

# UConn HEALTH

## Administrative Policy

### 2023-05 Use and Disclosure of Protected Health Information

<b>Title</b>	Use and Disclosure of Protected Health Information (PHI)
<b>Policy Owner and Contact Information</b>	Office of Healthcare Compliance & Privacy (OHCP) ohcp@uchc.edu
<b>Campus Applicability</b>	All UConn Health campuses, including John Dempsey Hospital
<b>Applies to</b>	UConn Health Workforce
<b>Effective Date</b>	June 12, 2023

#### **PURPOSE:**

This document outlines UConn Health’s commitment to comply with specific provisions of the Health Insurance Portability and Accountability Act of 1996, the Health Information Technology for Economic and Clinical Health Act, and the associated regulations (collectively “HIPAA”), and applicable Connecticut law regarding use and disclosure of Protected Health Information (PHI). UConn Health maintains this Policy as both an outline of specific policies and as a regulatory reference customized to UConn Health’s operations and services.

#### **POLICY STATEMENTS:**

Workforce Members shall contact the Office of Healthcare Compliance & Privacy at 860-679-6060 or the Office of the General Counsel at 860-679-1114 with any and all questions about the use or applicability of this Policy or for analysis of and guidance on specific circumstances.

#### **1. Verification of Identity and Authority**

Workforce Members shall verify the identity and authority of patients and/or requestors of PHI in accordance with UConn Health policy **2023-03: Identification and Protection of Protected Health Information (PHI)** and associated procedures, which require verification of a minimum of two patient identifiers whenever interacting with PHI, including but not limited to making any entry into the Electronic Medical Record (EMR) or releasing PHI in any form, even when releasing directly to the patient.

#### **2. Uses and Disclosures Requiring an Opportunity to Agree or Object**

##### **2.1 Hospital Directory or Census Database**

- a. UConn Health shall maintain a directory for UConn John Dempsey Hospital which shall include inpatients, patients on observation status, and patients in the Emergency Department. UConn Health shall exclude from this directory all Inpatient Psychiatry patients, patients in the custody of the Department of Correction, patients identified in the EMR as having a confidential status, patients who opt-out of inclusion in the directory, and any other patients excluded at the discretion of the Office of Healthcare Compliance & Privacy or the Office of the General Counsel.

- b. UConn Health may include a patient's name, location in the facility (floor, room number, and phone number of patient room), and religious affiliation in the directory provided the patient has had the opportunity to opt-out of inclusion in the directory and has not opted out.
- c. If a patient has not had the opportunity to opt-out due to an emergency or incapacity, the patient's information may be included if a Workforce Member has determined and documented in the patient's medical record that it is in the patient's best interest to be included in the directory. It is not in the patient's best interest to be included in the patient directory if it is believed that the patient is allegedly a victim of domestic abuse or violent criminal conduct.
- d. Except for requests made by members of the media, UConn Health may disclose information contained in the directory, except for religious affiliation, to anyone asking for the individual by name and may also disclose religious affiliation to clergy. Members of the clergy are not required to ask for the individual by name when inquiring about patient religious affiliation. UConn Health shall not permit members of the public to examine the directory.
- e. UConn Health shall refer all requests for patient information from the media to University Communications; University Communications, in consultation with the Office of Healthcare Compliance & Privacy and the Office of the General Counsel, shall be the only department allowed to disclose patient information to the media unless otherwise designated by senior leadership.

## **2.2 Disclosures to Family Members or Others Involved in Patient's Care**

- a. UConn Health shall adhere to requirements regarding minors' affirmative consent for the disclosure of certain information. See Section 9.6.
- b. If a patient is present or otherwise available prior to the use or disclosure and has the capacity to make healthcare decisions, UConn Health may use or disclose PHI (i) to members of the patient's family, significant others, and friends for patient care purposes, (ii) to notify, or assist in the notification of (including identifying or locating), a family member, a personal representative of the patient, or another person responsible for the care of the patient of the patient's location, general condition, or death, or (iii) to a public or private entity authorized by law or by its character to assist in disaster relief efforts, for the purposes of coordinating with such entities the permitted uses and disclosures provided: (1) the patient has agreed; (2) the patient was provided with the opportunity to object to the disclosure and did not; or (3) it was inferred from the circumstances, based on the exercise of professional judgment, that the patient did not object.
- c. If the patient is not present, or the opportunity to agree or object to the use or disclosure cannot practicably be provided because of the patient's incapacity or an emergency circumstance, UConn Health may, in the exercise of Workforce Members' professional judgement, determine whether the disclosure is in the best interests of the patient and, if so, disclose only the PHI that is directly relevant to either the person's involvement with the patient's healthcare or to the disaster relief purpose.

- d. For disaster relief purposes, the above requirements apply only to the extent that UConn Health, in the exercise of Workforce Members' professional judgment, determines that the requirements do not interfere with the ability to respond to the emergency circumstance.
- e. UConn Health may disclose to a patient's immediate family member, other relative, or close personal friend, the PHI directly relevant to such person's involvement with the patient's care or payment related to the patient's healthcare, unless otherwise prohibited by law.
- f. If the individual is deceased, UConn Health may disclose the decedent's PHI to family members and others who were involved in the care or payment for care of the decedent prior to death, unless doing so is inconsistent with UConn Health's known prior expressed preference of the individual (see Section 3.12).

### **3. Uses and Disclosures for which an Authorization or Opportunity to Agree or Object is Not Required**

UConn Health may use and disclose PHI without Authorization for the purposes listed in this section.

