



SECTION: HIPAA

AREA: HIPAA PRIVACY/SECURITY POLICIES

SUBJECT: USE AND DISCLOSURE OF PHI AND MEDICAL RECORDS POLICY

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Index to UAMS Authorization Forms: The following forms are available and attached to this Policy (Pages 29-33): Additional Authorization forms are available by contacting the HIPAA office.

1. [UAMS Authorization for Release of Information From UAMS](#)
2. [UAMS Authorization for Release of Information To UAMS](#)
3. [UAMS Authorization for Release of Psychotherapy Notes](#)
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PURPOSE

To inform the UAMS workforce about the proper 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.

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. Otherwise, when this Policy requires a “request in writing” from the patient, this does *not* mean the use of any particular Authorization form, but rather, only that a request in writing from the patient is sufficient, without the use of the form.

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 UAMS.

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. **Exception: Patient Directory** – If the patient has not opted out of the patient directory, very limited information about the patient may be provided to any person who identifies the patient by name. See UAMS *Administrative Guide Policy 2.1.05, Release of Patient Directory Information* and *Administrative Guide Policy 2.1.22, Verification of Identity and Authority to Receive PHI* for more information.
- 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 7.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 *Administrative Guide Policy 2.1.10, Minimum Necessary Policy*.

- II. NOTE: 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 Administrative Guide Policy 2.1.05, Release of Patient Directory Information.*

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 *Administrative Guide Policy 2.1.10, Minimum Necessary Policy* (limiting the use or disclosure of PHI to the minimum necessary) and the UAMS *Administrative Guide Policy 2.1.19, Patient Information Restriction Requests* (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. he 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 or emancipated minor 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:
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.** UAMS will 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.
- C. 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; and
 - b. The patient has signed a UAMS Authorization form. Although the use of the Authorization form is not required for a patient to view his/her own record, it is the preferred method. UAMS must also accept a written request from the patient, or documentation of such request, and response to the request must be made in the patient’s progress notes.
 - 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.
 2. All requests for copies of medical records will be referred to HIM/Medical Records Department except for outlined in Section D below.
 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 the patient’s request and the records provided.
- D. 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.

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.

- E. 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.
- F. 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 *Administrative Guide Policy 2.1.17, Patient's Request to Amend Medical Records or PHI*.
- G. 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, an Authorization form must be signed by the patient. See the attached [Authorization for Access to and Release of Information Form](#). 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 patients name on it. When a patient requests that their family member or designee access their records electronically, an authorization is required or the family member or designee referred to HIM.
- III. Copies in Electronic Format:** The patient or their legal representative may request the copy of their medical record be in an electronic format or direct UAMS to transmit such copy directly to an entity or person of their designation provided that such request is in writing.
- IV. 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 designated by the patient. The patient's request must be documented on an authorization form or referred to HIM.

- V. Timeliness of Response to Request for Access To or Copy of Record:** UAMS will act on a request for access to or a copy of a medical record within thirty (30) days after receipt of the request. 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. 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.
- VI. 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. 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.
 - 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.
- VII. 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. Requests for information that UAMS reasonably believes is likely to cause substantial harm or to endanger the physical safety or life of the patient or another person.
 - B. Requests made by a personal representative where the access is reasonably likely to cause substantial harm to the patient or another person.
 - C. All denials of access/copies by the patient or Legal Representative to the patient or Legal Representative must be approved by the HIPAA Office.
- VIII. 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 the hospital as specified in its Notice of Privacy Practices or to the Secretary of DHHS.
- C. If UAMS does not maintain the records but knows where the information is maintained, UAMS will inform the patient where to direct the request for access.
 - D. UAMS will refer any request for a review to the designated licensed healthcare professional who will, within a reasonable time, determine whether or not to uphold the denial.
 - E. UAMS will promptly provide written notice of the review decision to the patient or take other action as required.

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 act on behalf of the patient in connection with the patient's healthcare decisions, 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. 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. adult sibling of the patient of unsound mind; or
 - b. spouse of the patient of unsound mind; or
 - c. adult child for parent of unsound mind.
 7. 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.
 8. 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.
 9. 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 these individuals may act as Legal Representatives in the following order (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. 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 Administrative Guide Policy 2.1.22 Verification of Identity and Authority to Receive PHI

III. 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, or it could endanger the patient, or it is not in the best interest of the patient.

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 these *particular* circumstances, 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. 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 if we determine that disclosure is in the best interest of the patient.

- B. Allow person to pick up filled prescriptions, medical supplies, X-rays or other similar forms of PHI, using 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.

[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. Allow person to pick up filled prescriptions, medical supplies, X-rays or other similar forms of PHI, using 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. [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 – 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. 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.
- IV. 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; 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.
- V. 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.
- VI. 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.
- VII. 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.
- VIII. 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.
- IX. 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.
- X. 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;
- 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.
- XI. Authorization for Unemancipated Minor:** Generally - An Authorization for release of PHI concerning a minor (under 18 years of age) who is emancipated may be given by either parent, unless a court order specifies otherwise.
- XII. 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.
- XIII. 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.)
- XIV. 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.
- XV. 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, #VI and #VII](#) for further circumstances when UAMS may refuse to honor an Authorization.

