1.0 PURPOSE

The purpose of the University of Mississippi Medical Center (UMMC) Access, Uses and Disclosures of Protected Health Information (PHI) Policy is to guide patients on accessing their PHI and personnel in handling the requests made by individuals who wish to inspect and/or copy their PHI to protect the patient from release of PHI to unauthorized parties.

2.0 SCOPE

This policy applies to all individuals requesting in writing, using an Authorization to Release Information Form with the stated purpose “for individual’s use,” access to their records for the purpose of inspecting or obtaining a copy of their PHI and also to all UMMC employees making disclosures of PHI.

3.0 STANDARDS

Ownership of records – Clinical or medical records are the property of UMMC.

Removal of hospital or clinic records - UHC clinical records are not removed from the hospital or clinic environment except upon court order or as defined in the Medical Staff Bylaws.

Custodian - The Health Information Services Director is the legal custodian of all UHC medical records, even though they may be physically kept or maintained in the Pathology Department, Radiology Department, clinics or other departments.

Legal adults - In Mississippi, 18-year olds are declared adults for the purposes of giving consent for treatment and authorizing release of medical information.
3.1 Patient Access

Requests for access made by individuals who wish to inspect and/or obtain copies of their PHI must be made in writing in paper format on an Authorization for Release of Information Form. The requests should be forwarded to the appropriate release of information area. For example: If a request is for access to PHI stored in the University Hospitals and Clinics (UHC) record, the request would be directed to the release of information area of Health Information Services Department of UHC for processing.

3.2 Accepting the request for access and timely action:

Individual's request for access – UMMC permits individuals to request to inspect or to obtain a copy of their own PHI, which is maintained in any UMMC Designated Record Sets.

Notifying the Individual of Acceptance - If UMMC grants the request in whole or in part, it must inform the individual of the acceptance of the request and provide access requested. See section 3.3 for denying access.

Timely action by UMMC:
UMMC must provide access as requested by the individual within 30 days from the date the request is received. If UMMC is unable to complete the request within 30 days, the time to complete the request may be extended to 60 days from the date of the original request provided the UMMC provides the requestor with a written statement of the reasons for the delay and the date by which the request will be completed.

Allowing access - UMMC must, in the applicable time frame, arrange with the individual for a convenient time and place to inspect or obtain a copy of the PHI. At the individual's request, UMMC may mail or fax a copy of the PHI.
Location of PHI - If the same information that is the subject of access is maintained in more than one designated record set or at more than one location, UMMC need only produce the PHI once in response to a request for access.

Form of access requested – UMMC must provide the individual with access to the PHI in the form or format requested by the individual, if it is readily producible in such form or format; or, if not, in a readable hard copy form and such other form or format as agreed to by UMMC and the individual. If the requested PHI is maintained in an electronic format, UMMC shall provide the requestor with access to the PHI in the electronic form and format requested by the requestor, if it is readily producible in such form and format; or, if not, in a readable electronic form and format as agreed to by UMMC and the requestor.

If the requestor directs UMMC to provide the copy of the PHI to another person, the requestor must designate such person in writing, must sign such request and clearly identify the designated person and where to send the copy of PHI. If such conditions are met, UMMC shall provide the designated person with a copy of the requested PHI.

UMMC may provide the individual with a summary of the PHI requested, in lieu of providing access to the PHI or may provide an explanation of the PHI to which access has been provided, if

• The individual agrees in advance to such a summary or explanation; and
• The individual agrees in advance to the fees imposed, if any, by the covered entity for such summary or explanation.

Fees – If the individual requests a copy of the PHI or agrees to a summary or explanation of such information, UMMC may impose a reasonable, cost-based fee, provided that the fee includes only the cost of:

• Copying, including the cost of supplies for and labor of copying, the PHI requested by the individual;
• Postage when the individual has requested the copy, or the summary or explanation, be mailed; and
• Preparing an explanation or summary of the PHI if agreed to by the individual.

