

EXTENSION OF PRIVACY PROTECTION TO DECEASED INDIVIDUALS POLICY

RESPONSIBILITY: Privacy Official or Designee(s)

BACKGROUND:

Federal and state laws require Behavioral Health and Health Facilities (BHFF) to protect the confidentiality of patients' protected health information (PHI). This protection continues after the patient has died. This policy and procedure describe how the PHI of deceased patients will be safeguarded, and how members of BHFF's workforce will respond to requests for disclosure of PHI pertaining to deceased individuals.

POLICY:

General rule. The security, privacy and confidentiality of protected health information (PHI) of former BHFF patients, who are now deceased, will be protected according to the same policies that apply to the PHI of all BHFF patients. This applies to all permitted and prohibited uses and disclosures of PHI.

Personal representatives. An executor, administrator, or other person who has authority to act on behalf of a deceased individual, or on behalf of the individual's estate, must be treated as the individual's personal representative. (See DISCLOSURE OF PROTECTED HEALTH INFORMATION TO PERSONAL REPRESENTATIVES policy.) However, this only applies to PHI needed by the personal representative in connection with the administration of the estate or other affairs of the decedent.

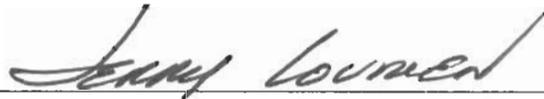
Exceptions. There are certain exceptions to this general policy, that permit additional disclosures of the PHI of decedents. In the following instances, PHI that pertains to deceased individuals may be disclosed without authorization from the decedent's personal representative.

1. Disclosure to a law enforcement official. Notification of the individual's death will be made to a law official if there is reason to believe that the death may have resulted from criminal conduct.
2. Disclosure to coroner or medical examiner. PHI may be disclosed to a coroner or medical examiner for identification of the individual, determination of the cause of death, or as needed by the coroner or medical examiner to perform other duties as authorized by law.
3. Disclosure to funeral directors. PHI may be disclosed to funeral directors without an authorization, but only to the extent that this information is needed by them to carry out their duties consistent with law. If necessary for funeral directors to carry out their duties, PHI may be disclosed prior to, and in reasonable anticipation of, the individual's death.

4. Cadaveric organ, eye, or tissue donations. PHI of deceased individuals may be disclosed as necessary to organ procurement organizations, or to others engaged in the procurement, banking, or transplantation of cadaveric organs, for purposes of facilitating the transplantation.
5. Research. A researcher may review PHI of decedents. The researcher must first present to the Privacy Official or Designee(s):
 - 5.1. A representation that only PHI pertaining to decedents will be used or disclosed,
 - 5.2. Documentation of the death of each individual whose PHI will be used or disclosed (excepting those individuals for which BHHF already has documentation of death), and
 - 5.3. Representation that the PHI sought is necessary for the research.
 - 5.4. See the USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR PURPOSES OF RESEARCH policy.

Effective Date: 4/14/03

Revised Dates:



Jerome E. Lovrien, Commissioner, Bureau for Behavioral Health and Health Facilities