#### **3.1 Disclosures for Treatment, Payment or Healthcare Operations**

- a. UConn Health may use and disclose PHI for treatment, payment, or UConn Health's healthcare operations where:
  - Treatment refers to the provision, coordination, or management of healthcare and related services among healthcare providers or by a healthcare provider with a third party, consultation between healthcare providers regarding a patient, or the referral of a patient from one healthcare provider to another. Workforce Members may disclose PHI as necessary for continuation of treatment between practitioners, conducting patient transfers, and coordination of patient care.
  - Payment refers to the various activities of healthcare providers to obtain payment or be reimbursed for their services and of health plans to obtain premiums, to fulfill their coverage responsibilities and provide benefits under the plan, and to obtain or provide reimbursement for the provision of healthcare. Workforce Members may disclose PHI to health insurance companies unless a specific restriction applies.
  - Healthcare operations include any of the following activities of UConn Health to the extent that the activities are related to the provision of healthcare services by UConn Health:
    - Conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; population-based activities relating to improving health or reducing healthcare costs, protocol development, case management and care coordination, contacting of healthcare providers and patients with information about treatment alternatives; and related functions that do not include treatment;
    - Reviewing the competence or qualifications of healthcare professionals, evaluating practitioner and provider performance, health plan performance, conducting training programs in which students, trainees, or practitioners in

areas of healthcare learn under supervision to practice or improve their skills as healthcare providers, training of non-healthcare professionals, accreditation, certification, licensing, or credentialing activities;

- Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;
- Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating UConn Health;
- Business management and general administrative activities of UConn Health, including but not limited to:
  - Management activities relating to implementation of and compliance with the requirements of this Policy;
  - Customer service, including the provision of data analyses for policy holders, plan sponsors, and other customers, provided that PHI is not disclosed to such policy holders, plan sponsors, or customers;
  - Resolution of internal grievances;
  - The sale, transfer, merger, or consolidation of all or part of UConn Health with another covered entity, or an entity that, following such activity, will become a covered entity and due diligence related to such activity; and
  - Consistent with this Policy, creating de-identified health information (see Section 6 Use and Disclosure of De-Identified Health Information) or a limited data set (see Section 7 Use and Disclosure of Limited Data Sets), and fundraising for the benefit of UConn Health (see Section 4 Use and Disclosure of PHI for Fundraising).

### **3.2 Disclosures Required by Law**

- a. UConn Health shall disclose PHI as required by a federal or state statute, regulation, or court opinion. Workforce Members shall refer to **CLINICAL POLICY Abuse and Neglect: Identification, Assessment and Response**, policy **11-016 REPORTING CASES TO THE POLICE**, and/or consult with the Office of the General Counsel regarding appropriate disclosure of PHI in accordance with federal or state statute, regulation, or court opinion, including mandatory reporting obligations.
- b. UConn Health shall disclose PHI to the United States Department of Health and Human Services (HHS), including the Centers for Medicare and Medicaid Services (CMS) and the Office for Civil Rights (OCR), when HHS requests access to PHI for the purposes of investigating UConn Health's compliance with the HIPAA Privacy Rule.

### **3.3 Disclosures for Public Health Activities**

- a. UConn Health may disclose PHI to a public health authority legally authorized to receive such reports for the purpose of preventing or controlling disease, injury, or disability including but not limited to the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions, or, at the direction of a public health authority, to an official of a foreign government agency acting in collaboration with a public health authority.

- b. UConn Health may disclose PHI to a person subject to the jurisdiction of the Food and Drug Administration (FDA) with respect to an FDA-regulated product or activity for which that person has responsibility, for the purpose of activities related to the quality, safety, or effectiveness of such FDA-regulated product or activity. Such purposes include: (i) to collect or report adverse events (or similar activities with respect to food and dietary supplements), product defects or problems (including problems with the use or labeling of a product), or biological product deviations; (ii) to track FDA-regulated products; (iii) to enable product recalls, repairs, or replacements, or lookback (including locating and notifying individuals who have received products that have been recalled, withdrawn, or are the subject of lookback); or (iv) to conduct post-marketing surveillance.
- c. UConn Health may disclose PHI to local or regional poison control centers to the extent necessary to enable the center to provide information and education to health professionals involved in the management of poison and overdose victims, including information regarding appropriate therapeutic use of medications, their compatibility and stability, and adverse drug reactions and interactions.
- d. UConn Health may disclose PHI to an employer about an individual who is a member of that employer's workforce if:
  - The disclosure is made to a covered healthcare provider who is a member of the employer's workforce or who provides healthcare to the individual at the request of the employer to conduct an evaluation relating to medical surveillance of the workplace or to evaluate whether the individual has a work-related illness or injury;
  - The PHI disclosed consists of findings concerning a work-related illness or injury or workplace-related medical surveillance;
  - The employer needs such findings in order to comply with its obligations under applicable law to record such illness or injury or to carry out responsibilities for workplace medical surveillance; or
  - The provider receiving the information provides written notice to the individual that PHI relating to the medical surveillance of the workplace and work-related illnesses and injuries is disclosed to the employer either by giving a copy of the notice to the individual at the time healthcare is provided or, if the healthcare is provided on the work site of the employer, by posting the notice in a prominent place at the location where the healthcare is provided.

### **3.4 Disclosures for Workers' Compensation**

UConn Health may disclose PHI as authorized by and to the extent necessary to comply with laws relating to workers compensation and/or other similar programs established by law that provide benefits for work-related injuries or illnesses, without regard to fault.

### **3.5 Disclosures for Organ, Eye, and/or Tissue Donation**

UConn Health shall use and disclose PHI as necessary for organ, eye, and/or tissue donation, procurement, processing, distributing, or using a human body or body parts for use in medical education, therapy, or transplantation, including disclosure to organ procurement organizations and other individuals and entities engaged in the procurement, banking, or transplantation of organs, eyes, or tissues.

