

**NUMBER: 2.1.13****DATE: 4/1/2003****REVISION: 9/20/07, 12/15/09; 6/20/12; 1/02/13; 4/03/13; 8/06/14; 09/20/17****PAGE: 1 of 33****SECTION: ADMINISTRATION****AREA: GENERAL ADMINISTRATION****SUBJECT: USE AND DISCLOSURE OF PHI AND MEDICAL RECORDS POLICY****TABLE OF CONTENTS**[Purpose](#)[Scope](#)[Definitions](#)[Policy](#)[General Information](#)[Patient Directory](#)[Section 1 – Disclosures to the Patient](#)[Section 2 – For UAMS Treatment, Payment and Operations](#)[Section 3 – To Another Health Care Provider or Covered Entity](#)[Section 4 – Patient Request for Access To or a Copy of Medical Records](#)[Section 5 – Disclosures to Patient’s Legal Representative](#)[Section 6 – Disclosures to Spouse/Family/Friends Involved in Patient’s Care](#)[Section 7 – Notification Purposes – Disclosures To Family, Legal Representative Or Another Person Responsible For The Care Of The Patient For Notification Purposes](#)[Section 8 – Uses and Disclosure for Disaster Relief Purposes](#)[Section 9- Patient Authorization Form](#)[Section 10 – Disclosure of Information Outside UAMS for Purposes Unrelated to Treatment, Payment and Operations](#)[Section 11 – Required by Law – No Patient Authorization Required](#)[Section 12 – Reporting to Agencies or Others Authorized by Law to Receive the Information](#)[Section 13 – Court Orders, Warrants and Grand Jury Subpoenas](#)[Section 14 – Subpoenas and Discovery Requests from Parties in Litigation](#)[Section 15–Administrative Requests, Administrative Subpoenas, Investigative Demands or Similar Process](#)[Section 16 – Law Enforcement Generally \(Without Court Order or Warrant, Subpoena, or Other Legal Process\)](#)[Section 17 – Adult Victims of Abuse, Neglect or Domestic Violence](#)[Section 18 – Adult Victims of Rape, Attempted Rape, Sexual Assault or Incest](#)[Section 19 – Adult Victims of Crimes other than Abuse, Neglect, Domestic Violence, Rape, Attempted Rape, Sexual Assault or Incest](#)[Section 20 – Disclosures by Whistleblowers](#)[Section 21 – Substance Abuse/Treatment Information](#)[Section 22. Minors](#)[Section 23 – Patient Request to Amend Record](#)[Section 24- Fees for Copies of Medical Records Requested by 3<sup>rd</sup> Party On Its Own Behalf](#)[Section 25 – Sanctions](#)

## **PURPOSE**

To establish the procedures for the use and disclosure of Protected Health Information (PHI).

## **SCOPE**

UAMS Workforce

## **DEFINITIONS**

**Designated Record Set** means (i) medical records and billing records; (ii) records used, in whole or in part, to make decisions about patients; and (iii) the enrollment, payment, claims adjudication, and case or medical management record systems.

**Disclosure** means the release, transfer, provision of access to, or divulging of information in any manner (verbally or in writing) by UAMS to persons outside of UAMS or outside the covered components of the UAMS hybrid entity.

**Health Care Operations** is defined by the HIPAA regulations under 45 C.F.R. § 164.501 and is incorporated herein by reference, and includes the following:

1. Quality assessment and improvement, including outcomes evaluation and development of clinical guidelines; population-based activities relating to improving health or reducing health care costs, protocol development, case management and case coordination, contacting providers and patients with information about treatment alternatives; and related functions that do not include treatment.
2. Accreditation, certification, licensing or credentialing activities, reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of non-health care professionals.
3. Conducting or arranging for medical review, legal services and auditing.
4. Business planning and development related to managing and operating the entity.
5. Business management and general administrative activities, such as fundraising and marketing of services to the extent permitted without Authorization, disclosure of PHI in a due diligence review or to resolve internal grievances, and customer service.

**Health Oversight Agency** is an agency or authority of the United States or a State that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant. Oversight activities of such agencies may include but are not limited to audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; and civil, administrative, or criminal proceedings or actions. Such an agency or authority includes a person or entity acting under a grant of authority from or contract with such public agency, the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority. Examples of a Health Oversight

Agency include the United States Department of Health and Human Services, the Office for Civil Rights (OCR), the Office of Inspector General (OIG), and Centers for Medicare and Medicaid Services (CMS).

**Public Health Authority** is an agency or authority of the United States government or a State government that is responsible for public health matters as part of its official mandate. Such an agency or authority includes a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority. Examples of a public health authority include the Arkansas Department of Health, the Food and Drug Administration (FDA), the Centers for Disease Control and Prevention, and the Occupational Safety and Health Administration (OSHA).

**Legal Representative** means the person authorized by law to act on behalf of the patient, such as the parent of a minor, a court-appointed guardian or a person appointed by the patient in a Power of Attorney document.

**Patient Authorization** For purposes of this policy, a patient “Authorization” refers to a valid UAMS HIPAA Authorization or the use of an approved UAMS Authorization form. An Authorization does not include references in this Policy to a “request in writing” from the patient. A “request in writing” from the patient means only that a request in writing from the patient is sufficient and an Authorization is not required.

**Payment** includes billing, reimbursement, and collection activities relating to the provision of healthcare to an individual, including but not limited to, release to an insurance company, insurance plan or other third-party payer in connection with payment activities, eligibility or coverage determinations, disclosures to consumer reporting agencies, healthcare data processing, claims management and other activities as defined by 45 C.F.R. § 164.501 under “payment.”

**Protected Health Information (PHI)** means information that is part of an individual’s health information that identifies the individual or there is a reasonable basis to believe the information could be used to identify the individual, including demographic information, and that (i) relates to the past, present or future physical or mental health or condition of the individual; (ii) relates to the provision of health care services to the individual; or (iii) relates to the past, present, or future payment for the provision of health care services to an individual. This includes PHI which is recorded or transmitted in any form or medium (verbally, or in writing, or electronically). PHI excludes health information maintained in educational records covered by the federal Family Educational Rights Privacy Act, health information about UAMS employees maintained by UAMS in its role as an employer and health information regarding a person who has been deceased for more than 50 years.

**Psychotherapy Notes** means notes recorded (in any medium) by a health care provider who is a Mental Health Professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are separated from the rest of the patient’s medical record. **Psychotherapy Notes do not include** medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of

treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

**Treatment** is providing, coordinating or managing healthcare and related services by one or more providers, including such coordination or management by a provider with a third party; consultation between providers relating to a patient or the referral of a patient for healthcare from one provider to another.

**Use** means the sharing, employment, application, utilization, examination, or analysis within the covered components of the UAMS hybrid entity.

**UAMS Workforce** means for purposes of this Policy, physicians, employees, volunteers, resident/fellows, students, and other persons whose conduct, in the performance of work for UAMS, is under the direct control of UAMS, whether or not they are paid by UAMS.

To access any other terms or definitions referenced in this policy:

<http://hipaa.uams.edu/DEFINITIONS%20-%20HIPAA.pdf>

## **POLICY**

It is the policy of UAMS to protect the privacy and confidentiality of all patient medical records and information contained in the medical records, including the patient's Protected Health Information (PHI), in accordance with applicable state and federal laws and ethical standards. UAMS prohibits persons not authorized by law to obtain access to or copies of a patient's PHI and medical records. UAMS will provide a patient access to, and the right to obtain a copy of, his or her PHI in the patient's Designated Record Set at UAMS for as long as it is maintained in the Designated Record Set and in accordance with this Policy.

Medical records of UAMS patients which are maintained by UAMS, recorded in any form, including data recorded on paper, microfilm, in a computer database or any other medium (e.g., photographs, x-ray films, ECG tracings, videotapes) constitute the property of UAMS. UAMS prohibits the removal of any original medical records from UAMS premises, unless the records are ordered by a court of law or other government authority to be produced in the original form.

## **PROCEDURES**

### **GENERAL INFORMATION:**

#### **I. Verification of Identity/Authority:**

- A. Identity:** In all circumstances, verify the identity of the person to whom you are disclosing PHI, if the person's identity is not known to you, including the identity of the patient.
- B. Authority:** If a person other than the patient is making the request, verify the authority of the person to request a patient's PHI, or to request that a patient's PHI be disclosed to someone else, if the authority is not known to you.
- C. Patient Authorization Using UAMS Authorization Form:** If a patient has signed a valid Authorization that meets the requirements of [Section 9.II.](#) of this policy to disclose his/her

PHI to someone else, then you can follow the Authorization. It is not necessary to verify the authority of the person designated by the patient to receive the information. If a patient's legal representative has signed the Authorization Form, however, the legal representative's authority must be verified. [See "Disclosures to Patient's Legal Representative"](#) and ["Patient Authorization Form"](#) set forth in this Policy for more information.

**D. Minimum Necessary Policy:** All uses and disclosures of PHI must be made in accordance with the *UAMS Minimum Necessary Policy, 2.1.10*.

**II. Patient Directory.** If a person is asking for the information in the UAMS Patient Directory, the person only needs to identify the patient by name, and UAMS may release the location of the patient in our facility, and the patient's general condition described in a one-word statement, such as good, fair, serious or critical, unless the patient has asked us not to. Please refer to *UAMS Release of Patient Directory Information Policy, 2.1.05*.

### **SECTION 1 – DISCLOSURES TO THE PATIENT – No Patient Authorization Required.**

**I.** In general, a patient's PHI may be disclosed to the patient, verbally or in writing, without the requirement of any patient Authorization. If the patient is not known to you, you must verify the identity of the patient prior to disclosing any information.

**II.** Subject to the restrictions and procedures stated in this Policy, a patient has the right to inspect or obtain a copy of their medical records, or PHI maintained in a Designated Record Set, except for the following:

**A.** Psychotherapy notes as defined in this Policy;

**B.** Information compiled in, or for use in, a civil, criminal or administrative action or proceeding

**III.** See ["Patient Request for Access To Or A Copy Of Medical Records"](#) set forth in this Policy for more information.

### **SECTION 2 – FOR UAMS TREATMENT, PAYMENT AND OPERATIONS – No Patient Authorization Required.**

**I.** PHI may be used or disclosed without patient Authorization for UAMS Treatment, Payment and Health Care Operations as defined herein. Such use and disclosure, however, is subject to the requirements of the *UAMS Minimum Necessary Policy, 2.1.10* (limiting the use or disclosure of PHI to the minimum necessary) and the *UAMS Patient Information Restriction Request Policy, 2.1.19* (allowing the patient to restrict the use or disclosure of PHI in certain circumstances). The identity and authority of the person requesting or receiving the PHI must be verified.

### **SECTION 3 – TO ANOTHER HEALTH CARE PROVIDER OR COVERED ENTITY – No Patient Authorization Required Subject to Minimum Necessary Requirements.**

- I. To Other Health Care Provider or Covered Entity for Treatment or Payment:** UAMS may disclose a patient’s PHI, without Patient Authorization, to any other healthcare provider for the treatment and payment activities of that provider which relate to the patient who is the subject of the PHI disclosed, regardless of whether the health care provider is or is not a Covered Entity.
  
- II. To Other Health Care Provider or Covered Entity for Operations:** UAMS may disclose PHI, without Patient Authorization, to any other provider for health care operations of that provider, regardless of whether the provider is or is not a Covered Entity, only if:
  - A. the provider either has or had a relationship with the individual who is the subject of the PHI being requested; and
  - B. the PHI pertains to such relationship; and
  - C. the disclosure is for one of the following two purposes:
    - 1. Quality assessment and improvement, including outcomes evaluation and development of clinical guidelines; population-based activities relating to improving health or reducing health care costs, protocol development, case management and case coordination, contacting providers and patients with information about treatment alternatives; and related functions that do not include treatment.
    - 2. Accreditation, certification, licensing or credentialing activities, reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of non-health care professionals.
  
