

| 8. Patient's Right to Request Privacy Protection | |
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| PURPOSE | This policy explains the process patients use to request restrictions on the use or disclosure of PHI. |
| POLICY | <p>8.1. Polk County will recognize the patient's right to request restriction of uses and disclosures. §164.522(a)</p> <p>8.2. Polk County will recognize the patient's right to request confidential communications. §164.522(b)</p> <p>8.3. Polk County will document the restriction. §164.530(j) and §164.522(a)(3)</p> |

PROCEDURES

Polk County must allow patients to request restrictions on uses or disclosures of PHI except as needed for treatment, payment or health care operations and for involvement in the patient's care and notification.

Polk County must also allow patients to request confidential communications from Polk County.

PHI Restrictions

When patients/representatives ask to have restrictions placed on the use and disclosure of their PHI, you must follow these procedures.

Provide a Protected Health Care Information Restriction Request Form

Form: [Request to Restrict Uses and Disclosures of Protected Health Information](#)

or

[Privacy Access Request](#)

Have the Patient fill out the *Request to Restrict Uses and Disclosures of Protected Health Information* form used by Polk County. Assist the patient in filling out the form, if necessary (§164.522(a)(1)). Do not ask the patient's purpose for requesting the restrictions.

Immediately give the request to the Privacy Officer.

Privacy Officer Responsibilities

The PHI restriction and scope of the request

Form: [Response to Request to Restrict Uses and Disclosures of Protected Health Information](#)

- a. Discuss the scope of the request with the patient. In the following instances, the request may not be honored:
 - C For the patient's emergency treatment, disclosures may be made to another health care provider (§164.522(a)(1)(iii)). Explain that if information is released for emergency treatment Polk County will request that the information not be used or disclosed for any other purpose (§164.522(a)(1)(v)).
 - C The Secretary of the Department of Health and Human Services is to insure that Polk County is in compliance with these regulations (§164.502(a)(2)(ii)).
 - C A listing in a Polk County directory of individuals in its facility, unless the individual expresses specific objection (§164.510(a)).
 - C Instances where patient authorization or agreement to disclosure is not required are those with purposes that are:
 - C By law;
 - C By public health activities;
 - C About victims of abuse, neglect or domestic violence;
 - C For health oversight activities;
 - C For judicial and administrative proceedings;
 - C For law enforcement purposes;
 - C Regarding decedents;
 - C For organ donation;
 - C For research purposes;
 - C To avert serious threat to health or safety;
 - C For specialized government functions;
 - C For workers' compensation.
- b. Determine restrictions being requested.

Using the criteria explained above, check to make sure there is no reason to deny the requested restriction. If there is no reason to deny the request, complete the *Response to Request to Restrict Uses and*

Disclosures of Protected Health Information form. This should be returned to the patient for confirmation, and should also be placed in the record.

If the request cannot be honored, explain the reasons on the form for the patient's knowledge and for documentation in the patient's file.

Reasons to Terminate a Restriction

- a. If the patient agrees to, or requests, in writing that the restriction be eliminated, (§164.522(a)(2)(i)) place the written request in the patient's record.
- b. If the patient orally requests or agrees that the restriction be terminated, the oral request must be documented (§164.522(a)(2)(ii)). Enter the date, and the name of the person agreeing to terminate the restriction, and place in the patient's file. Be sure you sign all documentation.
- c. If you want to terminate an agreement to restrictions, give the patient written notice that you are terminating the agreement (§164.522(a)(2)(iii)). Information received during the time the agreement was in effect continues to be restricted. New information (after termination of the agreement) is not restricted by the original agreement.

Document

Form: Non-Disclosure Statement for Emergency Treatment, page __.

- a. You must maintain written documentation or an electronic copy of all actions taken regarding PHI (§164.530(j)).
- b. Maintain documentation for six (6) years from the date of creation or the date when it was last in effect, whichever is later (§164.530(j)).
- c. When releasing restricted information, send the *Non-Disclosure Statement for Emergency Treatment* form along with the information, and place a copy in the patient's record.

Confidential Communications

Forms: [Request for Confidential Communications](#)

Or

[Privacy Access Request](#)

[Response to Request for Confidential Communications](#)

A patient may request that information be provided in an alternative format or at an alternate location. Have the patient complete a *Request for Confidential Communications* form. In these instances utilize the following criteria:

- a. You may require requests for alternative means of communication to be made in writing (§164.522(b)(2)(i)).
- b. You may *not* require the patient to provide a reason or explanation for requesting confidential communication (§164.522(b)(2)(iii)).
- c. When a patient requests communication of PHI, you should complete a *Response to Confidential Communications* form for the patient. Provide the information at the location and in the format most preferred by the patient, if it is reasonably possible for Polk County to do so (§164.522(b)(1)). The patient must specify an alternative address or method of contact (§164.522(b)(2)(ii)(B)).
- d. If you have reason to believe that a request could endanger the individual, you may require that the written request contain a statement that disclosure of all or part of the information requested could endanger the individual (§164.522(b)(2)(iv)).

FREQUENTLY ASKED QUESTIONS

How do patients request restrictions?

Patients have the right to request restrictions on the use and disclosure of PHI. Polk County provides a form to patients to request restrictions. Polk County will help patients complete the form, if necessary. Patients can request restrictions to the use and disclosure of their PHI, or they can request confidential communications.

What is a restriction on the use and disclosure of patient PHI?

Patients may request a restriction on the way their PHI is used or disclosed. For example, a patient with a medical condition, for example, may request that the diagnosis not be disclosed.

What is confidential communications?

Patients may request confidential communications from their doctor's office; This means that all communication about such patient's PHI must be kept confidential. Patients may request that all PHI be sent to post office boxes instead of their home addresses, or they may request that phone calls be received at a different number.

Do I have to agree to a requested restriction?

No, you are not required to agree to a requested restriction, but if you deny the request, you must explain the reasons to the patient.

What happens if emergency treatment is necessary and I have agreed to a restriction?

If the individual requesting the restriction is in need of emergency treatment and PHI is needed to provide the emergency treatment, you may use or disclose the information necessary to provide the emergency treatment. If you release restricted information, you must receive assurance that the recipient of this information will not use or disclose the information except as necessary to treat the patient.

Once a restriction is put in place can it be terminated?

Restrictions can be terminated at the patient's request and, whenever possible, should be in writing. Oral requests can be granted, but the requests must be documented in the patient's record.

If you wish to terminate restrictions, you must notify the patient in writing. You must continue to restrict information received during the initial agreement, but information received after the termination does not have to be restricted.

AUTHORITY

45 CFR §164.522 (2002)
45 CFR §164.530(j) (2002)