

# Uses and Disclosures of Protected Health Information Not Requiring Patient Authorization or an Opportunity to Agree or to Object

## RATIONALE

The Health Insurance Portability and Accountability Act (HIPAA) does not require that patients/clients/research participants (hereafter collectively referred to as “patients”) provide written or verbal authorization prior to some uses or disclosures of their protected health information. Palmer College of Chiropractic (College) follows HIPAA regulations regarding when patient authorization, written or verbal, is not required prior to certain uses or disclosures of protected health information (PHI).

The Department of Health and Human Services notes:

*“Permitted Uses and Disclosures. A covered entity is permitted, but not required, to use and disclose protected health information, without an individual’s authorization, for the following purposes or situations: (1) To the Individual (unless required for access or accounting of disclosures); (2) Treatment, Payment, and Health Care Operations; (3) **Opportunity to Agree or Object**; (4) Incident to an otherwise permitted use and disclosure; (5) Public Interest and Benefit Activities; and (6) Limited Data Set for the purposes of research, public health or health care operations.<sup>18</sup> Covered entities may rely on professional ethics and best judgments in deciding which of these permissive uses and disclosures to make.”*

## PURPOSE

The Uses and Disclosures of Protected Health Information Not Requiring Patient Authorization or an Opportunity to Agree or to Object policy (Policy) establishes and describes the College’s expectations regarding uses and disclosures of PHI without patients’ opportunity to agree or object.

## SCOPE

This Policy applies to the entire College community, which is defined as including the Davenport campus (Palmer College Foundation, d/b/a Palmer College of Chiropractic), West campus (Palmer College of Chiropractic West) and Florida campus (Palmer College Foundation, Inc., d/b/a Palmer

College of Chiropractic Florida) and any other person(s), groups, or organizations affiliated with any Palmer campus.

## **DEFINITIONS**

For the purposes of this Policy, the following terms shall have the meanings specified below:

- > The term **“College”** refers to Palmer College of Chiropractic, including operations on the Davenport campus; West campus; and Florida campus.
- > The term **“College community”** refers to all students, faculty, staff (including administration), and any other person(s), groups, or organizations affiliated with any Palmer campus.
- > The term **“disclosure”** refers to the release, transfer, provision of access to, or divulging in any manner of PHI by an individual within the HCC or ACE with a person or entity outside the HCC or ACE.
- > The term **“health care operations”** refers to business and administrative activities, including:
  1. Conducting quality assessment and improvement activities;
  2. Reviewing the competence or qualifications of health care professionals;
  3. Conducting training programs;
  4. Accreditation;
  5. Credentialing;
  6. Conducting or arranging for medical review, legal services and auditing functions;
  7. Business planning and development;
  8. Business management and general administrative activities;
  9. Conducting clinical research; and/or
  10. Marketing and fundraising activities.

- > The term **“Palmer College of Chiropractic Affiliated Covered Entity”** (PCC ACE) refers to The Palmer College of Chiropractic Affiliated Entity (PCC ACE) consists of the following; **Palmer College Foundation** d/b/a Palmer College of Chiropractic, **Palmer College Foundation, Inc.** d/b/a Palmer College of Chiropractic Florida and **Palmer College of Chiropractic West**. Palmer College Foundation and Palmer College Foundation, Inc. are one legal entity. Palmer College of Chiropractic West is a separate legal entity. PCC ACE is a hybrid entity. The combination of units within PCC ACE designated as part of the Palmer College of Chiropractic Health Care Component (PCC HCC) comprise the Palmer College of Chiropractic Affiliated Covered Entity (PCC ACE).
- > The term **“Palmer College of Chiropractic Health Care Component”** (PCC HCC) refers to those health care units of Palmer College Foundation and Palmer College of Chiropractic West that have been designated as part of its health care component. For more information, refer to the Institutional Policy, Designation of the Palmer College of Chiropractic Health Care Component.
- > The term **“payment”** refers to the activities undertaken by a health care provider to obtain payment for the provision of care or by a health plan to provide reimbursement for the provision of care.
- > The term **“protected health information”** (PHI) refers to information, including demographic information, which relates to the individual’s past, present or future physical or mental health or condition; the provision of health care to the individual; or the past, present or future payment for the provision of health care to the individual, and that identifies the individual or for which there is a reasonable basis to believe can be used to identify the individual. PHI includes many common identifiers (e.g. name, address, birthdate, Social Security number) when such can be associated with the health information listed above. PHI does not include student records held by educational institutions or employment records held by employers. However, this information is still treated confidentially under other applicable laws.
- > The term **“treatment”** refers to the provision, coordination or management of health care and related services.
- > The term **“use”** refers to the sharing, employment, application, utilization, examination or analysis of PHI by an individual within the PCC HCC or the PCC ACE.

