

Request for Restriction of Uses and Disclosures of Protected Health Information

ROWAN UNIVERSITY POLICY

Title: Request for Restriction of Uses and Disclosures of Protected Health Information

Subject: Office of Compliance & Corporate Integrity (OCCI)

Policy No: OCCI:2013:P06

Applies: RowanSOM

Issuing Authority: Rowan President & RowanSOM Dean

Responsible Officer: Chief Audit, Compliance & Privacy Officer; Rowan Security Officer

Adopted: 07/01/2013

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Last Reviewed: 01/26/2021

I. PURPOSE

To establish a policy that ensures Rowan University School of Medicine (RowanSOM) compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) in providing an individual the right to restrict uses and disclosures of Protected Health Information (PHI).

II. ACCOUNTABILITY

Under the direction of the President, the Dean, Senior Vice President for Administration, Senior Vice President for Academic Affairs, General Counsel, Chief Audit, Compliance & Privacy Officer and Vice President for Research shall ensure compliance with this policy.

III. APPLICABILITY

This policy shall apply to health information that is generated during provisions of health care to patients in any of the RowanSOM's patient care units, patient care centers or faculty practices as well as Human Subjects research under the auspices of the University or by any of its agents in all RowanSOM departments and University owned or operated facilities.

IV. DEFINITIONS

1. Protected Health Information (PHI): Protected health information means individually identifiable health information that relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual or the past, present or future payment for the provision of health care to an individual and identifies or could reasonably be used to identify the individual.
 - a. Except as provided in paragraph two (2) of this definition that is: a) transmitted by electronic media; b) maintained in electronic media; or c) transmitted or maintained in any other form or medium
 - b. Protected health information excludes individually identifiable health information in: a) Education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g; b) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); and c) Employment records held by a covered entity in its role as employer.
2. Designated record set - Medical or billing records about individuals maintained by or for a healthcare provider; the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or records used in whole or in part by or for the provider to make decisions about individuals.

V. REFERENCES

1. Code of Federal Regulations Title 45, Section 164, Part 522, Right to Request Privacy Protection for Protected Health Information
2. Uses and Disclosures of Health Information; With and Without an Authorization
3. HITECH Act, Section 13405(a) Right to Request a Restriction of Uses and Disclosures
4. The following policies provide additional and related information:
 - a. Standards for Privacy of Individually Identifiable Health Information
 - b. Access of Individuals to Health Information

VI. POLICY

1. Requirements:

RowanSOM may permit an individual to request that it restrict:

 - a. uses and disclosures of PHI about the individual to carry out treatment, payment or health care operations (TPO); and
 - b. disclosure related to involvement in an individual's care.

The [Request for Restriction of Health Information form](http://www.rowan.edu/compliance) can be accessed at the following website: www.rowan.edu/compliance

 - i. Rowan University School of Osteopathic Medicine units must send the [Request for Restriction of Health Information form](http://www.rowan.edu/compliance) to Ray Braeunig, Chief Audit, Compliance & Privacy Officer, for approval or denial. If denied, the rationale must be documented.
 - ii. All requests for restrictions and termination of the agreement to restrict must be in writing.
2. Responsibilities:
 - a. RowanSOM must review all requests that are made by individuals to restrict use and disclosure of the individuals PHI; however, RowanSOM is not required to agree to the restrictions requested if RowanSOM determines that the restrictions would interfere with legitimate treatment, payment or health care operations. Section 164.522(a)(1)(vi) allows for the individual patient (including family member or other person) to request restriction on the disclosure of PHI to the insurance carrier (including Medicare & Medicaid) for a covered service and pays "out of pocket" for the service in full, the provider may restrict the disclosure of PHI. It is the responsibility of the individual patient to notify "downstream" providers of a restriction request, but it is the responsibility of the provider to notify the individual patient, to get additional restriction requests with those other providers.
 - b. If a RowanSOM unit agrees to an individual's restriction request, the restriction must be appropriately documented and such documentation be retained. Also, the restriction must be communicated in a manner as to assure that anyone accessing the information becomes aware of the restriction. For example, clearly indicate the restriction on the face of the chart or somewhere obvious to anyone accessing the chart.
 - c. If a RowanSOM unit agrees to an individual's restriction request, RowanSOM is not permitted to use or disclose the specified PHI in any manner, except in the event that the individual is in need to emergency treatment and the restricted PHI is needed to provide such treatment. In this case, the unit may use the restricted PHI or disclose the PHI to a healthcare provider to provide such treatment to the individual. In this event, RowanSOM must request that such health care provider, not further use or disclose the information.
 - d. A RowanSOM unit may terminate its agreement to a restriction if:
 - i. the individual agrees to or requested the termination in writing;
 - ii. the individual orally agrees to the termination and the oral agreement is documented; or
 - iii. RowanSOM informs the individual that it is terminating its agreement to restriction.
 - e. In the event that RowanSOM, for any of the above mentioned reasons, terminates the agreement to restriction, the termination is only effective with respect to PHI created or received after it has so informed the individual. The individual patient should be notified that previously restricted PHI may be disclosed to health plan unless they request an additional restriction and "pay out of pocket" in full for the follow-up services.

VII. NON-COMPLIANCE AND SANCTIONS

Any individual who violates this policy shall be subject to discipline up to and including dismissal from the University in accordance with their union and University rules. Civil and criminal penalties may be applied accordingly. Violations of this policy may require retraining and be reviewed with employee during the annual appraisal process. The Deans of each College, Vice Presidents, and University President, with the assistance of the Department of Human Resources, will enforce the sanctions appropriately and consistently to all violators regardless of job titles or level within the University and in accordance with bargaining agreements for represented employees. Any sanction costs or fines will be borne by the Department and the Department Chair or VP will determine how these funds will be assigned.

By Direction of the President:

Signature on file

Chief Audit, Compliance & Privacy Officer