3.3 Reasons for denying access, under which an individual has the right to request a denial review:

UMMC may deny an individual access provided that the individual is given the right to have such denials reviewed, in the following circumstances:

• A licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person.
• The PHI makes reference to another person (other than a health care provider) and a licensed health care professional has determined, in the exercise of professional judgment that the access requested is reasonably likely to cause substantial harm to such other person; or
• The request for access is made by the individual’s personal representative and a licensed health care professional has determined, in the exercise of professional judgment that the provision of access to such personal representative is reasonably likely to cause substantial harm to the individual or another person.

3.4 Review of a denial of access:

If access is denied on a ground as permitted above, the individual has the right to have the denial reviewed. The UHC Medical Director has been designated as the reviewing official by UMMC. UMMC will provide or deny access in accordance with the determination of the reviewing official. The following requirements concerning denials will be met by UMMC:

• Making other information accessible – In instances where UMMC determines that access can be granted to at least a portion of the PHI requested, UMMC
must, to the extent reasonably possible, give the individual access to any other PHI.

- Denial - UMMC must provide a timely, written denial to the individual. The denial must be in plain language and contain:
  - The basis for the denial;
  - If applicable, a statement of the individual’s review rights and a description of how to act upon those rights; and
  - A description of how the individual may complain to UMMC or to the Secretary of Health and Human Services. The description must include the name or title and the telephone number of the UMMC Privacy Officer in the Office of Integrity and Compliance.

- Other Responsibility – If UMMC does not maintain the PHI that is the subject of the individual’s request for access and UMMC knows where the requested information is maintained, UMMC must inform the individual where to direct the request for access.

- Review of denial requested – UMMC must promptly refer a request for review to the UHC Medical Director. The UHC Medical Director must determine, within a reasonable period of time, whether or not to deny the access requested based on the grounds listed in 3.2 above. UMMC must promptly provide written notice to the individual of the determination of the UHC Medical Director designated reviewing official and take other action as required by this section to carry out the designated reviewing official’s determination.

3.5 UMMC may deny an individual access for the following reasons without providing an individual with the opportunity to request a denial review:

Inmate requests - If the request is from an inmate in a correctional institution, then UMMC, acting under the direction of the correctional institution, may deny, in whole or part, an inmate’s request to obtain a copy of PHI if obtaining such copy would jeopardize the health, safety, security, custody, or rehabilitation of the individual or other
inmates or the safety of any other person at the correctional institution or individuals transporting the inmate.

Request for research records - An individual’s access to PHI created or obtained by UMMC in the course of research that includes treatment may be temporarily suspended for as long as the research is in progress, provided that the individual has agreed to the denial of access when consenting to participate in the research that includes treatment, and provided that the individual was informed that the right of access will be reinstated upon completion of the research.

Privacy Act - An individual’s access to PHI that is contained in records that are subject to the Privacy Act, 5 U.S.C. 552a, may be denied, if the denial of access under the Privacy Act would meet the requirements of that law.

Information obtained by UMMC from someone else - An individual’s access may be denied if the PHI was obtained from someone other than a healthcare provider under a promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information.

### 3.6 Uses and Disclosures of PHI

**Employee access** - UMMC will make a reasonable effort to allow access only to the PHI employees need to fulfill their job duties. This includes PHI that is stored as a hard copy and/or electronically. For more information on the hospital medical record access, see UHC Policy on Medical Record Access and UMMC Policy on Minimum Necessary.

**Use and disclosure of PHI within UMMC** - Except for psychotherapy notes, UMMC may use and disclose PHI that is included in our designated record set for the following purposes without written authorization from the patient or the patient’s legal representative:

- For treatment of UMMC’s patients;
• To seek payment for services rendered; and
• To carry out the healthcare operations of UMMC.