## **ADMINISTRATIVE RULES**

### ***Permitted Use and Disclosure by PCC That Require the Patient Be Given An Opportunity to Agree or to Object***

HIPAA allows permitted use and disclosure by Palmer College of Chiropractic for the following use and disclosure that do require an Opportunity to Agree and Object to the release:

1. Facilities directories;
2. To the individual's family, relatives or friends; or
3. To other persons whom the individual identifies, protected health information directly relevant to that person's involvement in the individual's care or payment for care.

Under HIPAA, several types of uses and/or disclosures require that the patient be given the opportunity to agree or to object in advance of the use or disclosure and, if the patient objects, the use or disclosure may not be made. PCC HCC units (hereafter referred to as "department") may orally inform the patient of the intended use or disclosure and obtain the patient's oral agreement or objection, as follows:

#### **DISCLOSURES OF PHI TO THOSE INVOLVED IN THE CARE OF THE PATIENT AND FOR NOTIFICATION PURPOSES**

1. PCC HCC departments may disclose a patient's PHI to:
  - a) A family member, other relative, or a close personal friend of the patient or any other person identified by the patient, the PHI directly relevant to such person's involvement with the patient's care or payment related to the patient's health care.
  - b) Notify, or assist in the notification of (including identifying or locating), a family member, a personal representative of the patient, or another person responsible for the care of the patient of the patient's location, general condition, or death.
2. The disclosure described above may be made only in accordance with the following procedures:

- a) If the patient is present for, or otherwise available prior to, such disclosure and has the capacity to make health care decisions, PCC HCC departments may disclose the PHI if they:
  - i. Obtain the patient's agreement;
  - ii. Provide the patient with the opportunity to object to the disclosure and the individual does not express an objection; or
  - iii. Reasonably infer from the circumstances, based on the exercise of professional judgment that the patient does not object to the disclosure.

It is expected that in most circumstances, PCC HCC departments will be able to disclose PHI to those involved in the care of the patient and/or for notification purposes based on options ii or iii above. For example, if the patient allows a family member or friend to be present during treatment, it is reasonable to infer that the patient would not object to disclosures of most types of PHI to the family member or friend.

However, if PCC HCC departments are aware of circumstances (e.g., "sensitive" diagnoses, dysfunctional family dynamics, etc.) that might result in the patient objecting to such disclosure, departments should obtain the patient's agreement and document such agreement in the medical record before proceeding with the disclosure.

- b) If the patient is not present, or the opportunity to agree or object to the disclosure cannot practicably be provided because of the patient's incapacity or an emergency circumstance, PCC HCC departments, in the exercise of professional judgment, may determine whether the disclosure is in the best interests of the patient. If so, PCC HCC departments may disclose only the PHI that is directly relevant to the person's involvement with the individual's health care. Unless circumstances dictate otherwise, it is generally in the patient's best interest to disclose relevant PHI to those present, accompanying the patient, or otherwise involved in the patient's care.

### ***Documentation Requirements***

Each department in the PCC HCC must have procedures for tracking and documenting disclosures that

1. Do not require patient authorization; and
2. Are required to be included in the accounting of disclosures.

For additional details, refer to Institutional Policy, Requests by Patients for an Accounting of Certain Disclosures.

## **STANDARD INSTITUTIONAL POLICY PROVISIONS**

Institutional policies are supplemented by provisions that are applicable to all institutional policies. It is the responsibility of all employees and students to know and comply with these standards.

- > [Standard Provisions Applicable to All Institutional Policies](#)

# Additional Information

## **ASSOCIATED POLICIES, PROCESSES AND/OR PROCEDURES**

This Policy is supplemented below. It is the responsibility of all employees and students to know and comply with policies and procedures as supplemented.

## **POLICIES**

- > [Designation of the Palmer College of Chiropractic Health Care Component](#)
- > [Marketing with The Use of Protected Health Information](#)
- > [Minimum Necessary Standard](#)
- > [Requests by Patients for an Accounting of Certain Disclosures](#)
- > [Uses and Disclosures of Protected Health Information for Fundraising](#)
- > [Uses and Disclosures of Protected Health Information That Require Patient Authorization](#)
- > [Uses and Disclosures of Protected Health Information That Require Providing the Patient with an Opportunity to Agree or to Object](#)

- > [Verifying Identity and Authority of Outsiders Seeking Disclosure of a Patient's Protected Health Information](#)

## **PROCESSES AND/OR PROCEDURES**

- > N/A

## **FORMS/INSTRUCTIONS**

- > N/A

## **OTHER RELATED INFORMATION**

- > 45 CFR 164.502 (HIPAA Privacy Rule)
- > 45 CFR 164.506 (HIPAA Privacy Rule)
- > 45 CFR 164.512 (HIPAA Privacy Rule)
- > 45 CFR 164.528 (HIPAA Privacy Rule)

## **CONTACTS**

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