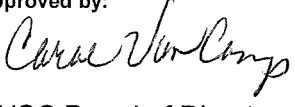


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|  <p><b>HAWAII HEALTH SYSTEMS</b><br/>CORPORATION<br/>"Quality Healthcare For All"</p> <p><b>POLICY</b></p> | <p><b>Quality Through Compliance</b></p>                                                                                                                                          | Policy No.:<br><b>CMP 037A</b>                                                   |
|                                                                                                                                                                                             |                                                                                                                                                                                   | Revision No.:                                                                    |
| Subject:<br><br><b>HIPAA Health Oversight Activities Use and Disclosure</b>                                                                                                                 | Issued by:<br>Audit and Compliance Committee                                                                                                                                      | Effective Date:<br>September 19, 2013                                            |
|                                                                                                                                                                                             | Approved by:<br><br>HHSC Board of Directors<br>By: Carol A. VanCamp<br>Its: Secretary/Treasurer | Supersedes Policy:<br><br><div style="text-align: right;">Page:<br/>1 of 3</div> |

Last Reviewed: August 23, 2013. Next Review: August 23, 2016

I. **PURPOSE:** This Policy defines the permitted uses and disclosures of protected health information (PHI) for the purposes of health oversight activities without written consent or authorization of the individual or the opportunity for the individual to agree or object.

II. **DEFINITIONS:**

Health Oversight Agency – An agency or authority of the United States or the State of Hawaii, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant.

Health oversight agencies include (but are not necessarily limited to):

- The United States Department of Health and Human Services (DHHS), with respect to the Medicare and Hawaii Medical Assistance programs.
- The Hawaii Department of Health, in connection with:
  - The administration of the Hawaii Medical Assistance Program (HAR 17-702(5)(b)).
  - The licensing and regulation of institutional health care providers (HRS 334e-4; Haw. Admin R. 11-93-22(i), 11-99-78(l), 11-99-28(l), 11-89-18(f), 11-148-16(e), 11-100-14(f)).
  - The administration of mental health services (Haw. Admin. R. 11-275-31(a)), and the investigation of complaints concerning the rights of mental health patients (HRS 334E-2), and dependent adults (HRS 346-226).
  - The reporting of the disposition of bodies (HRS 327-33).
  - The enforcement of restrictions on the sale of prescription drugs (HRS 328-17).
- The Insurance Commissioner with respect to:
  - The licensing and regulation of health insurers and managed care plans (HRS 431:2-208, 432E-6).
  - The reporting by self-insured health care providers of medical tort claims (HRS 61-5).
- State and federal law enforcement agencies and officials and the ombudsman's office in connection with the investigation of violations of laws relating to medical assistance programs (Haw. Admin. R. 17-1702-5(c)).
- The Director of Commerce and Consumer Affairs, with respect to licensing of health care professionals (HRS 453-17, 460-19).
- The Department of Public Safety, Narcotics Enforcement Division, with respect to the reporting of the dispensing of controlled substances (HRS 329-101).

### III. **POLICY:**

- A. Permitted Disclosures:
  - 1. Hawaii Health Systems Corporation (HHSC) can disclose PHI to health oversight agencies for oversight activities authorized by law including: civil or administrative audits, criminal investigations, inspections, licensure or disciplinary actions, civil, administrative or criminal proceedings or actions or other activities necessary for appropriate oversight of:
    - a) The health care system,
    - b) Government benefit programs for which health information is relevant to beneficiary eligibility,
    - c) Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards, or;
    - d) Entities subject to civil rights laws for which health information is necessary for determining compliance.
    - e) FDA, safe medical devices act, product recalls as included in the Health Oversight definition of HIPAA.
- B. Verification: HHSC will verify the identity and authority of the requestor in accordance with HHSC policy on Verification (CMP 0047) prior to any release of PHI.
- C. Accounting for Disclosure: An accounting of any disclosure under this policy will be made as directed by the HHSC policy on Accounting for Disclosures (CMP 0040). However, HHSC will temporarily suspend an individual's right to receive an accounting of disclosures for a time period specified by the health oversight agency if the agency provides HHSC with a written statement that the accounting would be reasonably likely to impede the agency's activities and specifying the time for which the suspension is required.
- D. Exception to Health Oversight Activities: An investigation or activity is not considered health oversight for the purposes of this policy (and is covered under the HHSC Policy on Disclosures for Law Enforcement Purposes (CMP 0050) if:
  - 1. the individual is subject of the investigation or activity, and;
  - 2. the investigation or activity does not arise out of and is not directly related to:
    - a) The receipt of health care
    - b) A claim for public benefits related to health
    - c) Qualification for, or receipt of, public benefits or services when a patient's health is integral to the claim for public benefits or services.
  - 3. However, if an investigation or activity that would otherwise be excluded under this exception is conducted in conjunction with an oversight activity or investigation that does fall under this policy, the joint activity or investigation falls under this policy.
- E. Permitted Uses by HHSC: As a covered entity that is also a health oversight agency, HHSC may use PHI for health oversight activities as permitted by this policy.
- F. Related Policies: This policy does not cover disclosure for the following purposes:
  - 1. Disclosure to government officials for public health activities (CMP 045A);
  - 2. Disclosure to government officials for law enforcement purposes (CMP 050A);
  - 3. Disclosure for judicial and administrative proceedings (CMP 038A).
- G. HHSC facilities shall implement procedures to operationalize this Policy.

### IV. **APPLICABILITY:** This Policy applies to all HHSC Facilities.

- V. **AUTHORITY:** Standards for Privacy of Identifiable Health Information (HIPAA), 45 CFR, Subtitle A, Subchapter C, Section 164.512(d).
- VI. **ATTACHMENTS:** None.