### **3.6 Uses and Disclosure for Specialized Government Functions**

- a. UConn Health may disclose PHI of 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 appropriate military command authorities and the purposes for which the PHI may be used or disclosed.
- b. UConn Health may disclose the PHI of foreign military personnel to their appropriate foreign military authority for the same purposes noted in Section 3.6.a.
- c. UConn Health may disclose PHI to authorized federal officials for the conduct of lawful intelligence, counter-intelligence, and other national security activities authorized by the National Security Act and implementing authority.
- d. UConn Health may disclose PHI to authorized federal officials for the provision of protective services to the President of the United States or other authorized persons or to foreign heads of state.
- e. UConn Health may disclose to a correctional institution or a law enforcement official having lawful custody of an inmate or other individual (a person incarcerated in, or otherwise confined to, a correctional institution including jails, prisons, and Immigration and Naturalization Service detention centers), PHI about such inmate or individual, if the correctional institution or such law enforcement official represents that PHI is necessary for:
  - the provision of healthcare to the individual;
  - The health and safety of the inmate, other inmates, officers, law enforcement officials, or employees at the correctional institution, or persons responsible for transporting inmates;
  - law enforcement on the premises of the correctional institutions; or
  - the administration and maintenance of the safety, security, and good order of the correctional institution.

### **3.7 Uses and Disclosures for Health Oversight Activities**

UConn Health may disclose PHI to a health oversight agency for 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 healthcare system;
- government benefit programs for which health information is relevant to beneficiary eligibility;
- entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; and
- entities subject to civil rights laws for which health information is necessary for determining compliance.

### **3.8 Disclosures for Court Orders, Warrants, Subpoenas, Summons, Administrative Requests, and Discovery Requests**

- a. Except where specific processes are established for release of information by UConn Health's Health Information Management department, Workforce Members shall forward all court orders, warrants, subpoenas, summons, administrative requests, and discovery requests seeking PHI without authorization from the patient or the patient's legal representative to the Office of the General Counsel for advisement.
- b. Where, in consultation with the Office of the General Counsel or according to established processes as noted Section 3.8.a, UConn Health deems disclosure to be necessary absent patient authorization and pursuant to a court order or court-ordered warrant, a subpoena or summons issued by a judicial officer, or a grand jury subpoena, UConn Health shall disclose only that PHI necessary to comply with the court order or court-ordered warrant, subpoena or summons issued by a judicial officer, or grand jury subpoena, provided the court has appropriate jurisdiction over UConn Health, as determined by the Office of the General Counsel.
- c. Workforce Members shall forward all subpoenas or discovery requests that are not accompanied by a court order or patient authorization to the Office of the General Counsel for advisement.

### **3.9 Disclosures to Avert a Serious Threat to Health or Safety**

When UConn Health believes in good faith that disclosing PHI will prevent or lessen a serious and imminent threat to the health or safety of a person or the public, UConn Health may disclose PHI to a person or entity reasonably equipped to lessen or prevent such threat. Unless *immediate* disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public, Workforce Members shall consult with the Office of the General Counsel prior to making such disclosures.

### **3.10 Disclosures for Research**

The Institutional Review Board (IRB) of UConn Health shall act as the Privacy Board to review and approve the use and disclosure of PHI for research purposes. See **Policy 2011-014.0 HIPAA in Research**.

### **3.11 Disclosures to Law Enforcement Officials**

- a. UConn Health may disclose to law enforcement officials a limited amount of PHI to include: (1) name, (2) address, (3) date and place of birth, (4) Social Security number, (5) ABO blood type and rh factor, (6) type of injury, (7) date and time of treatment, (8) date and time of death, and (9) a description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or mustache), scars and tattoos, for the purposes of:
  - Responding to a request for PHI for purposes of identifying or locating a suspect, fugitive, material witness, or missing person; or
  - Providing information about a suspected perpetrator of a crime when the report is made by the victim who is a Workforce Member.
- b. Except for disclosures under Section 3.2 (Disclosures Required by Law) and 3.3 (Disclosures for Public Health Activities) of this Policy, UConn Health may disclose PHI to law enforcement officials to respond to a request for PHI about a victim of a crime if the victim

agrees or if, because of an emergency or the victim's incapacity, the individual cannot agree and the law enforcement official represents that PHI is not intended to be used against the victim, is needed to determine whether another person broke the law, the investigation would be materially and adversely affected by waiting until the victim could agree, and UConn Health believes in its professional judgment that doing so is in the best interest of the individual whose information is requested.

- c. UConn Health may disclose PHI to law enforcement officials to alert law enforcement to the death of an individual when there is suspicion that the death resulted from criminal conduct.
- d. UConn Health, in providing emergency healthcare in response to a medical emergency, other than an emergency on its own premises, may disclose PHI to a law enforcement official if such disclosure appears necessary to alert law enforcement to:
  - the commission and nature of a crime;
  - the location of such crime or of the victim(s) of such crime; and
  - the identity, description, and location of the perpetrator of such crime.

If UConn Health believes that the medical emergency is the result of abuse, neglect, or domestic violence of the individual in need of emergency healthcare, this section does not apply and any disclosure to a law enforcement official for law enforcement purposes must be in accordance with 3.2 (Disclosures Required by Law) of this Policy.

