

Explanation of Sample HIPAA Privacy Policy Number 3:  
Common Uses and Disclosures Made Without Authorization

The HIPAA Privacy Rule allows the use and disclosure of protected health information for most day to day uses in a physician office. This explanation and Sample Policy Number 3 discusses uses and disclosures of protected health information that are permitted for treatment, payment and health care operations, as well as certain permitted disclosures to friends and family members that can be made without a written authorization from the patient.

**Uses and Disclosures Permitted for Treatment, Payment, and Operations:**

Protected health information can be used or disclosed by a physician practice for purposes of treatment, payment or health care operations. No written or verbal authorization is required to allow a provider to use or disclose protected health information for treatment, payment and operations purposes.

**Treatment** means the provision, coordination, or management of health care and related services (including coordination and management by a provider with a third party; consultation between health care providers relating to a patient; or referral of patient for health care from one provider to another). In addition to permitting a provider to use and disclose patient information for its own treatment of the patient, the HIPAA Privacy Rule also allows a provider to disclose patient information to other treatment providers for the other providers' treatment activities. For example, if a physician seeks a consult, he or she may provide information regarding the patient to the consulting physician without patient authorization.

**Payment** means activities undertaken by a provider to obtain reimbursement for health care services provided to the patient. This includes, but is not limited to, activities related to coverage and eligibility determinations, billings, claims management, collections, review of services related to medical necessity or justification for charges, UR activities, and certain disclosures (e.g., name, address, DOB, account number) to consumer reporting agencies. It can also include sending information such as an explanation of benefits to the enrollee of a health plan for services provided to the enrollee's family member who is covered under the plan through the enrollee. A provider is also permitted to share protected health information with another provider who is treating the patient for the other provider's payment activities. For example, if a provider who is also treating the patient requires information in order to send a bill to the patient (e.g., insurance information or the patient's address), one treating provider could share this information with another treating provider.

**Health Care Operations** is defined broadly to mean (1) conducting quality assessment and improvement activities including contacting patients and health care providers with information about treatment alternatives; (2) reviewing the competence or qualifications of health care professionals, evaluating provider performance, conducting training programs (including allowing students to participate in patient care), credentialing, certification, and licensing activities; (3) conducting or arranging for medical review, legal services, and auditing services (including compliance reviews); (4) business planning and development; and (5) business

management and general administrative activities. In some circumstances, a practice is permitted to disclose patient information to another covered entity for the health care operations of that entity. Specifically, a provider may share protected health information for health care operations purposes of another entity if both the practice and the entity have a relationship with the patient (e.g., a physician practice and a hospital) and the disclosure is in furtherance of quality assurance or improvement activities, professional review, credentialing, licensing or related activities.

### **Uses and Disclosures To Personal Friends and Family Members**

If the patient does not object, the HIPAA Privacy Rule permits a provider to disclose protected health information to a family member or a close personal friend of the patient who is involved in the patient's health care or payment of health care, but only if the disclosure is directly relevant to the person's involvement in the patient's care or payment related to the patient's care. In such circumstances, the patient must be given the opportunity to object to the disclosure, unless the provider can infer from the circumstances that the patient does not object.

Where a patient is unavailable to object to a disclosure or is unable to object (e.g., due to incapacity), a disclosure to a friend or family member involved in treatment or payment may be made if the provider determines, in the exercise of professional judgment, that it is in the best interests of the patient for the provider to make disclosure of information that is directly relevant to the person's involvement with the patient's care.

A provider can also disclose protected health information in connection with trying to locate or notify family members or others involved in the patient's care concerning the patient's location, condition or death where the provider determines that it would be in the patient's best interests.

After a patient is deceased, information can continue to be shared with friends or family members who received information while the patient was alive, provided that such information is directly relevant to the friends/family members' involvement in the patient's treatment or payment activities when the patient was alive, unless this would go against a prior expressed objection by the patient.