Disclosures outside of UMMC - Except for psychotherapy notes, UMMC can release PHI to another healthcare provider (i.e. physician, hospital, etc.), clearinghouse (i.e. third party billing company), or a health plan, without an authorization, so long as the PHI is intended to be used:
  • By a healthcare provider, outside of UMMC, for the treatment of the individual;
  • For the payment activities of a healthcare provider, clearinghouse, or a health plan;
  • For the healthcare operation activities of a healthcare provider, clearinghouse, or a health plan if:
    o UMMC and the receiving party has or had a relationship with the individual who is the subject of the information;
    o The PHI pertains to such relationship; and
    o The disclosure is for a purpose listed under the definition of healthcare operations.

Uses and disclosures of psychotherapy notes - UMMC must obtain a separate and specific psychotherapy note authorization for any use or disclosure of psychotherapy notes except under the following circumstances:
  • For use by the originator of the psychotherapy notes for treatment;
  • For use or disclosure by UMMC in 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;
  • For use or disclosure by UMMC to defend a legal action or other proceeding brought by the individual;
  • For uses and disclosures made to a health oversight agency for oversight activities authorized by law with respect to the oversight of the originator of the psychotherapy notes, including audits, or criminal investigations, inspections,
licensure or disciplinary actions, civil administrative, or criminal proceeding or actions; or any 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;
- Entities subject to civil rights laws for which health information is necessary for determining compliance; or
- Uses and disclosures to coroners and medical examiners.

- When required by the US Secretary of Human Services to investigate or determine the covered entity’s compliance with this subpart;
- When the disclosure is required by law which includes the following:
  - Disclosures about victims of abuse, neglect and domestic violence – For more information, please see the UMMC Policy on Reporting Domestic Violence;
  - Disclosures for administrative or judicial proceedings - For more information, please see the UMMC Policy on Disclosures for Judicial and Administrative Proceedings;
  - Disclosures for Law Enforcement purposes – For more information, please see the UMMC policy on Reporting Incidents to Law Enforcement Agent.
- When the disclosure is intended to lessen a serious threat, UMMC may, consistent with applicable law and standards of ethical conduct, use or disclose PHI, if UMMC, in good faith, believes the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public. Such release shall be only to a person(s) reasonably able to prevent or lessen the threat, including the target of the threat. **Note: any such request should be referred to UMMC Legal Staff Office for review.**
Disclosures where a written authorization is not required – There are other disclosures that UMMC is required or permitted to make without an authorization and, with only a few exceptions, without an agreement or objection from the individual.

- Disclosures to public health authorities - UMMC is permitted to disclose PHI to public health authorities 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. The reporting of communicable diseases to the MS Department of Health, the maintenance of cancer and trauma registries would all be examples of disclosures made pursuant to this portion of the policy.

- Disclosures of student immunizations to schools – If the school is required by state or other law to have proof of immunization, UMMC may disclose to the school the status of immunizations upon oral consent from the individual (if the individual is an adult or emancipated minor) or a parent, guardian, or other person acting in loco parentis (if the individual is a minor).
  - Written authorization is not required. However, the verbal consent should be documented in the medical record.

- Disclosures to avert a serious threat to health or safety – UMMC may consistent with applicable law and standards of ethical conduct, use or disclose PHI, if UMMC, in good faith believes:
  - The use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public and is to a person reasonably able to prevent or lessen the threat, including the target of the threat;
  - The use or disclosure is 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 UMMC reasonably believes may have caused serious physical harm to the victim; or
  - That the individual has escaped from a correctional institution or from lawful custody.
Note: any such request should be referred to UMMC Legal Staff Office for review.

- Disclosures of an inmates’ PHI to correctional institutions and other law enforcement custodial situations – UMMC may disclose to a correctional institution or a law enforcement official having lawful custody of an inmate or other individual PHI about such inmate or individual, if the correctional institution or such law enforcement official represents that such PHI is necessary for:
  - The provision of health care to such individuals;
  - The health and safety of such individual or other inmates;
  - The health and safety of the officers or employees of or others at the correctional institution including those persons responsible for transporting the inmates or the transferring of the inmates;
  - The administration and maintenance of the safety, security and good order of the correctional institution;
  - This portion of the policy does not apply to the PHI once the individual has been released from custody.

