

# Uses and Disclosures of Protected Health Information that Require Patient Authorization (Clinical Non-Research and Clinical Research)

## **RATIONALE**

The Health Insurance Portability and Accountability Act (HIPAA), in most instances, requires a patient's written authorization prior to uses and disclosures of their protected health information (PHI). Health and Human Services notes:

*"The HIPAA Privacy Rule establishes national standards to protect individuals' medical records and other personal health information and applies to health plans, health care clearinghouses, and those health care providers that conduct certain health care transactions electronically. The Rule requires appropriate safeguards to protect the privacy of personal health information, and sets limits and conditions on the uses and disclosures that may be made of such information without patient authorization."*

## **PURPOSE**

This Uses and Disclosures of Protected Health Information that Require Patient Authorization (Clinical Non-Research and Clinical Research) policy (Policy) establishes and describes Palmer College of Chiropractic's (College) expectations regarding when patient authorization is required to use and/or disclose PHI.

## **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 Component”** (HCC) refers to a component or combination of components of a hybrid entity designated by the hybrid entity as covered by HIPAA.
- > 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 **“hybrid entity”** refers to a single legal entity that meets the definition of a covered entity, but whose business activities include both covered and non-covered functions, and that designates a health care component(s).

- > 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 **“psychotherapy notes”** refers to recorded notes (in any medium) by a health care provider who is a mental health professional documenting or analyzing the contents of conversation during a private session or a group, joint or family counseling session and that are separated from the rest of the individual’s medical record.

- > 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**

The College obtains patient authorization for uses and disclosures of health information that require an authorization by law. In addition, when the College uses or discloses health information pursuant to a patient authorization, it does so only in a manner consistent with the authorization.

### ***When Patient Authorization IS Required***

Patient written authorization is required to use or disclose PHI in circumstances including, but not limited to:

1. When the patient requests the use or disclosure, other than to themselves;
2. For most marketing purposes, refer to Institutional Policy, Marketing with the Use of Protected Health Information (PHI);
3. For a number of disclosures to the patient’s employer including pre-employment or continuing employment determinations, and Family and Medical Leave Act (FMLA). However, authorization is not required to release PHI for workers’ compensation purposes;
4. For use or disclosure of psychotherapy notes, except when the use or disclosure is specifically permitted by law;
5. For research purposes in most, but not all cases;
6. For most fundraising purposes (refer to Institutional Policy, Uses and Disclosures of Protected Health Information for Fundraising for additional information);
7. For any sale of PHI. In this case, the authorization must specifically state that disclosure will result in remuneration to Palmer College of Chiropractic. For additional details, see Institutional Policy, Sale of Protected Health Information Generally Prohibited; and/or

8. For disclosures to a patient's attorney.

### ***When Patient Authorization is NOT Required***

1. The use of PHI by individuals within the PCC HCC or for most treatment, payment, and health care operations (note, however, that the more stringent state and/or federal law requirements concerning the use and disclosure of alcohol and other substance abuse records and HIV test results continue to be in effect);
2. The disclosure of PHI by individuals within the PCC HCC for most treatment, payment and many health care operations with another HIPAA covered entity that shares a relationship with the patient (note, however, that the more stringent state and/or federal law requirements concerning the use and disclosure of alcohol and other substance abuse records and HIV test results continue to be in effect);
3. Required public health reporting;
4. Mandatory reporting under state law (e.g., suspected child abuse, elder abuse, required reports to state licensing agencies); and/or
5. Disclosures pursuant to a court order.

For additional, less frequently occurring, circumstances under which patient authorization is not needed for the use or disclosure of PHI, refer to Institutional Policy, Uses and Disclosures of Protected Health Information Not Requiring Patient Authorization.

### ***Copy to Patient***

After an individual within the PCC HCC or PCC ACE obtain authorization from a patient to use or disclose PHI, the individual will provide the patient with a copy of the signed authorization.