- III. To a Provider in Organized Health Care Arrangement:** In addition to the disclosures allowed to other providers or covered entities as described above, if the provider/covered entity participates with UAMS in an Organized Health Care Arrangement (as defined by HIPAA), UAMS *also* may disclose PHI, without patient Authorization, to the provider/covered entity for the purpose of any health care operation activities of the Organized Health Care Arrangement. UAMS and ACH (Arkansas Children’s Hospital) participate in an OHCA.

**SECTION 4 – PATIENT REQUEST FOR ACCESS TO OR A COPY OF MEDICAL RECORDS -- No Patient Authorization Required.**

- I. General Policy Relating to Patient’s Request for Access To or Copy of Record:**
  - A. Subject to the restrictions and procedures stated in this Policy, an adult patient for himself or herself, a minor patient who has consented to his or her own treatment, and the legally authorized representative of an adult or minor patient have the right to inspect or obtain a copy of their medical records, or PHI maintained in a Designated Record Set, except for the following:
    - 1. Psychotherapy Notes as defined in this Policy;

2. Information compiled in, or for use in, a civil, criminal or administrative action or proceeding

**B. Authorization Cannot be Required.** UAMS cannot require a patient to complete an Authorization in the following circumstances:

1. When a patient requests records to be sent to him/herself, the request may be verbal or may be in writing. If in writing, the Patient Request for Release of Information from UAMS form may be used. UAMS shall not require a patient to complete and submit an Authorization when a patient requests records to be sent to him/herself.
2. When a patient requests records to be sent to 3<sup>rd</sup> party, the request must be in writing and meet the requirements of [Section 4.III](#) regarding transmitting copies directly to another individual designated by the patient. UAMS shall not require a patient to complete and submit an Authorization when a patient requests records to be sent to a third party. This applies when the request is submitted to UAMS directly by the patient (or legally authorized representative) and also applies when the request to send records to a third party is forwarded to UAMS by a third party on behalf of and at direction of the patient (or legally authorized representative).

**C. Fees for Patient Requests for Records and 3<sup>rd</sup> Party Requests for Patient Records on Behalf of and at Direction of Patient.** The following applies when a patient requests records to be sent to him/herself, or when a patient requests records to be sent to 3<sup>rd</sup> party. This applies when the request is submitted to UAMS by the patient (or legally authorized representative) directly or sent to UAMS by a third party on behalf of and at direction of the patient (or legally authorized representative of the patient).

1. **Permissible fees.** Only the following fees may be charged:
  - (a) labor for copying the record requested, whether in paper or electronic format, such as photocopying paper records, transferring electronic records to a portable mobile device such as a flash drive or thumb drive, attaching records to an email
  - (b) supplies for creating the paper copy or electronic media (CD or USB drive)
  - (c) postage when the patient requests the records be mailed
  - (d) preparation of an explanation or summary of the records if the patient in advance agrees to receive an explanation or summary and agrees in advance to the fee
2. **Calculation of Fees.** The fee that can be charged to patients to provide them with a copy of their records may be calculated in three ways.
  - (a) Actual costs. Actual labor costs may be charged as long as the labor is only for copying and the labor rates are reasonable for such activity. For example, actual labor costs would be the time it takes for the workforce member to make and send the copy of the records in the form and format and manner requested by the patient and multiply the time by the reasonable hourly rate of the person copying and sending the records. In addition to actual labor costs, costs for supplies and postage costs may be charged.

- (b) Average costs. UAMS may develop a schedule of permissible costs for labor based on average labor costs to fulfill standard types of requests for records. Average costs of impermissible labor fees may not be charged. In addition to average labor costs, supply costs and postage costs may be charged.
  - (c) Flat fee for electronic copies of records maintained electronically. UAMS may charge patients a flat fee for standard requests for electronic copies of records maintained electronically provided the fee does not exceed \$6.50, inclusive of all labor, supplies and any postage.
3. **Advance Notice of Approximate Fee.** UAMS must inform the patient in advance of the approximate fee that may be charged for a copy of the records.
  4. **Impermissible fees.** Fees may not include costs associated with labor costs for reviewing the request for records, verification, documentation, labor costs for searching for the records, labor costs for retrieving the records, labor costs for reviewing the records, maintaining systems or other costs even if such costs are authorized by Arkansas law. In addition, per page fees are not permitted for paper or electronic copies of records maintained electronically. Per page fees for copies of records maintained electronically are unreasonable and may not be charged to the patient.

**D. Offices/Departments Responsible for Requests for Access to Records by Patients.** The UAMS Health Information Management/Medical Records Department is responsible for requests for medical records maintained by the UAMS Medical Center. The HIM/Medical Records Department does not maintain records for all UAMS facilities and programs. Refer to the HIM/Medical Records Department for a list of UAMS programs and facilities that maintain separate records.

**E. Form and Format of Records.** UAMS must provide the patient with access to their medical records in the form and format, including electronic, requested by the patient if it is readily producible in such form and format; or, if not, in a readable hard copy form or other form and format as agreed to by UAMS and the patient.

1. **Electronic copies.** If UAMS maintains records requested electronically and the patient requests an electronic copy of such records, UAMS must provide the records requested in the electronic form and format requested by the patient if the records are readily producible in such form and format. If UAMS maintains records requested electronically and the patient requests an electronic copy of such records in a form and format that is not readily producible, then UAMS must provide the records requested in a readable electronic form and format as agreed to by UAMS and the patient.
2. **Summary of Records.** UAMS may provide the patient with a summary of the records requested instead of providing the full records if both of the following two conditions are met: (i) the patient agrees in advance to a summary and (ii) the patient agrees in advance to the fees imposed for a summary.
3. **Explanation of Records.** If UAMS has provided records to a patient and the patient requests an explanation of the records provided, UAMS may provide the patient with an explanation if both of the following two conditions are met: (i) the patient agrees in advance to an explanation of the records and (ii) the patient agrees in advance to the fees imposed for an explanation.

**F. Viewing or copying of current admission records while an inpatient:** Subject to the requirements of this Policy, nursing staff or clinicians may allow patients to view or have a copy of their records as follows:

1. Patients may view their current admission records, as long as:
  - (a) The physician is notified and approves the viewing. Any denial of access must be in accordance with Sections 4 of this policy.
  - (b) The Patient Request for Release of Information from UAMS form or a written request from a patient should be used for a patient to view his/her own record. UAMS may also accept a verbal request from the patient. The patient's verbal request and response to the request must be documented in the patient's progress notes or other appropriate portion of the medical record.
  - (c) If the information that the inpatient wants to view is not in the paper chart and is only available in electronic format, the patient will be referred to the Health Information Management/Medical Records Department. Clinical or Unit staff may also assist the patient with activating the patient's access to the online patient portal to view their PHI.
2. All requests for copies of medical records will be referred to HIM/Medical Records Department except for outlined in Section G below regarding requests for access or a copy of records while an outpatient.
3. **Physicians and nurses**, using their professional judgment, may provide a patient with a limited portion of their records, such as diagnostic results, progress notes, or other records, **without** requiring the patient to obtain the records from HIM/Medical Records Department. In that event, the physician, nurse or other personnel should document in the patient's progress notes or other appropriate place in the medical record the patient's request and the records provided.

**G. Requests for Access/Copy While an Outpatient:** Subject to the requirements of this Policy and using their professional judgment, clinic staff may provide access to or a copy of a limited portion of the patient's record, at their request, under the following circumstances:

1. The patient is requesting only information from the most recent service or diagnostic reports associated with the most recent service; and
2. The patient is requesting information only from that clinical service area; and
3. The patient has provided a written request for the records, or the clinic has made a note in the patient's medical record identifying the records provided to the patient.

**NOTE:** Outpatient areas should avoid copying or printing from any protected health information source from a previous date of service or from a different clinic for release to the patient. Instead, refer the patient to Health Information Management/Medical Records Department, or assist the patient with contacting that office for additional records.

- H. Never Leave Patient Alone With UAMS Record:** When providing a patient or family member access to the patient's medical record, a designated UAMS employee must be present at all times to protect the integrity and confidentiality of the information. Items may not be added to or removed from the medical record.
- I. Questions Regarding Treatment or Amendment of Record:** All questions regarding treatment should be forwarded to the physician or other appropriate healthcare professional. If the patient wants to make an amendment to correct information in his/her medical record, an Amendment Request form must be completed in accordance with *UAMS Patient's Request to Amend Medical Records or PHI, 2.1.17*.
- J. Viewing or copying of patient's previous medical records: Refer to Medical Records Department and Written Request Required.** If a patient requests access to or a copy of his/her medical records, or PHI maintained in a Designated Record Set, the patient will be referred to Health Information Management/Medical Records Department and the request for such records must be in writing. The records will be copied according to this Policy and the HIM/Medical Records Department Release of Information policy. Requests to review medical records in person require an advance appointment.
- II. Family of Patient Viewing or Having Copy of Medical Record:** Generally, if the patient is requesting that family or another designee view or have a copy of the patient's record, a Patient Request for Release of Information from UAMS form must be signed by the patient. See also ["Disclosures to Spouse/Family/Friends Involved in Patient's Care"](#) section of this Policy. However, using professional judgment, if UAMS determines that it is appropriate, a patient's designee may pick up records on the patient's behalf or receive electronic access at the patient's written request. When a patient requests that their family member or designee pick up records on their behalf, the request must be documented in writing and the documents must be placed in a sealed envelope with the patient's name on it. When a patient requests that their family member or designee access their records electronically, a Patient Request for Information form should be obtained or the family member or designee referred to HIM.
- III. Transmitting copies directly to another individual designated by the patient:** The patient may direct UAMS to transmit a copy of their record to another person or entity designated by the patient. A third party may forward a request for records on behalf of and at the direction of a patient directing that the records be sent to the third party. The request must be in writing, signed by the patient and clearly identify the designated person or entity and where to send the copy of the records. For purposes of complying with a request in writing, the [Patient Request for Release of Information From UAMS](#) may be used. A HIPAA Authorization is not required for patients to direct a copy of their records be sent to a third party. If a request sent by a third party is unclear whether the request is at the direction of the patient, UAMS may clarify with the patient whether the request for records was directed by the patient. If a third party is requesting records on its own behalf (not on behalf of the patient and at the direction of the patient), the third party must submit a HIPAA Authorization.
- IV. Timeliness of Response to Request for Access To or Copy of Record:** UAMS will act on a patient's request for access to or a copy of a medical record within thirty (30) days after receipt of the request. Thirty (30) days is an outer limit and UAMS should act on requests

for access to or copies of records before 30 days, when possible. This time limit may be extended for an additional thirty (30) days if UAMS sends the person a written statement of the reason for the delay and the date when the party can have the information. Only one 30 day extension is allowed. UAMS should date-stamp the first page of any written request or otherwise indicate when the request was received by UAMS. All written requests and Authorizations must be stored in the patient's record. Even if UAMS receives duplicate requests, all such requests must be stored in the patient's record.

- A. If the request is granted, in whole or in part, UAMS will inform the requesting party of acceptance and provide the access requested.
- B. If the request is denied, in whole or in part, UAMS will provide a written denial to the patient in accordance with this policy.

**V. Denial of Access/Copy Without Opportunity to Review:** UAMS may deny access to or a copy of PHI without providing an opportunity for the patient or personal representative to review the denial in the following circumstances:

- A. The PHI is exempt from right to access as set forth in [Section 4.I.A.](#) above.
- B. If UAMS is acting under the direction of a correctional institution, an inmate's request to obtain PHI, if obtaining such information would jeopardize the health, safety, security, custody, or rehabilitation of the inmate or other inmates, or the safety of any officer, employee, or other person at the correctional institution or the person transporting the inmate.
- C. The PHI was created or obtained during a research study that involves treatment of the patient and the patient agreed not to access the PHI until the study is concluded and UAMS informed the patient that the right to access the PHI will be reinstated when the study is concluded.
- D. If UAMS received the PHI from someone other than a health care provider and promised to keep the PHI confidential and allowing access would be likely to reveal the source of the information.
- E. All denials of access/copies by the patient or Legal Representative to the patient or Legal Representative must be approved by the HIPAA Office.

**VI. Denial of Access/Copy with Opportunity to Review:** In the following circumstances, UAMS may deny access to or a copy of PHI. However, the patient has the right to have the denial reviewed by a licensed healthcare professional designated by UAMS, who was not involved in the original decision to deny the request.

