

Policy Name: Access to Health Information by Observers and Advisors	
Originating Officer (Title), Council, or Committee: Texas Health Chief Compliance Officer	Effective Date: 03/21/2017
Approved By: System Leadership Council	Last Reviewed Date: 03/21/2017
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1.0 Scope:
1.1 Applicable Entities:

This policy applies to Texas Health Resources and its member entities and excludes the Texas Health joint venture entities.

1.2 Applicable Parties:

This policy applies to all Workforce members, as well as members of Texas Health entity Medical Staff, Trustees/Directors and Allied Health Professionals.

2.0 Purpose:

2.1 The purpose of this policy is to establish guidelines for Disclosure of Protected Health Information (PHI) to Observers and Advisors within patient care areas.

3.0 Policy Statement(s):

3.1 Disclosure of PHI to Observers and Advisors must be managed according to the terms of this policy, and should be limited to the minimum necessary, based on a need-to-know.

3.2 This policy is specific to issues around Disclosure of PHI to Observers and Advisors only. Disclosures of information to patient family members and friends should be managed according to the Health Information Uses and Disclosures policy.

4.0 Policy Guidance:
4.1 General Protections

4.1.1 The presence of Observers and Advisors in entity facilities must be approved, scheduled and supervised according to entity procedures.

4.1.2 Verification of identity, sign-in procedures and provision of identification badges must follow guidelines established in Identity Verification for Health Information Disclosures and Safeguarding Health Information and Sensitive Personal Information policies.

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4.2 Confidentiality Agreements

4.2.1 Observers and Advisors will acknowledge agreement with Texas Health/THPG confidentiality requirements by either signing the approved business visitor log or signing the Observer and Advisor Confidentiality Agreement form, prior to being allowed access to patient care areas and/or PHI. The form can be found on the Privacy Forms page on the intranet.

4.3 Patient Authorizations

4.3.1 Patient Authorization for Disclosure of PHI to any Observer who will be in situations where Disclosure of PHI is unavoidable rather than Incidental, must be obtained. The Observer Authorization form can be found on the Privacy Forms page on the intranet. (See the Health Information Uses and Disclosures Policy for additional information and processing requirements for Authorizations.)

4.3.2 Patient Authorizations are not required for Advisors in Treatment situations.

4.3.3 As a reminder, Authorizations are not required for Workforce members in the performance of their roles. All Workforce members should adhere to Minimum Necessary Use and Disclosure of Health Information and Role-Based Access to Health Information policies.

4.4 Business Associate Agreements

4.4.1 Business Associate Agreements are not required for Advisors, as they are functioning as a healthcare provider in a Treatment capacity.

5.0 **Definitions:**

5.1 Advisors - Vendor or manufacturer representatives giving support, guidance, or technical assistance to entity Workforce, Medical Staff, Allied Health Professionals, or patients regarding proper use of products or equipment. In these circumstances, the representatives are participating in the provision of health care to a specific patient.

5.2 Allied Health Professionals - Includes all allied health professionals credentialed by or otherwise affiliated with entity medical staffs. Does not include allied health providers who are not formally affiliated with the entity medical staff.

5.3 Business Associate - Any third party who performs or assists in the performance of a function or service on behalf of Texas Health that creates, receives, maintains, or transmits PHI. An example might be a vendor, billing company or

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transcription service. (See Business Associate Agreements for HIPAA Compliance Policy for full definition.)