### ***Prohibited Authorizations***

Individuals within the PCC HCC or PCC ACE are prohibited from obtaining an authorization under the following circumstances:

1. In general, an authorization for use or disclosure of health information may not be combined with any other document to create a compound authorization, except:

- a) An authorization for use or disclosure of PHI for research may be combined with any other type of written permission for the same or another research study (e.g. combining an authorization to participate in a research study with an authorization for the creation of a research database or repository, or with a consent to participate in the research).
  - i. Where research-related treatment is conditioned on provision of one of the authorizations, any compound authorization must clearly differentiate between the conditioned and unconditioned components and must provide an individual with an opportunity to opt-in to the research activities described in the unconditioned authorization.
  - b) An authorization for use or disclosure of psychotherapy notes may only be combined with another authorization for use or disclosure of psychotherapy notes.
  - c) An authorization (except for psychotherapy notes) may be combined with any other authorization except when the treatment, payment or enrollment in a health plan or eligibility for benefits has been conditioned upon one of the authorizations.
2. An authorization may not condition treatment, payment, enrollment, or eligibility for benefits on receipt of an authorization. Exceptions to this include:
- a) If PHI is created (or accessed) for treatment-related research, a research authorization may be required.
  - b) If PHI is created solely for disclosure to another organization, authorization for disclosure to that organization may be required.

### ***Requirements of a Valid Authorization***

To be valid, an authorization must be written in plain language. In obtaining authorization, use the approved PCC [Authorization for Disclosure of Health Information](#) form. The following are required elements:

1. A meaningful description of the health information to be used or disclosed;
2. A description of each purpose of the use or disclosure in question;

3. The name or specific identification of the person(s) or class of persons authorized to make the requested use or disclosure;
4. The name or specific identification of the person(s) or class of persons to whom the use or disclosure may be made;
5. An expiration date or event (except when this is not required, such as in a research authorization);
6. A statement of the patient/client's right to revoke the authorization in writing and the limitations on that right;
7. A description of how the patient/client may revoke the authorization;
8. A statement acknowledging that the health information disclosed pursuant to the authorization may be re-disclosed by the recipient and no longer protected by the Privacy Rule;
9. A statement regarding remuneration, either direct or indirect, if the entity is to receive such remuneration for a use or disclosure for marketing purposes;
10. A statement of Palmer College of Chiropractic's ability or inability to condition treatment, payment, enrollment or eligibility for benefits on the authorization;
11. Signature of the patient/client or the patient/client's legal representative and the date signed; and/or
12. The signature of a legal representative must be accompanied by a description of the representative's authority to act for the patient/client.

### ***Invalid Authorizations***

An authorization is invalid if any of the following occur:

1. The expiration date or event has passed;
2. The authorization is not properly completed;
3. The authorization contains material information that the recipient of the authorization knows to be false;

4. The recipient of the authorization knows that the authorization has been revoked; or
5. The authorization is of a type prohibited by law (see “Prohibited authorizations” above).

### ***Revocation of Authorizations***

All revocations of authorizations must be in writing. A patient may revoke an authorization except to the extent that, if the authorization was obtained as a condition of obtaining insurance coverage, other law provides the insurer with the right to contest a claim under the policy or the policy itself.

A revocation revokes all uses of the authorization after receipt of the revocation, except where the recipient of the authorization has taken action in reliance upon the authorization prior to receipt of revocation.

### ***Documentation Requirements***

The PCC HCC unit must document and maintain all patient/client authorizations for a period of at least six (6) years, from the date of its creation or the date when it last was in effect, whichever is later.

## **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](#)
- > [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 for Marketing](#)
- > [Uses and Disclosures of Protected Health Information Not Requiring 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**

- > [Authorization for Disclosure of Health Information](#)
- > [Staff Instructions for Completing Authorization for Disclosure of Health Information](#)

## **OTHER RELATED INFORMATION**

- > 45 CFR 164.508 (HIPAA Privacy Rule)

## CONTACTS

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