- e. UConn Health may disclose PHI when UConn Health, in good faith, believes there to be evidence of a crime that occurred on UConn Health premises.
- f. UConn Health may disclose PHI in order to identify or apprehend an individual who appears to have escaped from lawful custody.
- g. UConn Health may disclose PHI when necessary for law enforcement authorities to identify or apprehend an individual because of a statement by an individual admitting participation in a violent crime that UConn Health reasonably believes may have caused serious physical harm to the victim, unless UConn Health obtained the PHI (i) in the course of treatment to affect the propensity to commit the criminal conduct or counseling or therapy; or (ii) through a request by the individual to initiate or to be referred for such treatment, counseling, or therapy. A disclosure made pursuant to this paragraph shall contain only (i) the statement by an individual admitting participation in a violent crime that UConn Health reasonably believes may have caused serious physical harm to the victim and (ii) the PHI described in the first paragraph of this Section 3.11.a.
- h. UConn Health shall, at the direction of law enforcement, obtain and disclose to law enforcement a blood, breath, or urine sample from the operator of a motor vehicle involved in an accident resulting in serious bodily injury or death, and where law enforcement officials represent either (1) a probable cause belief that the motor vehicle operator was under the influence of drugs or alcohol or (2) the operator has been charged with a motor vehicle violation in connection with the accident and law enforcement suspects that the operator was under the influence of drugs or alcohol. Workforce Members shall direct all questions about this process to the Office of the General Counsel.

### **3.12 Disclosures of Decedent PHI**



- a. UConn Health may disclose decedent PHI in accordance with permission granted by the person(s) authorized to act on behalf of the decedent or decedent's estate, and UConn Health shall make a diligent effort to give immediate notice of death to the family of the decedent or a person involved in the care of the decedent.
- b. In the absence of a person authorized to act on behalf of a decedent or the decedent's estate, and barring any notification of restriction of release of PHI to such an individual preempting the decedent's death, UConn Health may disclose decedent PHI in accordance with policy **2012-05: Legal Representative for Health Care Decisions**.
- c. UConn Health may disclose decedent PHI to funeral directors as necessary to carry out the funeral director's duties.
- d. UConn Health may disclose decedent PHI to a coroner or medical examiner for the purposes of identifying a decedent, determining a cause of death, or for other duties of the coroner or medical examiner.
- e. UConn Health may disclose decedent PHI for organ, eye, or tissue donation purposes in accordance with Section 3.5 Disclosures for Organ, Eye, and/or Tissue Donation.
- f. UConn Health may disclose decedent PHI for research purposes in accordance with Section 3.10 Disclosures for Research.

#### **4. Use and Disclosure of PHI for Fundraising**

- a. UConn Health may use and disclose PHI for fundraising purposes as set forth in this Section, consistent with the UConn Health Notice of Privacy Practices.
- b. The University of Connecticut Foundation, Inc., the University of Connecticut's Institutionally Related Foundation, has primary responsibility for all fundraising for the benefit of UConn Health. Workforce Members shall contact the UConn Health Development Office of The University of Connecticut Foundation, Inc., prior to undertaking any fundraising efforts.
- c. UConn Health shall use or disclose only the Minimum Necessary PHI for fundraising purposes. UConn Health may disclose the following PHI to The University of Connecticut Foundation, Inc., for fundraising purposes without obtaining a patient's Authorization: 1) demographic information relating to an individual, including name, address, other contact information, age, gender, and date of birth; 2) dates of healthcare provided to an individual; 3) department of service information; 4) treating physician(s); 5) outcome information; and 6) health insurance status. Disclosure of any other PHI for fundraising purposes requires prior written Authorization from the patient or the patient's legally authorized representative.
- d. Fundraising communications to patients shall provide a clear and conspicuous opportunity to opt out of receiving any further communications. The method for a patient to opt out may not cause the patient to incur an undue burden or more than a nominal cost. Fundraising communications shall not be sent to a patient who has opted out unless such patient elects to opt back in to receive fundraising communications.
- e. UConn Health shall only use and disclose those elements of PHI eligible for such use, provided that a patient has not elected to opt out of receiving fundraising solicitations and communications. UConn Health or its agents shall review whether a patient has opted out of receiving fundraising solicitations and communications prior to using or disclosing any fundraising information or disclosing eligible PHI to a third party.

- f. UConn Health shall not condition treatment or payment on the patient's choice with respect to the receipt of fundraising communications.

**5. Use and Disclosure of PHI for Marketing**

- a. UConn Health shall obtain an individual's written Authorization prior to using or disclosing the individual's PHI for Marketing communications.
- b. Workforce Members shall contact the Office of Healthcare Compliance & Privacy or the Office of the General Counsel prior to obtaining an individual's Authorization when any Marketing communication involves the use and disclosure of PHI and could involve direct or indirect Financial Remuneration to UConn Health from a third party.
- c. UConn Health shall not require an individual's written Authorization for the following circumstances, which are not considered Marketing communications:
- A communication that occurs in a face-to-face encounter between UConn Health and the individual;
  - A general communication that promotes health in a general manner if it does not promote a specific product or service (such as health education and disease prevention, (e.g., lowering cholesterol or annual mammogram reminders)); or
  - The communication involves a promotional gift of nominal value provided by UConn Health.