- A. A licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the patient or another person. This ground for denial applies in extremely rare circumstances. General concerns about the psychological or emotional harm are not sufficient to deny access. For example, concerns that the patient will not be able to understand the information or may be upset by it are not sufficient to deny access. Concerns based on the mere possibility of harm are not sufficient to deny access.

- B. The PHI makes reference to another person (other than a health care provider) and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person
- C. Requests made by a personal representative where a licensed health care professional has determined, in the exercise of professional judgment, that the providing the records requested to such personal representative is reasonably likely to cause substantial harm to the patient or another person.
- D. All denials of access/copies by the patient or Legal Representative to the patient or Legal Representative must be approved by the HIPAA Office.

**VII. Response to Patient if Request to Access/Copy is Denied:** UAMS will comply with the following when denying access to PHI:

- A. If possible, exclude the parts to which UAMS has grounds to deny access and allow access to the rest of the PHI.
- B. Provide a timely written denial to the requesting party containing:
  1. The basis for the denial;
  2. A statement of the patient’s review rights, including a description of how the patient may exercise such review rights; and
  3. A description of how the patient may complain to UAMS or to the Secretary of U.S. Department of Health and Human Services as specified in the UAMS Notice of Privacy Practices.

If UAMS does not maintain the records but knows where the information is maintained, UAMS must inform the patient where to direct the request for access.

**VIII. Review of Denial of Access.** If access to records is denied on a ground permitted under section VI, the patient has the right to have the denial reviewed by a licensed health care professional designated by UAMS to act as a reviewing official and who did not participate in the original decision to deny. UAMS must promptly refer any request for a review to the designated licensed healthcare professional. The designated licensed healthcare professional must determine within a reasonable time, whether or not to uphold the denial based on a ground permitted under [section VI](#). UAMS will promptly provide written notice of the review decision to the patient and take other action as required to carry out the determination of the designated reviewing official.

**SECTION 5 – DISCLOSURES TO PATIENT’S LEGAL REPRESENTATIVE – No Patient Authorization Required, but Must Be Authorized By Law.**

- I. **Patient’s Legal Representative:** Except as provided by this Policy, UAMS must treat a patient’s Legal Representative as the patient for purposes of the use and disclosure of the patient’s PHI. The following determinations must be made in considering whether a person is a Legal Representative authorized by law to act on behalf of the patient:
  - A. The person is authorized by law to consent on behalf of the patient to surgical or medical treatments or procedures, such as:

1. Parent of their minor child; [See "Minors" Section of this Policy](#)
2. Court-appointed Guardian of a minor;
3. Court-appointed Guardian of an elderly or incapacitated person;
4. Appointed by the patient to act as their attorney-in-fact in a Durable Power of Attorney with health care rights;
5. Appointed by the patient in a Health Care Proxy;
6. An adult for his or her minor sibling;
7. A person authorized by Ark. Code Ann. § 20-9-602 to verbally or otherwise consent to treatment/procedures suggested/directed by physician for the following persons of “unsound mind”:
  - (a) any parent, whether an adult or a minor, for his or her adult child of unsound mind whether the child is of the parent's blood, an adopted child, a stepchild, a foster child not in custody of the Department of Human Services, or a preadoptive child not in custody of the Department of Human Services; or
  - (b) any adult, for his or her adult sibling of unsound mind; or
  - (c) during the absence of a parent so authorized and empowered, any maternal grandparent and, if the father is so authorized and empowered, any paternal grandparent, for his or her minor grandchild or for his or her adult grandchild of unsound mind;
  - (d) spouse of the patient of unsound mind;
  - (e) adult child for parent of unsound mind.
8. A surrogate who has been designated to make health care decisions if the patient becomes incapacitated. A surrogate must be designated by either an adult patient or by the attending physician in accordance with *UAMS Medical Center ML.1.01 Informed Consent Policy*.
9. Court-appointed Administrator or Executor of the Estate of a deceased patient. A guardianship or a power of attorney (or any other grant of authority by the patient) is no longer effective upon death. No will is effective until probated.
10. An individual who is able to provide a copy of an affidavit that has been filed with the court in accordance with Ark. Code Ann. §28-41-101 indicating that the individual is a distributee of a small estate of a deceased patient. The affidavit must indicate it has been filed with the court.
11. A person authorized by Ark. Code Ann. 20-17-202 to obtain information for persons who are terminally ill or permanently unconscious: The person must be appointed as a health care proxy in a declaration signed by the patient and witnessed by two people pursuant to Ark. Code Ann. 20-17-202.
12. A person authorized by Ark. Code Ann. 20-17-214 to obtain information for persons who are Incapacitated and there is no health care proxy or other authority. For a patient who, in the opinion of the attending physician is no longer able to make health care decisions (must get statement from physician), then the first of the following individuals or category of individuals who exist and are reasonably available for consultation may act as Legal Representatives (the first applicable person down the list):

- (a) A legal guardian of the patient, if one has been appointed;
- (b) In the case of an unmarried patient under the age of eighteen (18), the parents of the patient;
- (c) The patient's spouse;
- (d) The patient's adult child, or, if there is more than one (1), then a majority of the patient's adult children participating in the decision;
- (e) The parents of a patient over the age of eighteen (18);
- (f) The patient's adult sibling, or, if there is more than one (1), then a majority of the patient's adult siblings participating in the decision;
- (g) Persons standing in loco parentis to the patient;
- (h) A majority of the patient's adult heirs at law who participate in the decision.

**II. Scope of Legal Representative's Authority:** In general, the scope of a legal representative's authority to act for the patient derives from his or her authority under applicable law to make health care decisions for the patient. A legal representative may have broad authority to make health care decisions for the patient, such as a parent for a minor child or legal guardian of the person of a mentally incompetent adult. When a legal representative has such broad authority, then UAMS must treat the legal representative as the patient with respect to use and disclosures of the patient's health information and with respect to the patient's rights, such as the right to authorize the release of the patient's health information to a third party. A scope of the legal representative's authority to act for the patient may be limited or specific to particular health care decisions. Where the legal representative's authority is limited or specific to particular health care decisions, the legal representative should be treated as the patient only with respect to protected health information that is relevant to the representation. For example, a person who is health care power of attorney for a patient who can only consent to treatment is the patient's legal representative only with respect to protected health information that related to that health care decision. Such person appointed as the patient's health care power of attorney cannot sign an authorization for the release and disclosure of the patient's protected health information for marketing purposes. Releasing and disclosing the patient's protected health information for marketing purposes would be outside the scope of the authority of the health care power of attorney.

**III. Verification of Identity/Authority:** UAMS will request verification of the identity of the Legal Representative, if not known, and the authority of the Legal Representative to act on behalf of the patient, if not known. If no evidence of his/her authority is available in the record or otherwise, such as a copy of the court order, the Power of Attorney or any other written documentation evidencing their authority, UAMS will request a copy from the Legal Representative. *See UAMS Policy 2.1.22, Verification of Identity and Authority to Receive PHI.*

**IV. Do Not Provide PHI if Suspected Harm by the Representative:** A provider is not required to treat a person as the Legal or Personal Representative of the patient for purposes of disclosing PHI if the provider has a reasonable belief that the patient has been or may be subjected to violence, abuse or neglect by the person acting as a Legal/Personal

Representative, it could endanger the patient, and, in the exercise of professional judgment, a provider decides it is not in the best interest of the patient to treat the person as the patient's Legal Representative.

**SECTION 6 – DISCLOSURES TO SPOUSE/FAMILY/FRIENDS INVOLVED IN PATIENT'S CARE – No Patient Authorization, but Special Circumstances Must Exist.**

**I. Verification of Identity:** The identity of the patient and the person receiving the PHI must be verified. In making verification decisions in circumstances involving a spouse, family and friends involved in the patient's care, UAMS may rely on the exercise of professional judgment of its staff to determine a person's identity.

**II. When Patient Present (in person or on phone): Can disclose to Spouse, Family, close personal Friend or any other person identified by the patient only under the following circumstances:**

**A.** The person is involved in the patient's care; and

**B.** One of the following circumstances exists:

1. Patient has agreed (verbally on phone or otherwise); or
2. Patient does not object when provided opportunity to do so; or
3. You can reasonably infer from circumstances that the patient does not object (such as when patient brings family member into examination room); or
4. There is a medical emergency.

PHI disclosed in these circumstances must be limited to PHI that is directly relevant to person's involvement with the patient's care or payment; or to notify them of patient's location, one-word statement of general condition, or death.

**III. When Patient is NOT Present (in person or on phone), then we may:**

**A.** If UAMS determines that disclosure is in the best interest of the patient, then UAMS may disclose (by phone or otherwise) to spouse/family/friends or other person previously identified by the patient involved in patient's care, PHI that is directly relevant to the person's involvement with the individual's health care or payment.

**B.** UAMS may use professional judgment and experience with common practice to make reasonable inferences of the patient's best interest in allowing a person to act on behalf of the patient, such as picking up filled prescriptions, medical supplies, X-rays or other similar forms of PHI. [See also Section 4. II. Family of Patient Viewing or Having Copy of Medical Record](#)

**IV. When Patient Cannot Agree/Object Because of Patient's Incapacity or an Emergency Circumstance, then we may (in person or on phone):**

- A. Disclose the PHI permitted for the facility directory (name, location and one-word statement of general condition), but only if this is consistent with a prior expressed preference of the patient and it is in the patient's best interest to do; and
- B. Disclose to spouse/family/friends involved in patient's care PHI that is directly relevant to the person's involvement with the individual's health care or payment if we determine that disclosure is in the best interest of the patient; and
- C. UAMS may use professional judgment and experience with common practice to make reasonable inferences of the patient's best interest in allowing a person to act on behalf of the individual, such as picking up filled prescriptions, medical supplies, X-rays or other similar forms of PHI. [See also Section 4.II Family of Patient Viewing or Having Copy of Medical Record](#)

**V. When Patient is deceased, then we may disclose to Spouse, Family, Friend, or any other person identified by the patient who were involved in the patient's care or payment for health care prior to the patient's death, protected health information of the patient that is relevant to such person's involvement, unless doing so is inconsistent with any prior expressed preference of the patient that is known to UAMS.**

**SECTION 7 – NOTIFICATION PURPOSES – Disclosures To Family, Legal Representative Or Another Person Responsible For The Care Of The Patient For Notification Purposes - No Patient Authorization, But Special Circumstances Must Exist.**

- I. When the patient is present in person or on phone, UAMS may use or disclose PHI to notify, or assist in the notification of (including identifying or locating), a family member, a personal representative of the patient, or another person responsible for the care of the patient of the patient's location, general condition, or death. When the patient is present or otherwise available on the phone prior to a use or disclosure for notification purposes and has the capacity to make health care decisions, UAMS may use or disclose PHI to family, legal representative or another person responsible for the care of the patient for notification purposes if it:
  - A. obtains the patient's agreement; or
  - B. provides the patient with the opportunity to object to the disclosure, and the patient does not express an objection; or
  - C. reasonably infers from the circumstances, based on the exercise of professional judgment, that the patient does not object to the disclosure.
- II. When the patient is not present, or the opportunity to agree or object to the use or disclosure cannot practicably be provided because of the patient's incapacity or an emergency circumstance, UAMS may, in the exercise of professional judgment, determine whether the disclosure is in the best interests of the patient and, if so, disclose only PHI needed for notification purposes.
- III. When the patient is deceased. If the patient is deceased, UAMS may disclose to a family member, relative or friend who was involved in the individual's care or payment for health care prior to the individual's death, PHI of the patient that is relevant to such person's

involvement, unless doing so is inconsistent with any prior expressed preference of the patient that is known to UAMS.

