

PROVIDING MEDICAL INFORMATION TO FAMILY, FRIENDS, OR OTHERS DIRECTLY INVOLVED IN THE PATIENT'S CARE POLICY

Responsibility: All members of the Behavioral Health and Health Facilities (BBHFF) workforce, Privacy Official or Designee(s)

BACKGROUND:

Federal and state laws restrict the disclosure of protected health information (PHI). In most situations, the BBHFF may only disclose PHI to other providers of health care for purposes of treatment, to insurance companies and others involved in the payment for health care, and to organizations with which the BBHFF has contracts for services that are integral to its operations, when permitted or required by law, or when the patient authorizes the disclosure in writing.

It is permissible to disclose a limited amount of PHI to someone who is directly involved in a patient's care when necessary for the patient's welfare. Typically, this involves informing family members of signs and symptoms to watch for, or providing directions on how to assist the patient to deal with the consequences of illness or treatment. However, in the case where the individual is deceased, the Omnibus Rule allows covered entities to continue to communicate with involved family and friends after and individual's death for certain reasons, unless this communication is contrary to the individual's previously expressed preference.

POLICY:

Mental Health Information

Mental Health Information, including whether a patient is or was a mental health patient of BBHFF, may not be disclosed except:

1. When authorized by the patient or representative
2. In involuntary commitment proceedings, or proceedings to determine whether a criminal defendant is competent to stand trial or not guilty by reason of mental illness
3. Pursuant to a court order finding the information is sufficiently relevant to a case before the court to outweigh the need to protect this information
4. To protect against a clear and substantial danger to the patient or others
5. For treatment and internal review purposes
6. To comply with state and federal legal and regulatory requirements

Non-Mental Health Information

Assistance with care or payment: When a family member, personal representative, close friend, or other person is involved with a patient's care, or with payment for care, members of the BBHFF workforce may provide this person with a patient's protected health information as follows:

1. The information must be limited to the minimum necessary to permit the other person to provide appropriate assistance to the patient, and must be directly relevant to the other person's involvement in the patient's care or payment for care.
2. The information must be needed either to help the patient with health care or with payment.
3. The other person must clearly be involved in the patient's care or payment for care. This may be someone who is known to be a family member or personal representative of the patient, someone whom the patient says/said is involved in his or her care, or someone whose involvement is/was obvious.

4. The BBHMF is permitted to disclose PHI to a family member or other person (relative or close friend) who was involved in the deceased person's care or payment for healthcare prior to the individual's death, if such disclosure is relevant to that person's involvement. This disclosure is permitted unless the BBHMF has knowledge of any prior expressed preference of the deceased individual that is contrary to such disclosure.

Notify family or friend: The BBHMF workers also may disclose protected health information to a family member, personal representative, or other person responsible for a patient's care as necessary to provide this person with notification of the patient's location, general condition, or death.

Locate family or friend: The BBHMF workers also may disclose protected health information, as necessary, in order to locate or identify a family member, personal representative, or other person responsible for a patient's care, in order to notify such person of the patient's location, general condition, or death.

Patient present: If the patient is present, or otherwise available, the disclosures of PHI permitted by this policy may only be made in accordance with the patient's desires. Generally, the worker should ask the patient if he or she agrees to the disclosure, and should give the patient the opportunity to object. However, the worker may also disclose PHI in accordance with this policy when, based on his or her professional judgment, it can be reasonably inferred from the circumstances that the patient does not object to the disclosure.

Patient not present: If the patient is not present, or otherwise available, a worker may disclose PHI in accordance with this policy when it is in the patient's best interest to do so. This determination may be made by the worker, based on his or her professional judgment and experience with the BBHMF's common practices in like situations. The same rule applies when the patient is not capable of agreeing to or objecting to a disclosure of PHI permitted by this policy.

In all cases, the disclosure of PHI must be limited to information that is directly relevant to the other person's involvement in the patient's care or payment for care.

The BBHMF workers may exercise their professional judgment in determining what PHI they disclose, and to whom, under this policy, based on their evaluation of the patient's best interests.

Effective Date: 4/14/03

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Victoria L. Jones, Commissioner, Bureau for Behavioral Health and Health Facilities