**6. Use and Disclosure of De-Identified Health Information**

- a. When appropriate, UConn Health may use PHI to create de-identified health information or disclose PHI only to a business associate to create de-identified health information, whether or not the de-identified health information is to be used by UConn Health. De-identified health information is not PHI and is not subject to the restrictions on uses and disclosures set forth by HIPAA.
- b. UConn Health shall consider health information de-identified only if:
- A person with appropriate knowledge of and experience with generally accepted statistical and scientific principles and methods for rendering information not individually identifiable: (i) determines that the risk is very small that the information could be used, alone or in combination with other reasonably available information, to identify an individual who is a subject of the information; and (ii) documents the methods and results of the analysis that justify such determination.; or
  - The following identifiers of the individual or of relatives, employers, or household members of the individual are removed and UConn Health does not have actual knowledge that the information could be used alone or in combination with other information to identify an individual who is the subject of the information:
    - Names;
    - Address (including street address, city, county, zip code). The initial three digits of a zip code may be used if, according to the current publicly available data from the Bureau of Census: 1) the area formed by combining all zip codes with the same three initial digits contains more than 20,000 people; and 2) the initial three digits of a zip code for a region containing 20,000 or fewer people is changed to 000;

- All elements of dates (except year) for dates directly related to an individual (birth date, admission date, discharge date, date of death), and all ages over 89 and all elements of dates (including year) indicative of such age, except that ages and elements may be aggregated into a single category of age 90 or older;
  - Telephone numbers;
  - Fax numbers;
  - Electronic mail addresses;
  - Social Security numbers;
  - Medical record numbers;
  - Health plan beneficiary numbers;
  - Account numbers (bank, retirement, credit card, etc.);
  - Certificate/license numbers;
  - Vehicle identifiers and serial numbers, including license plate numbers;
  - Device identifiers and serial numbers;
  - Web Universal Resource Locators (URLs);
  - Internet Protocol (IP) address numbers;
  - Biometric identifiers, including finger and voice prints;
  - Full face photographic images and comparable images; and
  - Any other unique identifying number, characteristic or code, except as permitted by this section.
- c. UConn Health may assign a code or other means of record identification to allow information de-identified under this section to be re-identified by UConn Health, provided that (i) the code or other means of record identification is not derived from or related to information about the individual and is not otherwise capable of being translated so as to identify the individual; and (ii) UConn Health does not use or disclose the code or other means of record identification for any other purpose, and does not disclose the mechanism for re-identification.

## **7. Use and Disclosure of Limited Data Sets**

- a. A limited data set may include dates related to a patient (including date of birth, date of death, and dates of service), geographic designations, and other identifying numbers as long as the data set does not include:
- names;
  - street addresses or P.O. boxes;
  - telephone numbers;
  - fax numbers;
  - e-mail addresses;
  - Social Security numbers;
  - medical record numbers;
  - health plan beneficiary numbers;
  - account numbers;
  - certificate and license numbers;
  - vehicle identifiers and serial numbers, including license plate numbers;

- device identifiers and serial numbers;
  - web Universal Resource Locators (URLs);
  - Internet Protocol (IP) addresses;
  - finger or voice prints; and
  - photographs of full face or comparable images.
- b. UConn Health may use a limited data set for the purposes of research, public health, and healthcare operations, and may disclose a limited data set for these same purposes, provided the recipient of the limited data set has a Data Use Agreement with UConn Health that:
- establishes permitted uses and disclosures of the limited data set;
  - does not authorize the recipient to use or disclose the limited data set in a manner that would violate the HIPAA Privacy Rule if done by UConn Health;
  - designates who is permitted to use or receive the limited data set;
  - states that the recipient shall not use or disclose the information other than permitted by the agreement or as required by law;
  - states that the recipient shall use appropriate safeguards to prevent use or disclosure of the information other than as provided by the agreement;
  - states that the recipient shall report to UConn Health any use or disclosure of the information not provided for by the agreement of which the recipient becomes aware;
  - states that the recipient shall ensure that any agents or subcontractors whom the recipient provides the information agrees to the same restrictions and conditions that apply to the recipient; and
  - that the recipient shall not identify the information or attempt to contact the patients whose information is included in the limited data set.
- c. Any known pattern of activity or practice by the recipient that constitutes or is suspected to constitute a material breach or violation of the data use agreement shall be reported to the Office of Healthcare Compliance & Privacy.

## **8. Disclosures of PHI by Workforce Member or Business Associate Whistleblowers**

**8.1** A Workforce Member or Business Associate whistleblower may disclose PHI without an Authorization in connection with whistleblower activity, provided that:

- a. The whistleblower believes in good faith: (i) that UConn Health has engaged in conduct that is unlawful or otherwise violates professional or clinical standards; or (ii) that the care, services, or conditions provided by UConn Health potentially endangers one or more patients, workers, or the public; and
- b. The disclosure is made to: (i) a health oversight agency or public health authority authorized by law to investigate or otherwise oversee the relevant conduct or conditions of UConn Health (e.g., Department of Public Health); or (ii) an appropriate healthcare accreditation organization for the purpose of reporting the allegation of failure to meet professional standards or misconduct by UConn Health; or (iii) an attorney retained by or on behalf of the whistleblower for determining the legal options of the whistleblower regarding the conduct described above.

