, use or disclose PHI, if:
 - i. UNCG, in good faith, believes the use or disclosure:
 - a. Is necessary to prevent or lessen a serious and imminent threat to the health and safety of a person or the public, except a use and disclosure may not be made if the information is learned by UNCG;
 - b. In the course of treatment which is designed to alter or change the desire to commit the criminal conduct which would be the basis for making a disclosure, or
 - c. When an individual initiates or is referred to UNCG for treatment, counseling, or therapy.
 - ii. The disclosure is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat, or
 - iii. It is necessary for law enforcement authorities to identify or apprehend an individual:
 - a. Because of a statement by an individual admitting participation in a violent crime that UNCG reasonably believes may have caused serious physical harm to the victim; or
 - b. Where it appears from all the circumstances that the individual has escaped from a correctional facility or from lawful custody.
- k. Limitations on Information that may be Released
 - UNCG may only release the information relating to the serious threat and the

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PHI related to the serious threat.

- i. Presumption of Good Faith Belief
 - If UNCG uses or discloses PHI relevant to this section **C**, it is presumed to have acted in good faith if the belief is based upon UNCG's actual knowledge or in reliance on a credible representation by the person with apparent knowledge or authority.
- m. Workers' Compensation
 - UNCG may disclose PHI as authorized by and to the extent necessary to comply with laws relating to workers' compensation or other similar programs established by law that provide benefits for work-related injuries or illness, without regard to fault.

D. Use and Disclosure of Protected Health Information (PHI) for Health Oversight Reporting

- a. UNCG may disclose PHI without an authorization for health oversight activities authorized by law, including audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight of:
 - The health care system;
 - Government benefit programs for which health information is relevant to beneficiary eligibilities;
 - Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; or
 - Entities subject to civil rights laws for which health information is necessary for
 - determining compliance.
- b. Exception to Health Oversight Activities. The following scenario is NOT to be considered a health oversight activity:
 - The individual is the subject of the investigation or activity, and the investigation or other activity is not directly related to:
 - i. The receipt of health care;
 - ii. A claim for public benefits related to health (e.g. claims for Food Stamps); or
 - iii. Qualification for or receipt of public benefits or services when a patient's health is integral to the claim for public benefits or services.
 - iv. Joint Activities or Investigations
 - v. If a health oversight activity or investigation is related to a claim for public benefits not related to health, the joint activity or investigation shall be considered a health oversight activity, for purposes of this policy.
 - vi. Disclosures by Whistleblowers
- c. All UNCG personnel are strongly encouraged to report conduct that is unlawful or otherwise violates professional or clinical standards to the appropriate Dean, Director, or Department head. UNCG is not considered to have violated standards if a business associate discloses PHI, provided that:
 - The workforce member or business associate believes in good faith that UNCG has engaged in conduct that is unlawful or otherwise violates

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professional or clinical standards, or that the care, services, or conditions provided by UNCG potentially endangers one or more patients, workers, or the public; and

- The disclosure is to:
 - i. A health oversight agency or public health authority authorized by law to investigate or otherwise oversee the relevant conduct or conditions of UNCG;
 - ii. An appropriate health care accreditation organization for the purpose of reporting the allegation of failure to meet professional standards or misconduct by UNCG; or
 - iii. An attorney retained by or on behalf of the workforce member or business associate for the purpose of determining the legal options of the workforce member or business associate with regard to conduct described above.
- d. Disclosures by UNCG Personnel who are Victims of a Crime:
 - UNCG is not considered to have violated the requirements of this procedure, with just cause, if a member of its workforce, who is the victim of a criminal act, discloses PHI of the suspected perpetrator to a law enforcement official, provided that:
 - i. This PHI disclosed is about the suspected perpetrator of the criminal act; and
 - ii. The PHI disclosed is limited to:
 - a. Name and address;
 - b. Date and place of birth;
 - c. ABO blood type;
 - d. Type of injury;
 - e. Date and time of treatment;
 - f. Date and time of death, if applicable; and
 - g. Description of distinguishing physical characteristics, including
 - h. height, weight, gender, race, hair and eye color, presence or absence of
 - i. facial hair, scars and tattoos.

E. Use and Disclosure of Protected Health Information (PHI) for Judicial or Administrative Proceedings

- a. UNCG may use or disclose PHI in the course of any judicial or administrative proceeding if:
 - The disclosure is in response to an order of a court, provided that UNCG discloses only the PHI expressly authorized by such order; or
 - In response to a subpoena, discovery request, or other lawful process, that is not accompanied by a court order if:
 - i. UNCG receives satisfactory assurance from the party seeking the information that reasonable efforts have been made to ensure that the subject of the requested PHI has been given notice of the request (with a written statement from the requesting party); or
 - ii. UNCG receives satisfactory assurances from the party seeking the information that reasonable efforts have been made by such party to secure a qualified protective order that meets the requirement of this section.