## **SECTION 8 – USES AND DISCLOSURE FOR DISASTER RELIEF PURPOSES.**

UAMS may use or disclose PHI to a public or private entity authorized by law or by its charter to assist in disaster relief efforts, for the purpose of coordinating with such entities to notify, or assist in the notification of (including identifying or locating), a family member, a personal representative of the individual, or another person responsible for the care of the individual of the individual's location, general condition, or death. If the patient is present the requirements set forth in [sections 7.I](#) of this policy must be met regarding notification purposes when the patient is present. If the patient's provider, in the exercise of professional judgment, determines that the requirements set forth in [section 7.I](#) regarding notification purposes section when patient is present interfere with the ability to respond to the emergency circumstances, such requirements do not need to be met. If the patient is not present, the requirements set forth in [section 7.II](#) of this policy regarding notification purposes when the patient is not present must be met. If the patient's provider, in the exercise of professional judgment, determines that the requirements set forth in [section 7.II](#) regarding notification purposes when the patient is not present interfere with the ability to respond to the emergency circumstances, such requirements do not need to be met. If the patient is deceased, UAMS may disclose to a family member, relative or friend who were involved in the individual's care or payment for health care prior to the individual's death, PHI of the individual that is relevant to such person's involvement, unless doing so is inconsistent with any prior expressed preference of the individual that is known to the covered entity. If the patient's provider, in the exercise of professional judgment, determines that the requirements set forth in [section 7.III](#) regarding notification purposes when the patient is deceased interfere with the ability to respond to the emergency circumstances, such requirements do not need to be met.

## **SECTION 9- PATIENT AUTHORIZATION FORM**

- I.** Except as stated in this Policy and consistent with the requirements of federal and state law UAMS will not provide access to or disclose PHI without the Patient's Authorization. Prior to disclosure, the presence of all Authorization elements and the identity of the requestor will be verified.
- II. Requirements of Authorization:** For an Authorization from a patient or the patient's Legal Representative to be valid, it must be written in plain language, and contain the following elements:
  - A.** A specific description of the information to be used or disclosed.
  - B.** The persons, or class of persons, authorized to make the requested use or disclosure.
  - C.** The name (or other specific identification) of the persons, or class of persons, to whom UAMS may disclose the records.

- D. A description of each purpose of the requested use or disclosure.
- E. An expiration date or expiration event. If the Authorization is for research purposes, the Authorization may state that the Authorization does not expire, that there is no expiration date or event, or that the Authorization continues until the “end of the research study”.
- F. A statement that the person can revoke the Authorization in writing, the process for revoking the Authorization, and a statement that the person cannot revoke Authorization for records already released in reliance upon the Authorization.
- G. A statement that UAMS will not condition treatment or payment on the whether the individual signs the Authorization, unless the Authorization is for research purposes, and then UAMS may condition research-related treatment upon the signing of the Authorization.
- H. A statement that records or information in the records released might be redisclosed by the person receiving them and will not be covered under the federal privacy laws.
- I. Signature of the patient and date; and
- J. If the Authorization is signed by a Legal Representative of the patient, a description of the Representative’s authority to act for the patient, (e.g., “parent of a minor,” “Court-appointed guardian,” “health care proxy,” “pursuant to appointment under Power of Attorney.”)

**III. Defective Authorizations.** An Authorization is not valid if the document submitted has any one of the following defects:

- A. The expiration date has passed or UAMS knows the expiration event has occurred
- B. The Authorization is not filled out completely with respect to a required element set forth in [Section 9.II](#) above.
- C. UAMS knows the Authorization has been revoked
- D. The Authorization does not meet the requirements regarding combining authorizations set forth in this [Section 9](#).
- E. The Authorization does not comply with the requirements regarding conditioning Authorizations set forth in this [Section 9](#).
- F. UAMS knows any material information in the Authorization is false

**IV. Authorizations Requested by UAMS:** If UAMS requests a written Authorization from the patient to release records, the Authorization must contain those elements in Paragraph II above.

**V. Combining Authorizations:** The Authorization may not be combined with any other document except as follows:

- A. A patient Authorization for use and disclosures created for a research study may be combined with any other type of written permission for the same research study, such as consent to participate in the research study; or
- B. A patient Authorization for a use or disclosure of Psychotherapy Notes may only be combined with another Authorization for a use or disclosure of Psychotherapy Notes.

- VI. Conditioning:** UAMS will not condition provision of treatment or payment on obtaining patient Authorization to use or disclose PHI except under the following circumstances:
- A. Research related treatment; or
  - B. Provision of health care solely for the purpose of creating PHI for disclosure to a third party, for example pre-employment physicals.
- VII. Continuing Effect of Authorization:** A valid Authorization shall be effective for the release of PHI for 90 days from the date it is signed unless the Authorization specifies a different period of time, or the patient or patient's Legal Representative later revokes the Authorization.
- VIII. Patient's Revocation of Authorization:** The patient has the right to revoke/cancel his or her Authorization previously given to UAMS. The revocation must be in writing, signed by the patient, and delivered to the Medical Records Department of the appropriate UAMS clinic or to the UAMS Health Information Management office. The revocation will not apply to records already released in reliance upon the Authorization.
- IX. Photocopies of Authorization:** A photographic copy or facsimile of a signed Authorization may be accepted, as long as the Authorization otherwise meets the requirements of this Policy.
- X. Provide Copy of Authorization to Patient/Patient's Representative:** When patient or patient's Legal Representative signs an Authorization for Release of Information Form, a copy of the signed form must be provided to the person signing the form.
- XI. Authorization for Release of Decedent's Records:**
- A. An Authorization to release PHI of a deceased person can be signed by the following:
    - 1. The patient, prior to death;
    - 2. The parent of a deceased minor;
    - 3. A person appointed by a court to act on behalf of the estate of the deceased, such as an Executor or Administrator. If the Authorization is signed by a person stating he or she has been appointed by a court to act on behalf of the estate of the deceased, a copy of the court order is required;
    - 4. An individual who provides a copy of an affidavit that has been filed with the court in accordance with Ark. Code Ann. §28-41-101 indicating that the individual is a distributee of a small estate of a deceased patient. The affidavit must indicate it has been filed with the court.
  - B. Request for autopsy results only, may be provided to the patient's next of kin in the following order:
    - 1. Executor or administrator of the estate;
    - 2. The decedent's spouse;

3. An adult child of the decedent; or
  4. A parent of the decedent.
- C. Requests for copies of deceased patient records by spouse, family members, or other individuals involved in the patient's care or payment for care should be referred to the Health Information Management Department for processing.
- D. If the request for the release of the records is for the purpose of providing treatment to a surviving relative of the deceased individual, the records may be released to the relative's physician without an Authorization.
- E. An Authorization is not required for the release of records regarding a person who has been deceased for more than 50 years.
- XII. Authorization for Unemancipated Minor:** Generally, an Authorization for release of PHI concerning a minor (under 18 years of age) who is not emancipated and who did not consent to their own treatment may be given by either parent, unless a court order specifies otherwise.
- XIII. Authorization of Emancipated Minor:** An Authorization for release of PHI concerning a minor (under 18 years of age) who is emancipated can only be given by the patient himself.
- XIV. Authorization by One Standing in Loco Parentis:** An Authorization for release of PHI concerning a minor (under 18 years of age) who is emancipated may be given by an adult who stands "in loco parentis" to the minor. (A person standing "in loco parentis" is one who is responsible for providing all support for the minor.)
- XV. Keep Authorization in Record:** The original or a copy of every Authorization to release PHI will be maintained as a permanent part of the medical record. Copies of revoked Authorizations will be clearly marked "revoked" and maintained in the record.
- XVI. Refusal to Honor Authorization:** UAMS may refuse to honor an Authorization in the following situations:
- A. When there is a question as to the identity or authority of the person requesting release of the records;
  - B. When there is a doubt that the person requesting the information is the person named in the Authorization;
  - C. If UAMS has knowledge that the person who signed is not legally capable of signing it;
  - D. When there is a question as to the legal guardian of a minor or incompetent patient;
  - E. When there is a reason to know the patient may not want the Authorization honored;
  - F. When there is any question as to the authenticity of the signature of the patient or person signing on behalf of the patient;
  - G. When the requirements of this policy have not been met; or
  - H. See [Sections 4, VII](#) and [VIII](#) for further circumstances when UAMS may refuse to honor an Authorization.

**SECTION 10 - DISCLOSURE OF INFORMATION OUTSIDE UAMS FOR PURPOSES UNRELATED TO TREATMENT, PAYMENT AND OPERATIONS.**

- I. General Rule Concerning Disclosure Outside UAMS:** UAMS may not release PHI and other Confidential Information externally unless it is in accordance with UAMS policies and consistent with federal, state and local laws, rules and regulations.
- II. Verification:** UAMS will verify the identity and authority of the person requesting PHI.
- III. Disclosure of Information to Attorneys:** PHI shall not be released to an attorney unless the request is accompanied by a proper Authorization or other written request in accordance with this policy.
  - A.** If an attorney is requesting records and the request is not on behalf of and at the direction of a patient, then an Authorization, court order, or subpoena is required. An example may be when the patient is a party in a litigation matter and the attorney requesting the records is representing the party who is opposing the patient in the litigation matter.
  - B.** If an attorney requests records on behalf of and at the direction of a patient, then a written request is required. The request must be in writing, signed by the patient and clearly identify the designated person or entity and where to send the copy of the records. An Authorization is not required in these circumstances. An example may be when the patient is involved in a litigation or other matter filed in a court and the attorney requesting the records represents the patient. See the [Section 4.III](#) regarding transmitting copies directly to another individual designated by the patient.
- IV. Disclosure of Information to the News Media:** All requests for releases of PHI to the news media should be referred to the UAMS Office of Communications and Marketing.
- V. Disclosure of Information to Patient's Employer:** PHI shall not be released directly to a patient's employer unless the request is accompanied by a proper Authorization from the patient, and the request meets the applicable requirements of this Policy. If you are providing PHI directly to the patient for the patient to provide to an employer, then the Authorization Form is not required. [See Section 12.VI](#) regarding Workers' Compensation.
- VI. Disclosure of Immunization Information to Schools:**
  - A.** UAMS may disclose to a school proof of immunization regarding a student or prospective student of the school, if
    - 1. The PHI disclosed is limited to proof of immunization; and
    - 2. The school is required by State or other law to have such proof of immunization prior to admitting the individual; and
    - 3. UAMS obtains and documents the agreement to the disclosure from either:
      - (a) A parent, guardian, or other person acting *in loco parentis* if the patient is an unemancipated minor; or
      - (b) The patient, if the patient is an adult or emancipated minor.

**B. Disclosure of Other Information to Schools:** PHI shall not be released to school personnel, such as teachers and administrators, unless the request is accompanied by a proper Authorization as required by this Policy, and the request meets the applicable requirements of this Policy. If you are providing PHI directly to the patient for the patient to provide to a school, then the Authorization Form is not required. For healthcare providers working at a school requesting records for treatment purposes see [Section 10.VI](#).

**VII. Disclosure of Psychotherapy Notes:** UAMS does not maintain Psychotherapy notes in the patient’s general medical record. The use and disclosure of psychotherapy notes is very limited. Psychotherapy notes may be used only by the originator of the notes to carry out treatment, or by UAMS for its own training programs in which students, trainees, or practitioners in mental health learn under supervision to practice or improve their skills in group, joint, family or individual counseling; or for UAMS to defend itself in a legal action or other proceeding brought by the patient, or by UAMS as required by law. All other uses or disclosures of psychotherapy notes require the patient’s Authorization using a separate Authorization form. [An example of an Authorization for Release of Psychotherapy Notes is attached to this Policy](#). See definition of [“Psychotherapy Notes”](#) stated in this Policy and refer to *UAMS Psychotherapy Notes Policy, 2.1.09* for additional information.

**VIII. Medical Records of Adopted Infants:** The persons authorized in a Consent to Adoption or Temporary Guardianship, such as the adoption agency or the adoptive parents’ attorney, may access the medical information and medical records of the infant. Refer to the legal document to determine who is authorized.

**IX. Sale of PHI:** Sale of PHI is prohibited unless the patient signs an authorization that clearly states that the disclosure will result in remuneration to UAMS.

## **SECTION 11 – REQUIRED BY LAW – No Patient Authorization Required.**

**I.** UAMS may use or disclose PHI to the extent required by law, with the condition that:

- A.** the PHI used or disclosed is limited to the relevant requirements of such law;
- B.** the disclosure is made only to the authorities authorized to receive the information; and
- C.** The identity and authority of the person to whom the patient’s PHI is being disclosed must be verified, if not known, prior to the disclosure. See *UAMS Verification of Identity and Authority to Receive PHI Policy 2.1.22*.