## 9. Disclosures of Information Subject to Special Confidentiality Requirements

9.1 UConn Health may disclose the fact that an identified person is not and has never been a patient of UConn Health.

### 9.2 Disclosures of Mental Health Information (Excluding Psychotherapy Notes)

- a. UConn Health may disclose information pertaining to a patient's diagnosis or treatment for a mental health condition without the patient's Authorization in the following circumstances:
- To other persons engaged in the diagnosis or treatment of the patient or to a mental health facility to which the patient is admitted for diagnosis or treatment if the psychiatrist in possession of the communications or records determines that the disclosure is needed to accomplish the objectives of diagnosis or treatment and the patient is informed of the disclosure;
  - If a psychiatrist determines that there is substantial risk of imminent physical injury by the patient to the patient or others and the requirements of Section 3.9 of this policy are met;
  - If a psychiatrist, in the course of diagnosis or treatment of the patient, finds it necessary to disclose communications or records for the purpose of placing the patient in a mental health facility, by certification, commitment or otherwise;
  - To individuals or agencies involved in the collection of fees, provided that the PHI disclosed is limited to the name, address and fees for psychiatric services and, in cases where a dispute arises over the fees or claims or where additional information is needed to substantiate the fee or claim, the disclosure of further information is limited to the fact that the person was a patient, the diagnosis, the dates and duration of treatment and a general description of the treatment, which may include evidence that a treatment plan exists and has been carried out and evidence to substantiate the necessity for admission and length of stay in a healthcare institution or facility;
  - If the disclosure is made at certain judicial or administrative proceedings, as determined by the Office of the General Counsel;
  - To the Commissioner of Public Health or the Commissioner of Mental Health and Addiction Services in connection with any inspection, investigation, or examination of an institution;
  - If the disclosure is made to a member of the immediate family or legal representative of the victim of a homicide committed by the patient where such patient has, on or after July 1, 1989, been found not guilty of such offense by reason of mental disease or defect, provided that the requirements of C.G.S. 52-146f are met;
  - For certain research purposes, subject to IRB review and approval in accordance with Section 3.10 Disclosures for Research.
- b. A patient's written Authorization as described in UConn Health policy **2023-01: Identification and Protection of Protected Health Information (PHI)** shall accompany any disclosure of mental health information made pursuant to such Authorization. UConn Health's Authorization form shall contain language required by law to accompany

disclosures of mental health information, stating that further disclosure of the information is prohibited without written consent or other Authorization as provided by state law.

### **9.3 Use and Disclosure of Psychotherapy Notes.**

UConn Health shall require Authorization for any use or disclosure of Psychotherapy Notes, except for the following:

- Use by the originator of the Psychotherapy Notes for treatment;
- Use or disclosure by UConn Health for its own training programs in which students, trainees, or practitioners in mental health learn under supervision to practice or improve their skills in group, joint, family, or individual counseling;
- Use or disclosure by UConn Health to defend itself in a legal action or other proceeding brought by the individual;
- Use or disclosure required by law in accordance with Section 3.2 of this Policy;
- Use or disclosure for health oversight activities described in Section 3.7 of this Policy, with respect to the oversight of the originator of the Psychotherapy Notes;
- Use or disclosure for coroners and medical examiners, as described in Section 3.12 of this policy; or
- Use or disclosure necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public, provided the requirements of Section 3.9 of this policy are met.

### **9.4 HIV/AIDS-related information**

- a. UConn Health shall not disclose HIV-related information without Authorization unless the disclosure is to:
  - The patient or the patient's legally authorized representative;
  - A federal, state, or local health officer, if the disclosure is required or authorized by federal or state law (see Section 3.2);
  - A healthcare provider or health facility when knowledge of the HIV-related information is necessary to provide appropriate care or treatment to the patient or a child of the patient, or when confidential HIV-related information is already recorded in a medical chart or record and a healthcare provider has access to such record for the purpose of providing medical care to the protected individual;
  - A medical examiner to assist in determining the cause or circumstances of death;
  - Health facility staff committees or accreditation or oversight review organizations which are conducting program monitoring, program evaluation or service reviews;
  - A healthcare provider or other person in cases where such provider or person in the course of his occupational duties has had a significant exposure to HIV infection, provided that certain requirements are met (see policy **2011-05: Occupational Exposure to Bloodborne Pathogens – Evaluation and Treatment**);
  - Employees of hospitals for mental illness operated by the Department of Mental Health and Addiction Services, provided that certain requirements are met;
  - Employees of facilities operated by the Department of Correction, provided that certain requirements are met;

- A person allowed access to such information by a court order that expressly authorizes the disclosure of HIV-related information (see Section 3.8 of this Policy);
  - Health insurers, government payers and healthcare centers and their affiliates, reinsurers, and contractors, except agents and brokers, in connection with underwriting and claim activity for health benefits;
  - Any healthcare provider specifically designated by the patient to receive such information received by a life or health insurer or healthcare center pursuant to an application for life, health, or disability insurance;
  - To a procurement organization, for the purposes of assessing donor suitability, in accordance with Section 3.5 Disclosures for Organ, Eye, and/or Tissue Donation; or
  - If the person making the disclosure is a physician and certain conditions are satisfied, to a known partner of the patient, if both the partner and the patient are under the physician's care, or to a public health officer for the purpose of informing or warning partners of the patient that they may have been exposed to HIV.
- b. A patient's written Authorization as described in UConn Health policy **2023-03: Identification and Protection of Protected Health Information (PHI)** shall specifically indicate its purpose to authorize release of HIV/AIDS-related information in order to be valid for releasing such information. UConn Health's Authorization form shall contain language required by law to accompany disclosures of HIV/AIDS-related information, stating that further disclosure of the information is prohibited under state law, or as otherwise permitted by state law, without the specific written consent of the patient.

#### **9.5 Disclosures of Alcohol and Drug Abuse Records**

- a. UConn Health shall neither use nor disclose Alcohol and Drug Abuse Records except as explicitly stated in this section.
- b. UConn Health shall keep hardcopy alcohol and drug abuse records in a secure room, locked file cabinet, safe, or other similar container when the records are not in use, and UConn Health shall maintain written procedures governing access to and use of such records.
- c. A patient's written Authorization as described in UConn Health policy **2023-03: Identification and Protection of Protected Health Information (PHI)** shall specifically indicate its purpose to authorize release of Alcohol and Drug Abuse Records in order to be valid for releasing such information. UConn Health's Authorization form shall contain language required by law to accompany disclosures of Alcohol and Drug Abuse Records.
- d. UConn Health shall keep a written record of all disclosures pertaining to Alcohol and Drug Abuse Records.
- e. UConn Health shall forward all court orders, warrants, subpoenas, summons, administrative requests, and discovery requests regarding disclosure of alcohol and drug abuse records to the UConn Health Office of the General Counsel for advisement. UConn Health may disclose Alcohol and Drug Abuse Records upon receipt of a subpoena only if the subpoena is accompanied by an appropriate patient Authorization or a court order authorizing the disclosure. UConn Health may disclose Alcohol and Drug Abuse Records upon receipt of a court order to compel production provided UConn Health has been given notice and

opportunity to respond, and provided the UConn Health Office of the General Counsel has provided recommendations regarding the appropriate response.