SECTION 8 - 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 any attorney (including an attorney of the patient) unless the request is accompanied by a proper Authorization from the patient or Legal Representative, in accordance with this policy.
- 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.
- 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 emancipated 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, teachers, or school nurses 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 3](#).
- 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 *Administrative Guide Policy 2.1.09, Psychotherapy Notes Policy* for additional information.

- VIII. Adoption Records:** Adoption information and records shall be maintained outside the designated record set and shall not be released without a court order authorizing release to a specific person. Any questions pertaining to release of adoption records should be referred to Office of General Counsel.
- IX. Medical Records of Adopted Infants:** The persons authorized in the Consent to Adoption such as the adoption agency or the adoptive parent’s attorney may have the medical information and medical records of the infant. Refer to the Consent to Adoption to determine who is authorized.
- X. Sale of PHI:** Sale of PHI is prohibited unless the patient signs an authorization that clearly states that the disclosure will result in enumeration to UAMS.

SECTION 9 – 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 Administrative Guide Policy 2.1.22, Verification of Identity and Authority to Receive PHI.*
- 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 14 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 14.VI.](#)
 - 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 14.VII.](#)
- NOTE: For information regarding reports of Adult Abuse not required by law, see [Section 15.](#)
- 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.

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

SECTION 10 – 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 *Administrative Guide Policy 2.1.22, Verification of Identity and Authority to Receive PHI*.

- 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 the health care system. 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.
- 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 *Administrative Guide Policy 2.1.11, Accounting for Disclosures of PHI*.

SECTION 11 - 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 *Administrative Guide Policy 2.1.11, Accounting for Disclosures of PHI*.

SECTION 12 – 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:** This 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 7 for Authorization Requirements](#).
 - B. A court order, or an order of an administrative tribunal such as the Workers’ Compensation Commission. See UAMS *Administrative Guide Policy 2.1.11, Accounting for Disclosures of PHI*.
 - C. 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.

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 *Administrative Guide Policy 2.1.11, Accounting for Disclosures of PHI*.

- 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 13 – SUBPOENAS FROM LAW ENFORCEMENT OFFICIALS.

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, the FBI, and the police, including UAMS police.

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

SECTION 14 – 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. DNA or DNA analysis, dental records, typing, samples or analysis of body fluids or tissue, or any other PHI may not be disclosed 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. 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.

VI. 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.

VII. 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 15 for other cases of abuse or neglect involving adults.*](#)

VIII. Other Law Enforcement Purposes: PHI also may be used and disclosed without patient Authorization or permission with guidance from the UAMS HIPAA Office 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 and law enforcement officials about an individual who is an inmate or is in their lawful custody if necessary for the health and safety of the individual, other inmates, officers or other employees at the correctional institution, or persons responsible for the inmate's transportation or otherwise for the administration and maintenance of the safety, security and good order of the correctional institution.
- C. If emergency medical care is provided, other than 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.

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

SECTION 15 – 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 *Administrative Guide Policy 2.1.10, Minimum Necessary Policy*.

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

- A. Reports of abuse/neglect of a child under 18. [See Section 9 and Section 14.](#)
- B. Reports of abuse/neglect of the elderly or an impaired or endangered adult. [See Section 9 and Section 14.](#)
- C. Health care providers to determine if a report is necessary to prevent serious harm to the patient.
- D. Disclosures of certain limited information to Law Enforcement to identify or locate a suspect, fugitive, material witness or missing person. [See Section 14.](#)
- 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 14 entitled "Law Enforcement Generally"](#) and [Section 9 "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. All of the following:

1. The disclosure is expressly permitted by statute or regulation; and
2. The Law Enforcement Official represents that (a) such information is needed to determine whether a violation of law by a person *other than* the victim has occurred, and (b) such information is not intended to be used against the victim; and
3. The Law Enforcement Official represents that 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.

OR

B. All of the following:

1. The disclosure is expressly permitted by statute or regulation; and
2. 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. When Informing the Victim of Disclosure/Report is Required:

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 *Administrative Guide Policy 2.1.11, Accounting for Disclosures of PHI*.

SECTION 16 -- 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 UAMS Medical Center *Policy ML.1.07, Mandatory Reporting*, regarding sexual assault of adult.

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

SECTION 17 – 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 18. 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) 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 (4) 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 19 – PATIENT REQUEST TO AMEND RECORD.

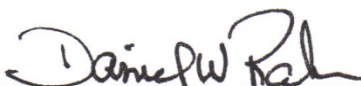
- I.** A patient has the right to request UAMS to amend his or her PHI maintained in the Designated Record Set. UAMS is not required to agree to all requests by patients to amend their records. Requests to amend will be referred to the Release of Information Office in Health Information Management/Medical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

SECTION 20- COSTS OF OBTAINING COPIES OF MEDICAL RECORDS.

- I.** 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.

