

 HAWAII HEALTH SYSTEMS CORPORATION "Quality Healthcare for All" POLICY	Department: Quality Through Compliance	Policy No.: CMP 043A
	Issued by: Audit and Compliance Committee	Revision No.: Effective Date: September 19, 2013
Subject: HIPAA Patient Right to Request Restrictions	Approved by:  HHSC Board of Directors By: Carol A. VanCamp Its: Secretary/Treasurer	Supersedes Policy: New Page: 1 of 3

Last Reviewed: August 19, 2013. Next Review: August 19, 2016

I. **PURPOSE:** This Policy provides a mechanism whereby a patient may request that Hawaii Health Systems Corporation (HHSC) restrict its use/disclosures of the patient's protected health information.

II. **DEFINITIONS:**

Health Information Management (HIM) – The department of each HHSC facility that maintains the medical records.

Patient Financial Services – The department of each HHSC facility that manages the financial and billing records for patients.

PHI — Protected Health Information– Health information, including demographic information collected from an individual created or received by HHSC that:

1. Identifies the individual or for which there is reasonable basis to believe the information can be used to identify an individual.
2. Relates to:
 - a. The individual's past, present, or future physical or mental health or condition;
 - b. The provision of health care to the individual, or;
 - c. The past, present, or future payment for the provision of health care to the individual.
3. Is stored or transmitted in any medium.
4. Are not federally funded educational records (FERPA-Family Educational Rights and Privacy Act), or in employment records held by a covered entity in its role as employer, or in records described at 20 U.S.C. 1232g(a)(4)(B)(iv), or regarding a person who has been deceased for more than 50 years.

III. **POLICY:**

A. Patient Right to Request Restrictions:

1. HHSC will permit a patient to request restrictions on the use/disclosure of protected health information for the following:
 - a) Treatment, payment or health care operations

- b) Disclosures to the patient's family or others involved in the patient's care or payment for care
- 2. HHSC may require that the patient's request for such restrictions described above be made in writing.
- B. Except as provided in 45 CFR § 164.522 (a)(1)(vi), HHSC is not required to agree to a restriction. However, if HHSC agrees to a restriction, HHSC may not use or disclose the protected health information in violation of such restriction, except that:
 - 1. Restricted health information may be used or disclosed to a health care provider as needed to provide emergency treatment (must request that the treating provider not further use or disclose the information).
 - 2. Restricted health information may be used/disclosed for the following:
 - a) Disclosures to the Secretary of DHHS as needed to investigate compliance with federal privacy rules.
 - b) Disclosures as required or permitted for the following:
 - i. As required by law
 - ii. Public health activities
 - iii. Health oversight activities
 - iv. Child and/or dependent abuse reporting
 - v. Judicial and administrative proceeding requests
 - vi. Law enforcement activities
 - vii. Activities involving expired patients
 - viii. Research
 - ix. Organ/tissue donation
 - x. To avert a serious threat or harm
 - xi. Specialized government functions
 - xii. Workers compensation activities
- C. HHSC must agree to the request of an individual to restrict disclosure of PHI about the individual to a health plan if:
 - 1. The disclosure is for the purpose of carrying out payment or health care operations and is not otherwise required by law, and;
 - 2. The PHI pertains solely to a health care item or services for which the individual or person other than the health plan on behalf of the individual has paid HHSC in full.
- D. HHSC may terminate its agreement to a restriction, if any of the following conditions are met:
 - 1. The patient agrees to or requests the termination in writing.
 - 2. The patient orally agrees to the termination and the oral agreement is documented.
 - 3. HHSC informs the patient that it is terminating the agreement, except that such termination is:
 - a) Not effective for PHI restricted under §164.522(a)(1)(vi), and;
 - b) Only effective with respect to PHI created or received after it has so informed the individual.
- E. Requests to restrict the use and disclosure of protected health information held in a medical record set:

1. Requests by an individual or the individual's personal representative to restrict the use and disclosure of protected health information about the individual must be made in writing.
2. All requests shall be referred to Health Information Management department (HIM) of the HHSC facility where a request is being made.
3. All requests will be reviewed by HIM to determine if restriction requests will be agreed to.
4. Should the request be granted, HIM will coordinate with the appropriate department(s) and the individual to restrict the use and disclosure of protected health information according to the individual's request.
5. If the agreement to a restriction is terminated, HIM will document the termination in the individual's medical record.
6. HHSC must document a restriction in accordance with §160.530(j).

F. Requests to restrict the use and disclosure of protected health information held in a billing record:

1. Requests by an individual or the individual's personal representative to restrict the use and disclosure of protected health information must be made in writing to Patient Financial Services.
2. All requests will be reviewed by Patient Financial Services to determine if restriction requests will be agreed to.
3. Should the request be granted, Patient Financial Services will coordinate with the appropriate department(s) and the individual to restrict the use and disclosure of protected health information according to the individual's request.
4. If the agreement to a restriction is terminated, Patient Financial Services will document the termination in the individual's billing record which includes their electronic account.

G. HHSC facilities shall implement procedures to operationalize this Policy.

IV. APPLICABILITY: This Policy applies to all HHSC facilities.

V. AUTHORITY: 45 CFR §164.522(a); 45 CFR§160.530(j).

VI. ATTACHMENTS: None.