- f. UConn Health shall only disclose Alcohol and Drug Abuse Records in accordance with a patient's written Authorization as described in UConn Health policy **2023-03: Identification and Protection of Protected Health Information (PHI)**, except as follows:
- To the patient or the patient's representative.
  - To a qualified service organization (QSO) if the information is needed by the QSO to provide services to UConn Health. QSOs include organizations that provide data processing, bill collecting, laboratory analysis, or legal, medical, accounting, or other professional services, or services to prevent or treat child abuse or neglect. The QSO must agree in writing to be fully bound by all applicable regulations before disclosure of any information.
  - To law enforcement officials if a patient commits or threatens to commit a crime on the premises or against UConn Health personnel:
    - circumstances of the incident, including patient status;
    - the person's name;
    - the person's address; and
    - the person's last known whereabouts.
  - Related to a report of suspected child abuse and neglect as required by law (see Section 3.2); however, any information sought for use in an investigation or legal proceeding following the report shall not be disclosed in the absence of a patient Authorization or a court order accompanied by a subpoena.
  - Relating to cause of death for purposes of vital statistics.
  - To medical personnel who need the information to treat a condition that poses an immediate threat to the health of any person and that requires immediate medical intervention. UConn Health shall seek written confirmation of the emergency from the requesting person or entity and shall document the disclosure in the patient's record.
  - To medical personnel of the FDA for purposes of notifying patients and physicians of dangers due to mislabeling, error in manufacture, or the sale of products under FDA jurisdiction. UConn Health shall document the disclosure in the patient's record.
  - For purposes of scientific research in accordance with Section 3.10 Disclosures for Research.
  - To any person performing audit or evaluation activities for the following entities:
    - a governmental agency, or an agency acting on behalf of a governmental agency, that provides financial assistance to or is authorized to regulate UConn Health treatment, diagnostic, and referral activities;
    - a third-party payer covering UConn Health patients; or
    - a peer review organization performing utilization or quality control review.The auditor or evaluator must agree in writing that the patient-identifying information shall not be re-disclosed and that the information shall only be used for the purposes of the audit or evaluation. Additionally, if the auditor or evaluator is



copying the records and removing the copies from the premises, the auditor or evaluator must agree in writing to maintain the patient-identifying information in a secure room, locked file cabinet, or other similar container, and to destroy all patient-identifying information upon completing the audit or evaluation.

#### 9.6 Minors

- a. When the parent or guardian of an unemancipated minor has the authority to act on behalf of the minor as the minor's legally authorized representative, and an Authorization to use or disclose the minor's PHI is required, the Authorization shall be signed by the minor's parent or guardian. UConn Health shall require proof of legal guardianship if the guardian is not the parent.
- b. Under appropriate circumstances, minors may consent to their own HIV testing and treatment, testing and treatment for sexually transmitted disease, treatment for alcohol and drug abuse, outpatient mental health treatment, and abortion services without parental consent. (See policy **2012-05: Legal Representative for Health Care Decisions**). When an Authorization to use or disclose the minor's PHI is required in such circumstances, the Authorization shall be signed by the minor.
- c. All questions relating to the release of a minor's PHI should be directed to the Office of the General Counsel.

#### DEFINITIONS:

**Alcohol and Drug Abuse Records:** Alcohol and drug abuse records refers to any information relating to a patient, whether or not recorded, created by, received, or acquired by a Part 2 program, as defined in 42 CFR § 2.11, for the purposes of treating alcohol or drug abuse, making a diagnosis for that treatment, or making a referral for that treatment, if that information identifies a patient as an alcohol or drug abuser either directly, by reference to other publicly available information, or through verification of such an identification by person.

**Financial Remuneration:** Direct or indirect payment from or on behalf of a third party whose product or service is being described. Direct or indirect payment does not include any payment for treatment of an individual.

**Institutionally Related Foundation:** A foundation that qualifies as a nonprofit charitable foundation under section 501(c)(3) of the Internal Revenue Code and that has in its charter statement of charitable purposes an explicit linkage to the covered entity. An Institutionally Related Foundation may, as explicitly stated in its charter, support the covered entity as well as other covered entities or health care providers in its community. An Institutionally Related Foundation does not include an organization with a general charitable purpose, such as to support research about or to provide treatment for certain diseases, that may give money to a covered entity, because its charitable purpose is not specific to the covered entity.

**Marketing:** A communication about a product or service that encourages recipients of the communication to purchase or use the product or service.

Marketing does not include the following:

1. A communication is not deemed marketing under the HIPAA Rules if it is made to describe a health-related product or service that is provided by UConn Health as long as UConn Health does not receive any Financial Remuneration for making the communication. This exception to the marketing definition provides that communications by UConn Health about its own products or services would not constitute marketing under HIPAA. The HIPAA Rules further provide that a communication is not marketing if it is made for treatment, case management, or care coordination for the individual or to direct or recommend alternative treatments, therapies,

healthcare providers, or settings of care to the individual as long as UConn Health does not receive any Financial Remuneration for making the communication.