SECTION 21 – SANCTIONS

- I.** Violation of this Policy will result in disciplinary action, in accordance with *Administrative Guide Policy 4.4.02, Employee Discipline.*

Signature: 

Date: August 6, 2014

Place Patient Label Here **or**
Print Patient Name
Account Number



Authorization for Release of Information from UAMS

1. I, _____, hereby authorize UAMS to release to:

Name _____ Phone _____ Fax _____

Complete Address _____
Street Address City State Zip

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

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

4. Information requested to be accessed or released:
____ Abstract _____ Operative Report _____ ER Record _____ History & Physical _____ Discharge Summary
____ Clinic Record _____ Admission Record _____ Physicians' Progress Notes _____ Nurses' Progress Notes
____ Other _____

____ Records of Other Providers on File With UAMS (if any) *(We must impose our standard copying 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 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 authorization.

5. _____ Billing Records. For hospital billing records, please contact Patient Business Services (PBS) at (501) 614-2888. For physician billing records, please contact Medical College Physician's Group (MCPG) at (501) 614-2160, or 1-800-559-6274.

6. Purpose of access or release is at the request of the patient **or**: _____ Medical Care _____ Insurance or Other Payment
____ 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 to UAMS. 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. 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.

9. 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.

10. 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 expense incurred by UAMS to provide the copies requested.

11. 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 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



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



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.)*

- I, _____, hereby authorize UAMS to release to:
 Name _____ Phone: _____
 Address: _____
- Information of:
 Patient Name _____ Medical Record No. (if known) _____
 Date of Birth and/or Social Security No. _____ Phone: _____
- Information is to be limited to the following **Dates of Treatment** (if applicable): _____
- 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.

- Purpose of access or release: _____ Medical Care _____ Insurance or Other Payment _____ At Request of the Patient
 _____ Other (explain): _____
- 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.
- 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.
- 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.
- 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.
- 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: _____



Place Patient Label Here _____

Print Patient Name _____

**UAMS OFFICE OF COMMUNICATIONS
HIPAA AUTHORIZATION TO ALLOW ACCESS TO PATIENTS
AND TO RELEASE PATIENT INFORMATION**

I, _____ hereby authorize UAMS to allow the entities indicated below to have access to me for the purpose of ___ photographs, ___ video recording, and ___ audio recording:

___ The UAMS Communications and Marketing Department (501) _____

MEDIA:

___ Television _____

___ Radio _____

___ Print _____

___ Other _____

In addition, I hereby authorize UAMS to release to the above-named party: (if applicable)

___ my current treatment information

___ my current medical condition

- Purpose of access or release:** At Request of Patient.
- Expiration Date** – This Authorization expires ninety (90) days from the date I sign the Authorization, unless I specify otherwise by writing in an earlier or later date: _____
- Revocation of Authorization** – I understand that I am not required to sign this Authorization. If I sign this Authorization, I may revoke the Authorization at any time by giving written notice to the UAMS Office of Communications. A revocation of this Authorization will not apply to records, information, photography, or audio/visual recordings already released in reliance upon the Authorization. A photocopy or faxed copy of this signed Authorization shall constitute a valid authorization.
- Release of Liability** – I agree that UAMS, including UAMS employees and attending physicians, are hereby released from legal responsibility or liability for the access provided and the release of the above 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 and regulations if such laws and regulations do not apply to the designated recipient, and it may be re-disclosed by the designated recipient.
- 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 has signed on behalf of Patient, state the authority of Legal Representative to do so:

(such as parent of a minor, court-appointed guardian, attorney-in-fact appointed in a Power of Attorney)

Office Staff: Provide Copy of Signed Authorization to Patient/Legal Representative



Place Patient Label Here

Print Patient Name Patient MR #

**AUTHORIZATION FOR DISCLOSURE
of PATIENT PHOTOGRAPHS or VIDEO/AUDIO RECORDINGS
(Or can use HIPAA Authorization Form # Med Rec 99 FR (Rev. 07/04))**

FOR STAFF TO COMPLETE BEFORE PATIENT SIGNS:

Dept/Clinic Name _____ and Slot # _____

Person Making Photo/Recording _____ Date Taken _____ (for initial photo/recording)

(check all that apply) ___ Photographs ___ Video Recordings ___ Audio Recordings

Description: _____

I, _____ hereby give my permission and authorize UAMS** to make and **DISCLOSE**
Print Patient Name
photographs or recordings described above 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).

1. UAMS internet website(s);
2. UAMS Posters, UAMS Publications, UAMS Photograph Books (by, on behalf of, or about UAMS);
3. Media, Internet Websites, Publications (TV, newspaper, magazine, any other media or websites outside UAMS);
4. Healthcare-Related Presentations, Seminars, Conferences and Meetings (within and outside UAMS); and
5. Other disclosures authorized, if any _____.

Additional Health Information Disclosed. I understand and agree that any photographs/recordings 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, and I **authorize this disclosure.**

Expiration Date – This Authorization expires **two years** from the date I sign the Authorization, or after the photographs and recordings 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 [Dept/Clinic Above] Slot # [above], 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 _____

Patient Date of Birth and/or Social Security Number For Identification Purposes: _____

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)

Office Staff: Provide Copy of Signed Authorization to Patient/Legal Representative