The following list of policies should be reviewed for further guidance on specific types of disclosures, which are permitted or required without the authorization of the patient or without an agreement or objection from the patient:

- UMMC Policy on Disclosures to the Food and Drug Administration;
- UMMC Policy on Tissue and Organ Donations;
- UMMC Policy on Reporting of Child Abuse or Neglect;
- UMMC Policy on Reporting of Elderly Abuse or Neglect;
- UMMC Policy on Reporting Domestic Violence;
- UMMC Policy on Uses and Disclosures for Health Oversight Activities;
- UMMC Policy on Disclosure for Judicial and Administrative Proceedings;
- UMMC Policy on Disclosures to Law Enforcement Officials;
- UMMC Policy on Uses and Disclosure for Research Purposes;
o UMMC Policy on Uses and Disclosures for Specialized Government Functions.

Uses and Disclosures to Which a Person Must Agree or Object – In the following instances, UMMC is permitted to use and disclose an individual’s PHI without an authorization as long as UMMC gives the individual the opportunity to agree or object to the use or disclosure, before it is made. These instances include:

- Uses and disclosures for to persons involved with patients care -
  - The disclosure is to a person involved in the individual’s care, such as a relative or close personal friend of the individual or any other person identified by the individual and the PHI is directly relevant to such person’s involvement with the individual’s care or payment related to the individual’s health care
  - The intent of use or disclosure of PHI is to notify or assist in the notification of (including identifying or locating) a family member, a personal representative of the individual, or another person responsible for the care of the individual, of the individual’s location general condition or death.

- Use and disclosure is for the purpose of disaster relief –
  UMMC may use or disclose PHI to a public or private entity authorized by law or by its charter to assist in disaster relief efforts for the purpose of coordinating with such entities the uses or disclosures permitted. The individual is given a chance to agree or object unless in the exercise of professional judgment, UMMC determines that giving the individual such opportunity would interfere with the ability to respond to the emergency circumstances.

- Use or disclosure for facility directory purposes -
  Individuals admitted to UMMC must be given the opportunity to object to being included in the facility directory. For more information about the directory please review the UMMC policy on Disclosure of PHI through the Facility Directory.
• Limited uses and disclosures when the individual is not present-
If the patient is not present or otherwise available and the opportunity to
agree or object cannot be reasonable obtained because of emergency or
incapacity, the decision of whether or not to use or disclose the information
and the type of information to be used or disclosed is based on professional
judgment in allowing a person to act on behalf of the individual to pick up filled
prescriptions, medical supplies, x-rays or similar other forms of PHI.

There are two ways of allowing the individual to agree to or object to the information
being released for notification and disaster relief purposes.

• If the patient is not present or otherwise available prior to the use or disclosure
and has the capacity to make health care decisions, then UMMC may use or
disclose the PHI if UMMC:
  o Provides the individual with the opportunity to object to the disclosure
and the individual does not express an objection; or
  o Reasonably infers from the circumstances, based professional
judgment that the individual does not object to the disclosure.

Valid Authorizations - In accordance with HIPAA, all authorizations must contain six
core elements and three statements to be considered a valid authorization. The original
authorization is preferred, but copies are allowable so long as the authorization contains
the core elements and statements as listed below:

• Required Elements:
  o A description of the information to be disclosed that identifies the
information in a specific and meaningful fashion. NOTE: Psychotherapy
(psychiatric) information can be disclosed only if such information is
specifically requested in a separate psychotherapy note authorization. For
more detailed information on the release of psychotherapy notes, see “Uses and disclosures of psychotherapy notes” stated earlier in this policy.