- 5.4 Disclosure - Any release, transfer, provision of access to, or divulging of PHI outside the entity holding the information.
- 5.5 Health Information - Any information, including Genetic Information, whether oral or recorded in any form or medium, that is created or received by a provider, plan, employer or clearinghouse; and that relates to the past, present, or future health condition of an Individual as well as the provision of healthcare to the Individual.
- 5.6 Incidental Uses or Disclosures - A secondary Use or Disclosure that cannot reasonably be prevented, is limited in nature, and that occurs as a by-product of an otherwise permitted Use or Disclosure under the Privacy Rule.
- 5.7 Individual - The subject of Health Information. This includes patients, Group Health Plan (GHP) participants and their covered dependents. Legally Authorized Representatives will be accorded the same rights regarding Uses and Disclosures of Health Information as the Individual.
- 5.8 Individually Identifiable Health Information (IIHI) - Health Information that identifies the Individual or provides a reasonable basis for doing so, by virtue of containing one or more of the eighteen identifiers specified by the Privacy Rule.
- 5.9 Legally Authorized Representative - (1) A parent or legal guardian, if the patient is a Minor; (2) a legal guardian, if the patient has been found by a court to be incapable of managing the patient's personal affairs; (3) an agent of the patient authorized under a Medical Power of Attorney for the purpose of making a health care decision when the patient is incompetent; (4) an attorney ad litem and/or guardian ad litem appointed for the patient by a court; (5) A person authorized to consent to medical treatment on behalf of the patient under Chapter 313 of the Texas Consent to Medical Treatment Act (6) a personal representative or heir of the patient, if the patient is deceased; (7) an attorney retained by the patient or by the patient's legally authorized representative; (8) a person exercising a power granted to the person in the person's capacity as an attorney-in-fact or agent of the patient by a Statutory Durable Power of Attorney that is signed by the patient as principal. (See Texas Health Policy on Health Information Uses and Disclosures for full definition).
- 5.10 Medical Staff - Includes all members, however classified (active, courtesy, etc.) of entity medical staffs.
- 5.11 Minimum Necessary - The essential (least) amount of PHI needed to support or accomplish the intended purpose.

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- 5.12 Observers - Any person not functioning in the role of an entity Workforce member, medical staff, or Allied Health Professional, who is allowed access to patients and patient care areas for the purposes of observation of healthcare procedures and processes. This definition excludes trainees and students in entity-affiliated training programs as well as persons functioning as Business Associates or Advisors. Examples of Observers are vendor representatives who are not assisting, job shadowing, and site visits by other non-Texas Health workforce members.
- 5.13 Protected Health Information (PHI) - Individually Identifiable Health Information that is protected by the requirements of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule and Texas state law.
- 5.14 Treatment - The provision, coordination, or management of health care and related services by one or more Health Care Providers, including the coordination or management of health care by a Health Care Provider with a third party; consultation between Health Care Providers relating to a patient; or the referral of a patient for health care from one Health Care Provider to another.
- 5.15 Use - The sharing, employment, application, utilization, examination, or analysis of PHI within an entity that maintains the information.
- 5.16 Workforce - Employees, volunteers, persons involved in Texas Health training programs or those sponsored by its wholly owned or wholly controlled entities, and other persons whose conduct, in the performance of work for an entity or Business Associate, is under the direct control of such entity or Business Associate, whether or not they are paid by the entity or Business Associate.

6.0 Responsible Parties:

- 6.1 Entity Privacy Officer
6.1.1 Implementation and oversight of the policy is the responsibility of the entity privacy officer.
- 6.2 Workforce Members
6.2.1 It is the responsibility of all Workforce members to comply with this policy.
- 6.3 Other Parties
6.3.1 It is the responsibility of members of Texas Health entity Medical Staffs, Trustees/Directors and Allied Health Professionals to comply with this policy.

7.0 External References:

- 7.1 HIPAA Privacy Rule 45 C.F.R. §164.508

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8.0 Related Documentation and/or Attachments:

- 8.1 [Health Information Uses and Disclosures - THR System Policy](#)
- 8.2 [Identity Verification for Health Information Disclosures Policy - THR System Policy](#)
- 8.3 [Safeguarding Health Information and Sensitive Personal Information - THR System Policy](#)
- 8.4 [Minimum Necessary Use and Disclosure of Health Information Policy - THR System Policy](#)
- 8.5 [Role-based Access to Health Information - THR System Policy](#)
- 8.6 Observer and Advisor Confidentiality Agreement form (located on Privacy Forms page on intranet)
- 8.7 Observer Authorization form (located on Privacy Forms page on intranet)

9.0 Required Statements:

Not Applicable