2. In addition to the above categories of communications, a special category exists for communications regarding currently prescribed drugs. The HIPAA Rules also provide that the definition of marketing under HIPAA does not include a communication made to provide refill reminders or otherwise communicate about a drug or biologic that is currently being prescribed for the individual as long as any Financial Remuneration received by UConn Health in exchange for making the communication is limited to that which is reasonably related to UConn Health's cost of making the communication ('the Refill Reminder Exception'). In order to fit within the Refill Reminder Exception, the communication must be related to an individual's currently prescribed medication and any Financial Remuneration received for making the communication must be reasonably related to the costs of making the communication.

**Protected Health Information (PHI):** Any information, including payment information, whether oral or recorded, transmitted, or retained in any form or medium, including demographic information collected from an individual, that:

- Is created or received by UConn Health;
- Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and
- Identifies the individual, or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

Protected Health Information excludes information in education records covered by the Family Educational Right and Privacy Act (FERPA), records described in 20 USC 1232g(a)(4)(B)(iv), employment records held by UConn Health in its role as an employer, or healthcare records related to individuals who have been deceased for more than 50 years.

**Psychotherapy Notes:** Psychotherapy Notes are notes recorded (in any medium) by a health care provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session or group, joint, or family counseling session and that are separated from the rest of the individual's medical record. Psychotherapy notes excludes medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

**Workforce Member:** Employees, volunteers, trainees, and other persons whose conduct, in the performance of work for UConn Health, is under the direct control of UConn Health, whether or not they are paid by UConn Health.

#### **PROCEDURES/FORMS:**

[HCH375: Consent to Recording and Authorization for Recording Use and or Disclosure](#)

[HCH551: Authorization to Obtain and/or Disclose Health Information](#)

[HCH1397: Permission to Communicate Health Information and Use Alternative Communication Methods](#)

#### **REFERENCES:**

HIPAA Privacy Rule, §160.316 Refraining from intimidation or retaliation. January 25, 2013.

HIPAA Privacy Rule, §164.502 Uses and disclosures of protected health information: General rules. January 25, 2013.

HIPAA Privacy Rule, §164.508 Uses and disclosures for which an authorization is required. January 25, 2013.

HIPAA Privacy Rule, §164.510 Uses and disclosures requiring an opportunity for the individual to agree or to object. January 25, 2013.

HIPAA Privacy Rule, §164.512 Uses and disclosures for which an authorization or opportunity to agree or object is not required. January 25, 2013.

HIPAA Privacy Rule, §164.514 Other requirements relating to uses and disclosures of protected health information. Uses and disclosures for which an authorization or opportunity to agree or object is not required. June 7, 2013.

Conn. Gen. Stat. § 4-61dd Whistle-blowing. Disclosure of information to Auditors of Public Accounts. Investigation by Attorney General. Rejection of complaint. Complaints re retaliatory personnel actions. Report to General Assembly. Large state contractors. Posting of notice. Definitions. State shellfish grounds lessees (Rev. 2019).

Conn. Gen. Stat. § 14-227c Blood, breath or urine sample and drug influence evaluation required following accident resulting in death or serious physical injury. (Rev. 2022)

Conn. Gen. Stat. § 19a-583 Limitations on disclosure of HIV-related information. (Rev. 2016).

Conn. Gen. Stat. § 19a-585 Requirements for disclosure of HIV-related information (Rev. 2009).

Conn. Gen. Stat. § 19a-490b Furnishing of health records and veterans' information. Access to tissue slides or blocks. Certified document re storage of and access to health records upon cessation of operations (Rev. 2016).

Conn. Gen. Stat. § 20-7c Access to medical records. Notification to patient of certain test results. Authority of provider to withhold information (Rev. 2022).

Conn. Genn. Stat. § 52-146e Disclosure of communications (Rev. 1982).

Conn. Genn. Stat. § 52-146i Labeling of confidential records (1969).

Conn. Genn. Stat. § 52-146w Disclosure of patient communication or information relating to reproductive health care services by covered entity prohibited. Exceptions. (2022).

Conn. Genn. Stat. § 52-146x. Disclosure of patient communication or information relating to gender-affirming health care services or reproductive health care services by covered entity prohibited. Exceptions. (2022).

42 C.F.R. Part 2: Part 2 - Confidentiality of Substance Use Disorder Patient Records. July 15, 2020

#### **RELATED POLICIES:**

2023-03: Identification and Protection of Protected Health Information (PHI)

CLINICAL POLICY Abuse and Neglect: Identification, Assessment and Response,

11-016: REPORTING CASES TO THE POLICE

2011-014.0 HIPAA in Research.

2012-05: Legal Representative for Health Care Decisions

2011-05: Occupational Exposure to Bloodborne Pathogens – Evaluation and Treatment

Communication with External Media, Policy on (University Policy)

Non-Retaliation (University-wide Policy)

#### **ENFORCEMENT:**

Violations of this policy or associated procedures may result in appropriate disciplinary measures in accordance with University By-Laws, General Rules of Conduct for All University Employees, applicable collective bargaining agreements, the University of Connecticut Student Code, other applicable University Policies, or as outlined in any procedures document related to this policy.

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**APPROVAL:**

Bruce Liang (Signed)  
 Bruce Liang  
 Interim Chief Executive Officer, UConn Health  
 Executive Vice President for Health Affairs

6/10/2023  
 Date

Elle Box (Signed)  
 Elle Box  
 Chief Healthcare Compliance & Privacy Officer  
 Administrative Policy Committee Co-Chair

6/7/2023  
 Date

Janel Simpson (Signed)  
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 Chief Administrative Officer  
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6/7/2023  
 Date

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