- The name or other specific identification of the person(s) or class of persons (physician's name, UHC, etc.) authorized to make the requested disclosure;
- The name or specific identification of the person(s), or class of persons, to whom UMMC may make the requested disclosure;
- A description of each purpose of the use or disclosure;
- An expiration date or description of an event upon which the authorization will expire must be present on the authorization (UHC’s authorizations will have an expiration date of 6 months unless otherwise indicated);
- Signature of the individual and date; and
- If the authorization is signed by a legal representative (personal representative) of the individual, a description of such representative’s authority to act for the individual.

**Required Statements:**

- 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;
- Treatment, payment, enrollment, or eligibility for benefits may not be conditioned on obtaining the authorization if such conditioning is prohibited by the Privacy Rule or, if conditioning is permitted, a statement about the consequences of refusing to sign the authorization.
- A statement that information used or disclosed pursuant to the authorization may be subject to re-disclosure by the recipient and may no longer be protected by this rule;

**Invalid Authorizations** - In accordance with HIPAA, any authorization lacking the above information is to be considered invalid and should not be fulfilled.
Minimum Necessary — In accordance with the minimum necessary requirements of HIPAA, the UMMC employee fulfilling the authorization will disclose only that information specifically described in any written authorization, and/or court order.

Verification - Information should be released only to the person or class of persons (person, firm or corporation) identified in the authorization to receive the information. All outside individuals who present to pick up a copy of protected health information must present a form of I.D. This I.D. may be a driver’s license, credentials or etc. This is needed to ensure that only the person or class of persons designated in the authorization as the recipient of an individual's protected health information is who receives it. This includes those authorizations initiated by individuals who are seeking copies of their own protected health information.

Requests that include billing information – When a request is made that includes obtaining a copy of billing information, a copy of the request should be sent to the appropriate billing area. For example: If the request is for billing information from UHC, Patient Financial Services (PFS) will retrieve the needed information.

Request for copies of source data - When a request is made to UHC for copies of source data, such as EKG, X-ray films, etc., a copy of the request should be sent to the appropriate hospital department. The hospital department will retrieve the needed information and when necessary return the copy or copies of the information to the release of information area of HIS, for pick up by the requestor.

Faxing PHI – Faxing of PHI is discouraged and should be done on limited occasions. When it becomes necessary to obtain PHI through fax communication, the following information should be obtained from the requestor: (1) the name of the requestor; (2) a phone number at which the requestor can be reached; (3) a fax number; (4) a signed authorization, if applicable. Once the employee has retrieved the requested information:

1. He/she should always verify the fax number before faxing;
2. Complete a fax cover sheet that contains:
   a. The name of the person who is to receive the information;
   b. The intended fax number;
   c. The following disclaimer; and
   "Individuals who have received this information in error or are not authorized to
   receive it must promptly return or dispose of the information and notify the
   sender. Those individuals are hereby notified that they are strictly prohibited from
   reviewing, forwarding, printing, copying, distributing or using this information in
   any way."
   d. The name and a return phone number of the UMMC employee who is
      faxing the information.

Order of processing - Requests for release of medical information are processed in the
order received with the exception of court cases and urgent patient care requests, which
receive priority. An attempt is made to contact the physician when legal requests
involving UMMC physicians are received. Court Orders and deposition requests are
fulfilled on priority basis.

Questionable Authorizations – If an employee is in doubt as to whether or not an
authorization is valid, or if the information requested should be given to the requestor,
he/she should contact the UMMC Privacy Officer in the Office of Integrity and
Compliance for guidance. For example: If the UMMC employee fulfilling the request is
unsure of whether or not the information requested is part of the UMMC designated
record set, he/she should call the Office of Integrity and Compliance for guidance.

An approved authorization form may be obtained from the release of information area of
the hospital or the UMMC intranet.

Revoking an Authorization – An individual may revoke an authorization provided that
the revocation is in writing, except to the extent that UMMC has taken action in reliance
thereon. All requests for revocations should be directed to the appropriate release of
information personnel.
### 4.0 CONTACT INFORMATION

For questions about the UMMC Access, Uses and Disclosures of Protected Health Information Policy or for more information, call the Office of Integrity and Compliance at 815-3944.