**II. Definition: “Required by law”** generally means a requirement in the law that compels an entity to make a use or disclosure of information. For example, some state and federal statutes or regulations require hospitals to report certain health information to the Arkansas Department of Health, the Arkansas Department of Human Services, the Arkansas State Medical Board, the Arkansas State Board of Nursing, the Arkansas Pharmacy Board and Law Enforcement.

**III. Examples:** The following list of reporting requirements stated below is not intended to be all inclusive, but merely to show examples.

- A. Births and Deaths:** Arkansas Department of Health, Division of Vital Records, must receive reports of births and deaths occurring at UAMS, pursuant to Ark. Code Ann. § 20-18-401 and Ark. Code Ann. § 20-18-601, respectively.
- B. Deaths from Suspicious Circumstances, Criminal Conduct or Other:** UAMS must notify the county coroner and the chief law enforcement official of the county and town/city in which a death occurred if UAMS has knowledge of the death, and UAMS suspects that the death occurred as a result of violence, criminal conduct or of any of the other circumstances listed in Ark. Code Ann. § 12-12-315. Also see [Section 16 of this Policy](#) for partial list.
- C. Disease and Disease Prevention:** Arkansas Department of Health must receive reports of a positive test at UAMS for the presence of conditions or diseases identified by statute such as the reporting of sickle cell anemia, and any case or suspected case of Reye's syndrome. Immunizations given to persons under 22 years old must be reported to the Arkansas Department of Health. Ark. Code Ann. §§ 20-15-302, 20-15-401, 20-15-1203.
- D. Sudden Infant Death Syndrome:** The County Coroner must receive reports of the sudden death of a child between the ages of one (1) week and one (1) year who appeared in apparent good health, as required by Ark. Code Ann. § 20-15-502. If the County Coroner is unavailable, the report is made to the County Sheriff. The County Coroner or County Sheriff reports the death to the Arkansas Department of Health.
- E. Child Maltreatment/Abuse/Neglect:** The DHS Arkansas Child Abuse Hotline must receive reports if any health care professional or medical personnel at UAMS has reasonable cause to suspect that a child under 18 years of age has been subjected to maltreatment, abuse, neglect, sexual exploitation or abandonment; and the Arkansas Department of Human Services and Law Enforcement Officials shall have access to medical records, photographs or videotapes relating to the existence or extent of the maltreatment, abuse or neglect. Ark. Code Ann § 12-12-506 through § 12-12-508. [See Section 16.VII.](#)
- F. Abuse of Elderly, Endangered or Impaired Adult:** The Arkansas Department of Human Services (including the Office of Long Term Care), the Office of Attorney General, the County Prosecutor, the County Coroner, and the Adult Abuse Hotline are entitled to receive information if any health care professional or employee of UAMS has reasonable cause to suspect the abuse or neglect of an endangered or impaired adult or an adult residing in a long-term care facility and shall have access to the medical records or other information requested in connection with the investigation of suspected abuse or neglect. Ark. Code Ann. § 5-28-203, § 5-28-204, and § 5-28-209. [See Section 16.VIII.](#)

NOTE: For information regarding reports of Adult Abuse not required by law, see [Section 17.](#)

- G. Intentional Infliction of Knife or Gunshot Wounds and Burns Connected to Criminal Activity:** The Office of the County Sheriff and the City Police are entitled to receive information in connection with all cases of knife or gunshot wounds treated by UAMS or while in UAMS, if the wounds appear to have been intentionally inflicted and burn wounds that could reasonably be connected to criminal activity and meet the requirement of Ark. Code Ann. § 12-12-602.

- H. Venereal Disease:** The Division of Health Maintenance of the Arkansas Department of Health must be notified when a laboratory examination determines that a specimen from a human body yields microscopical, cultural, serological, or other evidence suggestive of a venereal disease. Ark. Code Ann. § 20-16-501.
- I. HIV:** The Arkansas Department of Health must receive reports of any person determined to have AIDS or to have tested positive for HIV. Ark. Code Ann. § 20-15-905 and 20-15-906.
- J. U.S. Department of Health and Human Services:** UAMS must disclose PHI to the Secretary of the U.S. Department of Health and Human Services for purposes of investigating or determining UAMS' compliance with HIPAA regulations.
- K. State Cancer Registry:** UAMS must disclose certain PHI concerning incidents of cancer to the Arkansas Department of Health's State Cancer Registry. Ark. Code Ann. § 20-15-201.
- L. Patients' Right To Know.** When a UAMS healthcare provider changes practice locations, patients are entitled to continuity of care with their healthcare providers and patients should be informed about any change in the practice location of their treating healthcare provider. Healthcare providers are prohibited legally and ethically from abandoning a patient before treatment has been concluded. UAMS must meet the requirements set forth below to maintain the patient's continuity of care with their treating healthcare provider and to ensure that the legal and ethical obligations of the healthcare provider are fulfilled. Such uses and disclosures of PHI are for continuity of care and treatment purposes. Ark. Code Ann. § 20-6-201 *et seq.*
1. When an Attending Physician, Dentist or APRN ("provider") changes practice locations, UAMS must inform patients of the provider's new practice location or contact information, if known, upon request by a patient.
  2. If a provider (Attending Physician, Dentist or APRN) who is terminating its employment relationship or affiliation with UAMS requests information about existing patients (patients the provider has seen within the last 12 months), UAMS must do one of the following within 21 days:
    - (a) give the provider a list of his/her existing patient names and addresses;
    - (b) send a notice with the provider's new practice information to all existing patients after providing a copy of the proposed notice to the provider for review and comment; or
    - (c) post the provider's new practice location information on the UAMS website after providing the healthcare provider with a copy of the proposed posting for review and comment; website postings must remain for 12 months from the last day of employment. Ark. Code Ann. § 20-6-201 *et seq.*
  3. If a provider (Attending Physician, Dentist or APRN) who is terminating its employment relationship or affiliation with UAMS requests a list of upcoming appointments, UAMS must give the provider a list of scheduled patient appointments and the contact information of the patients within 2 business days of the request. Ark. Code Ann. § 20-6-201 *et seq.*

NOTE: UAMS may be required to maintain a record of and document disclosures under this Section in the event a patient requests that UAMS provide an accounting of disclosures of the patient's PHI. See *UAMS Accounting for Disclosures Policy, 2.1.11*.

**SECTION 12 – REPORTING TO AGENCIES or OTHERS AUTHORIZED BY LAW TO RECEIVE THE INFORMATION – No Patient Authorization Required, But Certain Limitations.**

UAMS may use or disclose PHI, without patient Authorization, when required or allowed to do so by law for the purpose of reporting to governmental agencies or other authorized individuals, with the condition that (a) the PHI disclosed is limited to the relevant requirements of such law; (b) the disclosure is made only to the authorities authorized to receive the information; and (c) the PHI disclosed is limited to the minimum necessary required for the intended use or purpose of the information. The release of PHI under these circumstances does not change the requirement to protect and maintain the confidentiality of the patient's PHI.

The identity and authority of the person to whom the patient's PHI is being disclosed must be verified. See *UAMS Verification of Identity and Authority to Receive PHI Policy, 2.1.22*.

- I. Public Health Authorities:** UAMS may disclose PHI to public health authorities authorized by law to receive such information when the disclosure is made in connection with a public health concern, such as for the purpose of preventing or controlling disease, injury, or disability, for the purpose of reporting to the FDA, or to notify persons who may have been exposed to a communicable disease if authorized under state law to do so.
  
- II. Health Oversight Agencies:** Health Oversight Agencies are agencies of the state or federal government, or entities acting under a grant of authority or contract with the public agency, which are authorized by law to oversee the health care system or government programs in which health information is necessary to determine eligibility or compliance. UAMS may disclose PHI to Health Oversight Agencies for health oversight purposes authorized by law, including audits, investigations, inspections, licensure or disciplinary actions, and other activities necessary for appropriate oversight of: (i) the health care system; (ii) government benefit programs for which health information is relevant to beneficiary eligibility; (iii) government regulatory programs for which health information is necessary for determining compliance with program standards; (iv) civil rights laws for which health information is necessary for determining compliance. For example, Medicare and Medicaid, State licensure boards, DHHS Office of Inspector General, and DHHS Office for Human Research Protections or other agencies authorized by law to oversee the health care system. If an investigation or other oversight activity is conducted in conjunction with an oversight activity or investigation relating to a claim for public benefits not related to health, UAMS may disclose PHI to the Health Oversight Agency performing the joint investigation or other oversight activity. Exception: Disclosures to Health Oversight Agencies do not include:
  - A.** an investigation or other activity in which the individual is the subject of the investigation or activity; and
  - B.** such investigation or other activity does not arise out of and is not directly related to: (i) the receipt of health care; or (ii) a claim for public benefits related to health; or (iii)

qualification for, or receipt of, public benefits or services when a patient's health is integral to the claim for public benefits or services; and

- C. the investigation or other activity is not conducted in conjunction with an investigation or other oversight activity relating to a claim for public benefits other than public health benefits.

**III. Coroners and Medical Examiners:** UAMS may disclose PHI to coroners and medical examiners for the purpose of identifying a deceased person, for determining a cause of death, or for coroner or medical examiner to perform other duties authorized by law.

**IV. Funeral Directors:** UAMS may disclose PHI as needed for the funeral director to carry out their duties. UAMS may share PHI prior to, and in reasonable anticipation of, the patient's death.

**V. Organ/Eye/Tissue Donation Organizations:** UAMS may use or disclose PHI to an organ procurement organization or entity engaged in the procurement, banking, or transplantation of cadaveric organs, eyes, or tissue for the purpose of facilitating organ, eye or tissue donation and transplantation.

**VI. Workers' Compensation:** UAMS may disclose PHI regarding a patient's workers' compensation claim only after establishing that such a claim has been filed, and only to the workers' compensation insurance or workers' compensation commission or their designee or other similar programs that provide benefits for work-related injuries or illness without regard to fault.

NOTE: For all such disclosures under this Section, see *UAMS Accounting for Disclosures Policy, 2.1.11.*

### **SECTION 13 - COURT ORDERS, WARRANTS AND GRAND JURY SUBPOENAS – No Patient Authorization Required.**

**I.** UAMS may disclose PHI, without patient Authorization, as directed by the following:

- A. a court order;
- B. a court-ordered warrant; or
- C. a grand jury subpoena.

**II.** The PHI disclosed must be limited to the PHI described in and required by the order, warrant or grand jury subpoena.

**III.** In addition, the PHI must be disclosed only to those persons identified in the order, warrant or grand jury subpoena as persons directed to receive the information.

NOTE: For all such disclosures under this Section, see *UAMS Accounting for Disclosures Policy, 2.1.11.*

## **SECTION 14 – SUBPOENAS and DISCOVERY REQUESTS FROM PARTIES IN LITIGATION – Patient Authorization, Court Order, or Written Assurances Required.**

**I. General.** This Section covers subpoenas and discovery requests from parties in litigation: is Section does not cover subpoenas from a Grand Jury or from Law Enforcement. UAMS may disclose PHI in response to a valid subpoena or in response to a discovery request by parties in litigation only if UAMS also receives any one of the following:

- A. An Authorization signed by the patient or patient’s [Legal Representative](#). [See Section 9 for Authorization Requirements](#).
- B. A court order, or an order of an administrative tribunal such as the Workers’ Compensation Commission. Any disclosures of the patient’s records must be consistent with the court order. See *UAMS Accounting for Disclosures Policy, 2.1.11*.
- C. UAMS may disclose PHI if it receives written assurances and accompanying documentation from the party requesting the information that the parties to the dispute have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute. The qualified protective order must (1) prohibit the parties from using or disclosing the PHI for any purpose other than the litigation or proceeding for which the PHI was requested; and (2) require the return of the PHI to UAMS or destruction of PHI including all copies made at the end of the litigation or proceeding.
- D. UAMS may disclose PHI pursuant to a subpoena, discovery request or other lawful request that is not accompanied by a court order provided that written assurances that patient was notified of the subpoena for the patient’s records, and the patient does not object to the production of the records, or the patient’s objections were overruled by the court. To provide such written assurances, the party seeking the patient’s records by subpoena must submit a written statement and documentation to UAMS showing that:
  - 1. reasonable efforts have been made by such party to ensure that the patient has been notified of the subpoena for the patient’s records;
  - 2. the notice to the patient included sufficient information about the litigation or proceeding to permit the patient or patient’s attorney to file objections with the court or administrative tribunal;
  - 3. the time for filing objections has elapsed; and
  - 4. no objections were filed, or if objections were filed, the court or administrative tribunal ordered the disclosure, and a copy of the order should be provided. Any disclosures of the patient’s records must be consistent with the court order.