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- UNCG receives satisfactory assurances from a party seeking PHI, along with a written statement and accompanying documents, demonstrating that:
 - i. The party requesting such information has made a good-faith attempt to provide written notice to the individual (or, if the individual's location is unknown, to mail a notice to the individual's last known address)
 - ii. The notice included sufficient information about the litigation or proceeding in which the PHI is requested to permit the individual to raise an objection to the court or administrative tribunal; and
 - iii. The time for the individual to raise objections to the court or administrative tribunal has elapsed, and
 - iv. No objections were filed; or
 - v. All objections filed by the individual have been resolved by the court and the disclosures being sought are consistent with such resolution.
- b. UNCG receives satisfactory assurances from the party seeking PHI, including a written statement and accompanying documentation, demonstrating that:
 - 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 with jurisdiction over the dispute; or
 - The party seeking the PHI has requested a qualified protective order from such court.
- c. Notwithstanding this section, UNCG has the option to disclose PHI in response to lawful process without receiving full satisfactory assurance, if UNCG of its own accord makes reasonable efforts to provide notice to the individual or seek a qualified protective order which meets the above requirements
<https://uncg.app.box.com/file/589628458772>

Any question regarding this Section is to be referred to the University legal counsel.

F. Permitted Use and Disclosure of Protected Health Information (PHI) for Research

- a. Institutional Review Board (IRB). Employees or students at UNCG undertake no research activity involving human subjects unless a UNCG IRB has reviewed and approved the research prior to commencing the research activity.
- b. UNCG may disclose PHI, provided that a documented waiver of authorization from the IRB includes the following:
 - Documentation of waiver approval;
 - Identification and date of action;
 - Waiver criteria;
 - Protected health information needed; and
 - Review and approval procedures
- c. UNCG will disclose only the minimum necessary information identified to achieve the research objectives and only in a de-identified form.

G. Uses and Disclosure of Protected Health Information (PHI) After a Patient's Death

- a. Coroners and Medical Examiners
 - UNCG may disclose PHI to a coroner or medical examiner for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law.
 - Any UNCG personnel that also perform the duties of a coroner or medical examiner may use PHI for the purposes described in this paragraph.
 - Such instances are documented.

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- b. Funeral Director
 - UNCG may disclose PHI to funeral directors, consistent with applicable law, as necessary to carry out their duties, with respect to the decedent.
 - If PHI is necessary for funeral directors to carry out their duties, UNCG may disclose the PHI prior to and in reasonable anticipation of the individual's death.
- c. Organ Procurement
 - UNCG may use or disclose PHI to organ procurement organizations or other entities engaged in the procurement, banking, or transplantation of cadaver organs, eyes, or tissue for the purpose of facilitating organ, eye, or tissue donation and transplantation.
 - Such instances must be documented.

H. Use and Disclosure of Psychotherapy Notes

- a. Record keeping:
 - Psychotherapy notes (e.g., process notes) are maintained outside of the patient record. These may be referred to as "working notes."
 - Summary information (e.g., progress notes) such as current state of the patient, symptoms, diagnoses, medications prescribed, side effects, and other information needed for treatment or payment is placed in a separate clinic area within the electronic medical record and accessed only by those staff with permission.
- b. Authorization is not required for disclosure in the following circumstances:
 - For use by the originator for treatment;
 - For use in educational programs, including residency or graduate training programs where students and trainees learn to practice counseling;
 - To defend a legal action brought by the patient;
 - For purposes of HHS in determining compliance with the privacy rule;
 - By a health oversight agency for a lawful purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law;
 - To law enforcement in instances of permissible disclosure related to a serious or imminent threat to the health or safety of a person or the public;
 - As otherwise required by law; and
 - In use of activities related to treatment, payment or health care operations (TPO).

I. Uses and Disclosures of Protected Health Information (PHI) for Specialized Government Functions

- a. Military and Veterans Activities
 - UNCG may use and disclose the PHI of individuals who are Armed Forces personnel for activities deemed necessary by appropriate military command authorities to assure the proper execution of the military mission if the appropriate military authority has published by notice in the Federal Register the following information:
 - i. Appropriate military command authorities, and
 - ii. The purpose for which the PHI may be used or disclosed.
 - UNCG uses and discloses the PHI to individuals who are foreign military personnel to their appropriate foreign military authority for the same

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purpose for which uses, and disclosures are permitted for Armed Forces personnel under the same guidelines that apply to U.S. Armed Forces.

- b. National Security and Intelligence Activities:
 - UNCG may disclose PHI to authorized federal officials for the conduct of lawful intelligence, counter-intelligence, and other national security activities authorized by law.
 - Such instances must be documented.
- c. Correctional Institutions and Other Law Enforcement Custodial Situations
 - UNCG may disclose PHI to a correctional institution or a law enforcement official having lawful custody of an inmate or other individual if the institution or official represents that such PHI is necessary for:
 - i. The provision of health care to such individuals;
 - ii. The health and safety of such individual or other inmates;
 - iii. The health and safety of the officers or employees of or others at the correctional institution;
 - iv. The health and safety of such individuals and officers or other persons responsible for the transporting or their transfer from one institution, facility, or setting, to another;
 - v. Law enforcement on the premises of the correctional institution; and
 - vi. The administration and maintenance of the safety, security, and good order of the correctional institution.
 - For the purpose of this provision, an individual is no longer an inmate when released on parole, probation, supervised release, or otherwise is no longer in lawful custody.
- d. Departments or Components of UNCG that are or may become Government Programs Providing Public Benefits.
 - Any UNCG department administering a government (state or federal) program providing public health benefits may disclose PHI to another covered entity that is a like agency as long as the programs serve the same or similar populations and:
 - i. The disclosure of PHI is necessary to coordinate the covered functions of such programs, or
 - ii. To improve administrative and management relating to the covered functions of such programs.
- e. Disclosures for Workers' Compensation
 - UNCG may disclose PHI authorized by and to the extent necessary to comply with laws related to workers' compensation or other similar programs, established by law, that provide benefits for work-related injuries or illness without regard to fault.