These written assurances may occur in stages. For example, UAMS may first receive the subpoena, along with documentation showing that a copy of the subpoena was provided to the patient or the patient’s attorney. After the time for filing objections has passed, UAMS may later receive the written assurance that the time for filing objections has passed and the patient did not object. See *UAMS Accounting for Disclosures Policy, 2.1.11*.

**II. Subpoena Without Authorization, Court Order, or Written Assurances:** If a subpoena for patient’s PHI does not include any other authority for releasing the records, such as the

patient's Authorization, a court order, or the written assurances described above, UAMS is not authorized to release the records. The records may not be released; however, the subpoena still requires a response. General Counsel's Office should be notified.

**SECTION 15—ADMINISTRATIVE REQUESTS, ADMINISTRATIVE SUBPOENAS, INVESTIGATIVE DEMANDS OR SIMILAR PROCESS. No Patient Authorization Required, But Certain Limitations.**

- I.** General: UAMS may disclose PHI to law enforcement officials in response to a valid subpoena, Investigative Demand (which is usually headed "Investigative Demand"), or similar process authorized by law, as long as: (a) The information requested is relevant and material to a legitimate law enforcement inquiry; (b) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose from which the information is sought; and (c) de-identified information could not reasonably be used.
- II.** Law Enforcement Official: Law Enforcement Official means an officer or employee of any agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, who is empowered by law to: (1) Investigate or conduct an official inquiry into a potential violation of law; or (2) Prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.
- III.** Examples include: Arkansas Office of Attorney General, the Prosecuting Attorney's Office, Arkansas State Board of Nursing, Arkansas Pharmacy Board, the FBI, and the police, including UAMS police.

NOTE: For all such disclosures under this Section, see *UAMS Accounting for Disclosures Policy 2.1.11*.

**SECTION 16 – LAW ENFORCEMENT GENERALLY (Without Court Order or Warrant, Subpoena, or Other Legal Process) – No Patient Authorization Required, But Certain Limitations.**

- I. Disclosures for Identification and Location of Suspect, Fugitive, Material Witness or Missing Person:**
  - A. PHI Allowed to be Disclosed:** In response to law enforcement's request to identify or locate a suspect, fugitive, material witness or missing person, UAMS may disclose information without patient authorization.
    - 1. Requests may come in the form of a direct request from law enforcement, orally or in writing, or requests by a person acting on behalf of law enforcement, for example, requests by media organization making a television or radio announcement seeking the public's assistance in identifying a suspect.
    - 2. Information disclosed shall be limited to:
      - (a) name and address;

- (b) date and place of birth;
- (c) Social Security Number;
- (d) ABO blood type and rh factor;
- (e) type of injury;
- (f) date and time of treatment;
- (g) date and time of death, if applicable; and
- (h) description of distinguishing physical characteristics, such as weight, height, gender, race, hair/eye color, presence or absence of facial hair, scars, tattoos.

**B. To Identify or Apprehend Escaped Prisoner:** UAMS may, consistent with the law and standards of ethical conduct, use or disclose PHI to law enforcement authorities if UAMS believes in good faith that the use or disclosure is necessary for law enforcement authorities to identify or apprehend an individual where it appears from the circumstances that the individual has escaped from a correctional institution or from lawful custody.

**C. Disclosure Not Allowed:** UAMS may not disclose the following information in response to law enforcement's request or notice for information to identify or locate a suspect, fugitive, material witness or missing person:

- 1. DNA or DNA analysis;
- 2. dental records;
- 3. typing, samples or analysis of body fluids or tissue.

## **II. To Prevent or Lessen Serious and Imminent Threat to Health or Safety:**

**A. Disclosure to Law Enforcement:** UAMS may, consistent with the law and standards of ethical conduct, use or disclose PHI to a Law Enforcement Official, without patient Authorization or other authority, if UAMS believes in good faith that the use or disclosure is:

- 1. necessary to prevent or lessen a serious and imminent threat to the health or safety of any person or the public;
- 2. and the disclosure is (i) to persons reasonably able to prevent or lessen the threat, such as law enforcement; or (ii) the disclosure is necessary for law enforcement to identify or apprehend an individual because of a statement made by an individual admitting participation in a violent crime that the covered entity reasonably believes may have caused serious physical harm to the victim or where it appears from the circumstances that the individual has escaped from a correction institution or from lawful custody.

**B. Disclosures to Others:** UAMS may, consistent with the law and standards of ethical conduct, use or disclose PHI, without patient Authorization or other authority, if UAMS believes in good faith that the use or disclosure is:

- 1. necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public;
- 2. and the disclosure is (i) to persons reasonably able to prevent or lessen the threat, including the target of the threat; or (ii) the disclosure is necessary for law enforcement

to identify or apprehend an individual because of a statement made by an individual admitting participation in a violent crime that the covered entity reasonably believes may have caused serious physical harm to the victim or where it appears from the circumstances that the individual has escaped from a correctional institution or from lawful custody.

**III. Admission by Patient of Participation in Violent Crime:** UAMS may, consistent with the law and standards of ethical conduct, use or disclose certain PHI to law enforcement authorities if UAMS believes in good faith that the use or disclosure is necessary for law enforcement authorities to identify or apprehend an individual because of a statement made by an individual admitting participation in a violent crime that UAMS reasonably believes may have caused serious physical harm to the victim. (See “[Exceptions](#)” listed below.)

**A. Limited PHI to be Used/Disclosed:** In such circumstances where there has been an admission by a patient as described above, UAMS may disclose to law enforcement authorities the following information concerning the patient:

1. name and address;
2. date and place of birth;
3. Social Security Number;
4. ABO blood type and rh factor;
5. type of injury;
6. date and time of treatment;
7. date and time of death, if applicable; and
8. description of distinguishing physical characteristics, such as weight,
9. height, gender, race, hair/eye color, presence or absence of facial hair, scars, tattoo.

**B. Certain PHI Cannot Be Disclosed:** When a patient admits participation in a violent crime, DNA or DNA analysis, dental records, typing, samples or analysis of body fluids or tissue, or any other PHI may not be disclosed to law enforcement authorities without a court order or warrant or other legal process.

**C. Exceptions -- Use/Disclosure Prohibited:** Such a use or disclosure may not be made if the admission of the patient is learned by UAMS (1) in the course of treatment to affect the propensity to commit the criminal conduct that is the basis for the disclosure, (2) in counseling of therapy of the patient; or (3) through a request by the patient to initiate or to be referred for the treatment, counseling, or therapy to affect the propensity to commit the criminal conduct that is the basis for the disclosure.

**IV. To Report a Crime on UAMS Property:** UAMS may disclose PHI to a Law Enforcement Official if UAMS believes in good faith that the PHI disclosed constitutes evidence of criminal conduct that occurred on the premises of UAMS.

**V. Workforce Members Who Are Victims of Crimes.** A workforce member who is a victim of a crime may disclose PHI to a law enforcement official if the PHI disclosed is about the suspected perpetrator of the crime and the PHI disclosed is limited to the following information:

- A. Name
- B. Address
- C. Date of birth
- D. Social Security Number
- E. ABO blood type and rh factor
- F. Type of injury
- G. Date and time of treatment
- H. Date and time of death, if applicable
- I. Description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or mustache), scars, and tattoos

**VI. Deaths:** UAMS must notify the county coroner, the chief law enforcement official of the county, and the chief law enforcement official of the town/city where the death occurred if UAMS has knowledge of the death and any of the following circumstances appear to exist:

- A. death was caused by violence, homicide, suicide or appears to be accidental;
- B. death resulted from presence of drugs or poisons in the body;
- C. death resulted from drowning;
- D. death resulted from motor vehicle accident or body was found in or near a roadway or railroad;
- E. death occurred in hospital and no previous medical history to explain the death;
- F. death occurred while person in police custody, a jail, or penal institution;
- G. death resulted from fire or explosion;
- H. death of minor indicated child abuse prior to death;
- I. death of minor and no prior medical history to explain the death;
- J. human skeletal remains were recovered or unidentified deceased person was discovered;
- K. death was due to criminal abortion;
- L. manner of death was from other than natural causes;
- M. death was sudden and unexplained;
- N. death occurred at work site; or
- O. death occurred in the home.

See Arkansas Code Ann. 12-12-315 for additional examples.

**VII. Suspected Child Abuse or Neglect:** If there is reasonable cause to suspect that a child has been subjected to abuse/neglect or has died as a result of abuse/neglect, or if a child is observed being subjected to conditions or circumstances that would reasonably result in child abuse/neglect, UAMS must use and disclose PHI for purposes of contacting the Arkansas Child Abuse Hotline and reporting to the authorities authorized by law to receive such information, such as the Arkansas Department of Human Services and other Law Enforcement Officials investigating the suspected abuse/neglect.

**VIII. Abuse of Elderly, Endangered or Impaired Adult:** UAMS must use and disclose PHI to the Arkansas Department of Human Services (including the Office of Long Term Care), the

Office of Attorney General, the County Prosecutor, the County Coroner, or the Adult Abuse Hotline if UAMS has reasonable cause to suspect the abuse or neglect of an endangered or impaired adult or an adult residing in a long-term care facility and these agencies may have access to the medical records or other information requested in connection with the investigation of suspected abuse or neglect.

- A. Informing the victim is required: If UAMS makes a disclosure in the case of abuse of elderly, endangered or impaired adults, UAMS must promptly inform the patient/victim that such a report has been or will be made. See [exceptions](#) below.
- B. You do not have to inform the victim in certain limited circumstances: Informing the patient/victim that UAMS has or will report the suspected abuse/domestic violence is not required if: (1) UAMS believes, in the exercise of professional judgment, that informing the individual would place the individual at risk of serious harm; or (2) UAMS would be informing a Legal Representative of the patient who is authorized by law to act on behalf of the patient (such as a court-appointed guardian), and UAMS reasonably believes the Legal Representative is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interests of the patient/victim.

**NOTE:** [See Section 17 for other cases of abuse or neglect involving adults.](#)

**IX. Other Law Enforcement Purposes:** PHI also may be used and disclosed without patient Authorization in the following circumstances:

- A. For specialized government activities including military and veterans' activities, national security and intelligence activities and protective services for the President and others.
- B. To correctional institutions or law enforcement officials who have custody of an inmate or other individual if PHI of such inmate or other individual is necessary for the provision of health care to such individual, the health and safety of the individual, other inmates, officers or other employees at the correctional institution, the health and safety of officers, employees at the correctional institution or other persons responsible for the inmate's transportation, law enforcement on the premises of the correctional institution, or otherwise necessary for the administration and maintenance of the safety, security and good order of the correctional institution.
- C. If emergency medical care is provided in response to a medical emergency that is not on the premises of UAMS, and disclosure of PHI appears necessary to alert law enforcement to: (a) the commission and nature of a crime; (b) the location of the crime or the victims of the crime; or (c) the identity, description and location of the perpetrator of the crime. If the medical emergency is the result of suspected child abuse or neglect or adult abuse, neglect, domestic violence, rape, attempted rape, sexual assault or incest, this section does not apply. For child abuse and neglect, see [Section 11.III.E](#) and [Section 16.VII](#). For adult victims of abuse, neglect or domestic violence, see [Section 17](#). For adult victims of rape, attempted rape, sexual assault, or incest, see [Section 18](#).

NOTE: For all such disclosures under this Section, see *UAMS Accounting for Disclosures Policy, 2.1.11* and *Minimum Necessary Policy, 2.1.10*.

**SECTION 17 – ADULT VICTIMS OF ABUSE, NEGLECT or DOMESTIC VIOLENCE – Reporting to Authorities Requires Patient Consent.**

- I. Victim’s Consent Required:** Except for the circumstances listed below in “[Exceptions](#),” UAMS must obtain the written or verbal consent of a patient (age 18 or older) whom UAMS reasonably believes to be a victim of abuse or domestic violence before UAMS can report the suspected abuse or domestic violence to a government authority authorized by law to receive such reports, such as the police. (If the government authority authorized by law to receive such reports presents a subpoena, court order or warrant, then refer to the various Sections in this policy regarding subpoenas, court orders and warrants, whichever is applicable.)

The consent may be written or verbal: An Authorization form is not required, but may be used. Once consent is given, information related to the victim’s injuries and alleged crime may be reported to the relevant authorities, in accordance with the *Minimum Necessary Policy, 2.1.10*.

- II. Exceptions:** Victim consent is not required for:

- A. Reports of abuse/neglect of a child under 18. See [Section 11](#) and [Section 16](#).
- B. Reports of abuse/neglect of the elderly or an impaired or endangered adult. See [Section 11](#) and [Section 16](#).
- C. Reports to a law enforcement agency of an injury to an adult may be made in the following circumstances:
  - 1. the health care provider has reason to believe is the result of a battery or other physically abusive conduct, including physical injuries resulting from domestic violence; and
  - 2. the health care provider determines that the report to a law enforcement agency is necessary to prevent serious harm to the injured patient. See Arkansas Code Ann. §12-12-107(b)(2) and *UAMS Medical Center Policy ML.1.05* when health care providers may but are not required to report suspected physical abuse of non-endangered, non-impaired adults to law enforcement.
- D. Disclosures of certain limited information to Law Enforcement to identify or locate a suspect, fugitive, material witness or missing person. [See Section 16](#).
- E. All other disclosures required by law and to the extent that the disclosure complies with and is limited to the relevant requirements of such law (such as reporting deaths, intentional inflicting of gunshot or knife wounds, and other reporting requirements). See [Section 16 entitled “Law Enforcement Generally”](#) and [Section 11 “Required by Law”](#) of this policy for disclosures required by law.
- F. Disclosures made pursuant to a court order, warrant or other similar legal process enforceable in a court or law.

- III. If Victim Incapacitated:** If UAMS is unable to obtain the victim’s consent because the victim is incapacitated, UAMS can disclose the victim’s PHI under the following circumstances:

- A. The disclosure is expressly permitted by statute or regulation; and the Law Enforcement Official represents that:
  - 1. such information is needed to determine whether a violation of law by a person *other than* the victim has occurred, and
  - 2. such information is not intended to be used against the victim; and
  - 3. immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.
  
- B. The disclosure is expressly permitted by statute or regulation, and, in the absence of the representations by a Law Enforcement Official set forth in [subsection A.1, 2 and 3 above](#), UAMS workforce members involved believe that, in the exercise of professional judgment, the disclosure is necessary to prevent serious harm to the individual or other potential victims.

**IV. Informing the Victim of Disclosure/Report:**

- A. Informing the victim is required: If the report is made under above [Section II.C](#), the patient must be notified. If UAMS makes a disclosure with the consent of the patient/victim, as described above, or in the case of abuse of elderly, endangered or impaired adults where consent is not required, UAMS must promptly inform the patient/victim that such a report has been or will be made. See exceptions below.
- B. You do not have to inform the victim in certain limited circumstances: Informing the patient/victim that UAMS has or will report the suspected abuse/domestic violence is not required if: (1) UAMS believes, in the exercise of professional judgment, that informing the individual would place the individual at risk of serious harm; or (2) UAMS would be informing a Legal Representative of the patient who is authorized by law to act on behalf of the patient (such as a court-appointed guardian), and UAMS reasonably believes the Legal Representative is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interests of the patient/victim.

NOTE: If no signed Patient Authorization (HIPAA-compliant) and for all such disclosures under this Section, see *UAMS Accounting for Disclosures Policy, 2.1.11*.

**SECTION 18 -- ADULT VICTIMS OF RAPE, ATTEMPTED RAPE, SEXUAL ASSAULT OR INCEST – Reporting to Authorities Requires Patient Consent.**

- I. UAMS will follow the requirements of Arkansas law, Ark. Code Ann. 12-12-401 through 12-12-405 regarding treatment of victims of rape, attempted rape, sexual assault or incest.
- II. If an adult patient, age 18 years or older, is presented for treatment as a victim of rape, attempted rape, any other type of sexual assault, or incest, the adult patient shall make the decision of whether the incident will be reported to a law enforcement agency. If consent is

given to UAMS to contact law enforcement on behalf of the victim, the consent may be given verbally. A HIPAA-compliant Authorization is not required, but may be used.

- III.** UAMS may not require an adult victim to report the incident in order to receive medical treatment. Evidence will be collected only with the permission of the victim. However, permission to collect such evidence shall not be required in instances where the victim is unconscious, mentally incapable of consent or intoxicated. Once evidence is collected, it will be provided to law enforcement with the permission of the victim.

See the Non-Mandatory Reporting section of *UAMS Medical Center Policy Mandatory Reporting ML.1.05*.

NOTE: If no signed Patient Authorization (HIPAA-compliant) and for all such disclosures under this Section, see *UAMS Accounting for Disclosures Policy, 2.1.11*.

**SECTION 19 – ADULT VICTIMS OF CRIMES OTHER THAN ABUSE, NEGLECT, DOMESTIC VIOLENCE, RAPE, ATTEMPTED RAPE, SEXUAL ASSAULT OR INCEST**  
For adult victims of abuse, neglect or domestic violence, see [Section 17](#)  
For adult victims of rape, attempted rape, sexual assault or incest, see [Section 18](#)

UAMS may disclose PHI in response to a law enforcement official's request for such information about an individual who is or is suspected to be a victim of a crime other than abuse, neglect, domestic violence, rape, attempted rape, sexual assault or incest if the individual agrees to the disclosure.

If UAMS is unable to obtain the individual's agreement due to incapacity or other emergency circumstances, UAMS may disclose PHI in response to a law enforcement official's request for such information about an individual who is or is suspected to be a victim of a crime other than abuse, neglect, domestic violence, rape, attempted rape, sexual assault or incest provided that:

- A. the law enforcement official represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred and such information is not intended to be used against the victim; and
- B. the law enforcement official represents that immediate law enforcement activity that depends upon the disclosure of the PHI would be materially and adversely affected by waiting until the individual is able to agree to the disclosure; and
- C. UAMS determines in the exercise of professional judgment the disclosure is in the best interest of the individual.

## **SECTION 20 - DISCLOSURES BY WHISTLEBLOWERS**

A member of the UAMS workforce may disclose PHI provided that both of the following two conditions are met:

- I.** The workforce member believes in good faith that UAMS has engaged in conduct that is unlawful or otherwise violates professional or clinical standards, or that the care, services,

or conditions provided by UAMS potentially endangers one or more patients, workers, or the public; and

**II.** the disclosure of PHI is to:

- A.** A Health Oversight Agency or Public Health Authority, as such terms are defined in this Policy, authorized by law to investigate or otherwise oversee the relevant conduct or conditions of UAMS or to an appropriate health care accreditation organization for the purpose of reporting the allegation of failure to meet professional standards or misconduct by UAMS; or
- B.** An attorney retained by or on behalf of the workforce member for the purpose of determining the legal options of the workforce member with regard to the conduct that is unlawful or otherwise violates professional or clinical standards, or that the care, services, or conditions provided by UAMS potentially endangers one or more patients, workers, or the public.

## **SECTION 21 – SUBSTANCE ABUSE/TREATMENT INFORMATION – Patient Authorization Requiring Using Substance Abuse Treatment Form.**

- I. Patient Authorization Required:** For patients of the UAMS Substance Abuse Treatment Center or any other UAMS substance abuse treatment program, the patient’s signed Authorization must be obtained before UAMS can disclose any PHI relating to the diagnosis, prognosis, treatment, or referral for treatment in relation to substance abuse (drug or alcohol), including any information which would identify the person as being a patient in such a program, or acknowledgment or confirmation that the person is or was a patient in such a program.
- II.** The UAMS Substance Abuse Treatment Authorization form must be used.
- III. Exceptions:** An Authorization signed by the patient is not required in very limited circumstances, such as pursuant to a court order directing the disclosure of information or records specifically relating to substance abuse. Consult the UA Office of General Counsel for further information in response to a request or subpoena for such information in the absence of a court order or patient Authorization.

## **SECTION 22. MINORS**

- I.** A minor who can consent to their own treatment has the rights of a patient under this policy.
- II. Release of Minors’ PHI to Minors’ “Legal Representative:”** The “Legal Representative” of a minor who has not consented to their own treatment is one who has legal authority to act on behalf of the child, including the authority to make healthcare decisions for the child. Examples are (1) the parent; (2) a court-appointed Guardian; (3) an adult for his or her minor sibling; (4) a person legally acting as a parent (“in loco parentis” – the person has physical custody and supervision of the child, and the child lives with and is supported by the person);

or (5) any other court order providing the person with legal custody or the legal authority to act on behalf of the child.

**III. Exceptions to Providing PHI to Parent or Legal Representative of Minor Child:** UAMS is not required to provide a person who has authority to act on behalf of a minor with the PHI of the minor in the following circumstances:

- A. Court Order:** A court order terminates the parental rights of the parent over the minor child or children. Issues relating to custody do not apply. The court order must specifically terminate the parent's rights.
- B. Not in Best Interest of Child:** UAMS has a reasonable belief that the child has been or may be subjected to domestic violence, abuse or neglect by such person, or if UAMS has a reasonable belief that the person may cause physical or emotional harm to the child, or if UAMS determines in the exercise of professional judgment that it is not in the best interest of the child to release the information.
- C. Biological Father of Child Born Out of Wedlock:** The request for information is by the biological father of a child born out of wedlock, who does not have physical custody of the child, and who is not married to the mother at the time of the request. The biological father must provide a copy of a court order providing the father with legal custody, parental rights or some other authority to act on behalf of the child or to receive information.
- D. Venereal Disease:** The minor has consented to their own treatment for a known or suspected venereal disease. However, the treating physician may release the information to the minors' parents or Legal Representatives if the treating physician determines that the information should be released, even over the objections of the minor. This does not prohibit the confidential reporting of a confirmed case of a venereal disease to the Arkansas Department of Health as required under Arkansas law. All records of such information concerning the minor's known or suspected venereal disease should be maintained in a manner that the user can determine immediately and easily that the records are confidential and are not to be released with the rest of the medical record.

**SECTION 23 – PATIENT REQUEST TO AMEND RECORD.**

- I.** A patient has the right to request UAMS to amend his or her PHI maintained in the Designated Record Set. UAMS is not required to agree to all requests by patients to amend their records. Requests to amend will be referred to the Release of Information Office in Health Information Management/Medical Records Department and processed in accordance with the *UAMS Patient Request to Amend the Medical Record Policy, 2.1.17*.

**SECTION 24- FEES FOR COPIES OF MEDICAL RECORDS REQUESTED BY 3<sup>RD</sup> PARTY ON ITS OWN BEHALF.**

- I.** When a 3<sup>rd</sup> party requests patient records on its own behalf and submits a written Authorization signed by the patient, UAMS may charge a reasonable, cost-based fee for copies of medical records that includes the cost of copying, cost of supplies and labor of copying, and postage, when the patient has requested the copy be mailed. UAMS will not charge more than is allowed by law and pursuant to Ark. Code Ann. § 16-46-106. Such fees do not apply when a patient requests records to be sent to him/herself, or when a patient

directs records to be sent to 3<sup>rd</sup> party. For fees that may be charged for such patient requests (or 3<sup>rd</sup> party requests on behalf of and at the direction of the patient,), see Section 4.I.C.

**SECTION 25 – SANCTIONS**

- I. Violation of this Policy will result in disciplinary action, in accordance with *UAMS HIPAA Sanctions Policy, 2.1.42.*

Signature:  \_\_\_\_\_

Date: September 20, 2017

Place Patient Label Here or  
Print Patient Name  
Account Number



**Authorization for Release of Information TO UAMS**

1. I, \_\_\_\_\_, hereby authorize:

Name/Facility \_\_\_\_\_

Complete Address \_\_\_\_\_  
*Street Address City State Zip*

Phone \_\_\_\_\_ Fax \_\_\_\_\_

2. To release to: UAMS Medical Center  
Dr./Clinic \_\_\_\_\_  
4301 West Markham, Mail # \_\_\_\_\_  
Little Rock, AR 72205  
Phone (501) \_\_\_\_\_  
Fax (501) \_\_\_\_\_

3. Information of:

Patient Name: \_\_\_\_\_ Medical Record No. (if known) \_\_\_\_\_

Date of Birth and/or Social Security No. \_\_\_\_\_ Phone: \_\_\_\_\_

4. Information is to be limited to the following **Dates of Treatment** (if applicable): \_\_\_\_\_

5. Information requested to be released:

\_\_\_\_ Abstract \_\_\_\_ Operative Report \_\_\_\_ ER Record \_\_\_\_ History & Physical \_\_\_\_ Discharge Summary  
\_\_\_\_ Clinic Record \_\_\_\_ Admission Record \_\_\_\_ Physicians' Progress Notes \_\_\_\_ Nurses' Progress Notes  
\_\_\_\_ Other \_\_\_\_\_

6. Purpose of release is at the request of the patient or: \_\_\_\_ Insurance or Other Payment  
\_\_\_\_ Medical Care \_\_\_\_ Other (explain): \_\_\_\_\_

7. This authorization will expire 90 days from the date on which it was signed unless I specify a different time period. Expiration Date or Event: \_\_\_\_\_. I understand that I may revoke this authorization at any time by giving written notice. A revocation of this authorization will not apply to records already released in reliance upon the authorization. A photocopy of this signed authorization shall constitute a valid authorization.

8. I understand that once the above information is disclosed, it may be re-disclosed by the designated recipient and the information may no longer be protected by Federal privacy laws and regulations.

9. Treatment, payment, enrollment or eligibility for benefits will not be conditioned on your signing this authorization.

Signature of Patient or Legal Representative \_\_\_\_\_ Date: \_\_\_\_\_

**If Legal Representative**, authority of Legal Representative \_\_\_\_\_  
(such as parent of a minor, court-appointed guardian, administrator of estate of deceased, attorney-in-fact appointed with power of attorney, or healthcare proxy)

Place Patient Label Here or  
Print Patient Name  
Account Number



**Patient Request for Release of Information from UAMS**

1. I, \_\_\_\_\_, hereby request information of:  
(Patient or the Patient's Legal Representative)

Patient Name \_\_\_\_\_ Medical Record No. (if known) \_\_\_\_\_  
Date of Birth and/or Social Security No. \_\_\_\_\_ Patient Phone \_\_\_\_\_

2. I hereby direct UAMS to release the information requested to:

Name \_\_\_\_\_ Phone \_\_\_\_\_

Complete Address \_\_\_\_\_  
Street Address City State Zip

E-mail \_\_\_\_\_

3. Please select both the format (paper or electronic) you want UAMS to provide the information and the method of delivery (for example, e-mail, mail or you will pick up at UAMS).

**Format:** \_\_\_\_\_ Paper copy \_\_\_\_\_ Electronic copy

**Method of Delivery:**

- \_\_\_\_\_ I will pick up at UAMS
- \_\_\_\_\_ E-mail to address indicated above
- \_\_\_\_\_ Mail to address listed above
- \_\_\_\_\_ Other (please specify; for example, unencrypted flash drive, CD)

**Warning and Assumption of Risks:** UAMS does not guarantee information sent via email is secure and encrypted. There are security risks associated with emailing information in an unsecure and unencrypted manner, including, but not limited to, an unauthorized person or entity accessing or using the information. By requesting that UAMS send the requested information via email, I acknowledge I have been warned of and accept such risks.

UAMS does not guarantee information stored or maintained on an unencrypted flash drive/thumb drive is secure or protected. There are security risks associated with maintaining information on an unencrypted flash drive/thumb drive, including, but not limited to, an unauthorized person or entity accessing or using the information. By requesting that UAMS deliver it on an unencrypted flash drive/thumb drive, I acknowledge I have been warned of and accept such risks.

4. Information is to be limited to the following **Dates of Treatment** (if applicable): \_\_\_\_\_

5. Information requested to be accessed or released:
- Abstract       Operative Report       ER Record       History & Physical  
 Discharge Summary       Clinic Record       Physicians' Progress Notes  
 Nurses' Progress Notes  
 Other \_\_\_\_\_  
 Records of Other Providers on File with UAMS (if any) (*We must impose our standard fees as stated below. UAMS does not represent that these records are the complete records of the other providers. If you want a complete copy of the records created by the other providers for this patient, you may wish to contact each provider.*)

I understand that **if** the records requested to be released include photographs, videos or other images, and/or information relating to **sexually transmitted disease, AIDS or HIV, alcohol or drug abuse, or mental health information**, including records from the UAMS Psychiatric Research Institute, this information may be released pursuant to this request.

6.  Billing Records. For billing records, please contact UAMS Billing Office Customer Service at (501) 614-2160 or 1-800-422-3963.
7. I acknowledge I have received a copy of the attached fee schedule and agree to pay the copying cost, including other expenses allowed by law, such as the cost of any supplies, labor of copying, postage, or other expense incurred by UAMS to provide the copies requested.

Signature of Patient or Legal Representative \_\_\_\_\_ Date: \_\_\_\_\_

**If Legal Representative**, authority of Legal Representative \_\_\_\_\_  
 (Such as parent of minor, court-appointed guardian, administrator of estate of deceased, attorney-in-fact appointed with power of attorney, or health care proxy)

Place Patient Label Here or

Print Patient Name

Account Number



### Authorization for Release of Psychotherapy Notes

(If other types of documents are to be released, use HIPAA compliant authorization form. **Do not** use this authorization form to release documents other than psychotherapy notes.)

1. I, \_\_\_\_\_, hereby authorize UAMS to release to:  
Name \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_

2. Information of:  
Patient Name \_\_\_\_\_ Medical Record No. (if known) \_\_\_\_\_  
Date of Birth and/or Social Security No. \_\_\_\_\_ Phone: \_\_\_\_\_

3. Information is to be limited to the following **Dates of Treatment** (if applicable): \_\_\_\_\_

4. Information requested to be released: \_\_\_\_\_ Psychotherapy Notes Only.

I understand that **if** the records requested to be released include information relating to **sexually transmitted disease, AIDS or HIV, alcohol or drug use, or mental health information**, this information may be released pursuant to this authorization.

5. Purpose of access or release: \_\_\_\_\_ Medical Care \_\_\_\_\_ Insurance or Other Payment \_\_\_\_\_ At Request of the Patient  
\_\_\_\_\_ Other (explain): \_\_\_\_\_

6. **This authorization will expire on the following date:** \_\_\_\_\_. If no date is specified, this authorization shall expire one (1) year from the date signed below. I understand that I may revoke this authorization at any time by giving written notice to UAMS, except that a revocation of this authorization will not apply to records already released in reliance upon the authorization. A photocopy of this signed authorization shall constitute a valid authorization.

7. UAMS, its employees and attending physicians are released from legal responsibility or liability for the release of the above information to the extent indicated and authorized herein.

8. I understand that once the above information is disclosed, it may be re-disclosed by the designated recipient and the information may no longer be protected by Federal privacy laws and regulations.

9. I agree to pay the copying cost, including other expenses allowed by law, such as the cost of any supplies, labor of copying, postage, or other expenses incurred by UAMS to provide the copies requested.

10. UAMS will not condition treatment, payment, enrollment or eligibility for benefits on your signing of this authorization.

Signature of Patient or Legal Representative \_\_\_\_\_ Date: \_\_\_\_\_

**If Legal Representative**, authority of Legal Representative \_\_\_\_\_  
(such as parent of a minor, court-appointed guardian, administrator of estate of deceased, attorney-in-fact appointed with power of attorney, or health care proxy)

Approved by Originator of Psychotherapy Note or other UAMS Mental Health professional:

Print Name \_\_\_\_\_ Signature: \_\_\_\_\_

HIPAA **PROVIDE COPY TO PATIENT/LEGAL REPRESENTATIVE**

Place Patient Label Here

OR

Date of Birth: \_\_\_\_\_



**UAMS Office of Communications  
HIPAA AUTHORIZATION FOR DISCLOSURE of PATIENT INFORMATION**

I, \_\_\_\_\_ hereby give my permission and authorize UAMS to release information about my current treatment and medical condition to:

\_\_\_\_ UAMS Office of Communications & Marketing to make and DISCLOSE (check all that apply)  
\_\_\_\_ Photographs \_\_\_\_ Video Recordings \_\_\_\_ Audio Recordings \_\_\_\_ Interview/article

to the public for educational, commercial or other purposes as follows:

*(PATIENT – please strike through and initial any of the disclosures you are NOT authorizing, if any).*

- UAMS internet website(s), Social Media;
- UAMS Posters, UAMS Publications, UAMS Photograph Books (by, on behalf of, or about UAMS);
- Healthcare-related Presentations, Seminars, Conferences and Meetings (within and outside UAMS); and
- Other disclosures authorized, if any \_\_\_\_\_.

\_\_\_\_ Media outlet(s) to make and DISCLOSE to the public for the following educational, commercial or other purposes  
*(please strike through and initial any of the disclosures you are NOT authorizing, if any).*

- Television
- Radio
- Newspaper
- Internet Websites, publications (newspaper, magazine, any other media or websites outside of UAMS);
- Other \_\_\_\_\_

**Additional Health Information Disclosed.** I understand and agree that any photographs/recordings/interviews authorized by me may also disclose my Protected Health Information related to my **treatment, condition, procedure, surgery** or other Protected Health Information associated with the photographs or video/audio recordings or interview or article, and **I authorize this disclosure.**

**Expiration Date** – This Authorization expires one (1) year from the date I sign the Authorization, or after the photographs and recordings and interviews are no longer needed by UAMS for the use and disclosure that I have authorized, whichever date is later.

**Withdrawal of Authorization** – I understand that I am not required to sign this Authorization. If I sign this Authorization, I may revoke/withdraw the Authorization at any time by giving written notice to UAMS Office of Communications Slot # 890, 4301 W. Markham, Little Rock, AR 72205. A withdrawal of this Authorization will not apply to records, information, photographs, audio/visual recordings or other information already used/released in reliance upon the Authorization. A photocopy or faxed copy of this signed Authorization shall constitute a valid authorization. **During the recording/filming, I have the right to stop recording/ filming at any time.**

**Release of Liability** – I agree that UAMS, including its governing Board, physicians, agents and employees, are hereby released from legal responsibility or liability for the access and release of my information to the extent indicated and authorized herein.

**Re-Disclosure** – I understand that once the above information is disclosed, it may no longer be protected by privacy laws.

**UAMS will not condition treatment, payment, enrollment or eligibility for benefits on your signing of this Authorization.**

**\*\*If patient is a patient of Arkansas Children’s Hospital (ACH), the terms of this Authorization also include and extend to ACH.**

Signature of Patient or Legal Representative \_\_\_\_\_ Date \_\_\_\_\_

If Legal Representative has signed on behalf of Patient, state the authority of Legal Representative to do so:

\_\_\_\_\_  
*(such as parent of a minor, court-appointed guardian, appointed in a Power of Attorney)*

Provide Copy of Signed Authorization to Patient/Legal Representative

**FOR UAMS OFFICE OF COMMUNICATIONS STAFF TO COMPLETE**

**Patient address:** \_\_\_\_\_  
*Street Address or P. O. Box City State zip*

**Patient phone:** \_\_\_\_\_ **Patient email:** \_\_\_\_\_

**Person Making Photo/Recording/Interview** \_\_\_\_\_ **Date Taken** \_\_\_\_\_ **(initial photo/recording/Interview)**  
**Description:**