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SECTION: ADMINISTRATION

AREA: GENERAL ADMINISTRATION

SUBJECT: MINIMUM NECESSARY POLICY

PURPOSE

To outline the Minimum Necessary requirements for the Use and Disclosure of Protected Health Information and the University of Arkansas for Medical Sciences (“UAMS”).

SCOPE

The UAMS Workforce.

DEFINITION

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.

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.

Minimum Necessary means limiting the disclosure of Protected Health Information to the minimum necessary to accomplish the intended purpose of the Use, Disclosure or request.

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 and 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.

Required by Law means a mandate contained in law that compels UAMS to make a Use or Disclosure of information and that is enforceable in a court of law. “Required by Law” includes, but is not limited to, court orders and court-ordered warrants, grand jury subpoenas, a governmental or administrative body authorized by law to require the production of the information being sought, Medicare or Medicaid conditions of participation, and statutes or regulations that require the production of the information. For purposes of compliance with

HIPAA, “Required by Law” does not automatically include a subpoena issued or signed by a non-governmental entity since certain subpoenas require that a signed HIPAA Authorization accompany the subpoena. See Administrative Guide Policy 2.1.13, *Use and Disclosure of PHI and Medical Records Policy* for more information regarding compliance with subpoenas and persons who are authorized to sign a HIPAA authorization.

UAMS Workforce means for purposes of this Policy, physicians, employees, volunteers, residents, students, trainees, visiting faculty 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.

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

Go to the UAMS HIPAA Office website at hipaa.uams.edu to access any other terms or definitions referenced in this policy.

POLICY

For Protected Health Information that is subject to the Minimum Necessary requirements of the HIPAA regulations, UAMS will make reasonable efforts to limit the Use or Disclosure of, and requests for, PHI to the Minimum Necessary to accomplish the intended purpose of the Use, Disclosure or request. UAMS health care professionals must have timely and sufficient access to patient information for treatment purposes and will use their professional judgment to determine the Minimum Necessary patient information required to provide such treatment.

PROCEDURE

1. **Exclusions**: The Minimum Necessary requirement does **not** apply to any of the following:
 - A. Disclosures to or requests by a health care provider (outside UAMS) for treatment purposes;
 - B. Uses or Disclosures made to the individual who is the subject of the information;
 - C. Uses or Disclosures made pursuant to a valid and HIPAA-compliant authorization signed by the patient or patient’s Legal Representative;
 - D. Disclosures made to the United States Department of Health and Human Services, or any officer or employee of that Department to whom the authority involved has been delegated;
 - E. Uses or Disclosures Required by Law; and
 - F. Uses or Disclosures required for compliance with other applicable laws and regulations.
2. UAMS will identify the classes of persons or job titles within the UAMS Workforce who need access to PHI to carry out their job responsibilities. UAMS will identify the category or categories of PHI to which these individuals need access, and the conditions appropriate to such access. Department heads are responsible for ensuring users within their department only have access to systems in compliance with this policy.

3. Authorized levels of access shall be determined by job classifications or functions. Supervisors that sign off on user access request forms will ensure the level of access requested is appropriate. Supervisors are responsible for ensuring employees who transfer have their system access re-evaluated, refer to Administrative Guide Policy 2.1.30, *Information Access for Transfers and Terminations*. In unusual or emergency situations, the classes of persons or job titles of UAMS employees may be re-evaluated to determine if additional access to PHI is needed to carry out job responsibilities.
4. **For Uses of PHI by UAMS health care professionals for treatment:** UAMS physicians, nurses or other health care professionals may have access to and use the entire medical record of a patient, as needed, for purposes of treatment of that patient. The UAMS physicians, nurses and other health care professionals will use their professional judgment to determine the Minimum Necessary information needed for purposes of treatment, and will not be precluded from having access to the entire medical record or any other PHI determined by the health care professional to be needed for this purpose.
5. **Uses or Disclosures of PHI not related to treatment:**
 - A. Except for the Uses or Disclosures of PHI specifically excluded from the Minimum Necessary rule identified under exclusions in this policy, UAMS will only use, disclose, or request an entire medical record when the entire medical record is specifically justified as being reasonably necessary to accomplish the purpose of the Use, Disclosure, or request.
 - B. For healthcare operations of UAMS such as quality improvement and teaching, de-identified information should be used when possible and the Minimum Necessary amount of information shared.
 - C. For guidelines regarding emailing PHI refer to Administrative Guide Policy 2.1.31, *Email Access and Usage*.
 - D. For determination of the minimum amount of PHI necessary for Disclosures in connection with research purposes, refer to Administrative Guide Policy 2.1.12, *HIPAA Research Policy*.
 - E. UAMS Workforce may reasonably rely on the following requests made by:
 - i. public health and law enforcement agencies to determine the Minimum Necessary information for certain Disclosures; or
 - ii. other covered entities to determine the Minimum Necessary information for certain Disclosures; or
 - iii. a professional who is a member of the UAMS Workforce, or is a business associate of UAMS for the purpose of providing professional services to UAMS, if the professional or business associate represents that the information requested is the Minimum Necessary for the stated purpose; or

- a. a researcher with appropriate documentation from an Institutional Review Board (IRB) or Privacy Board.

6. **Need-To-Know**: UAMS Workforce are permitted to access and use PHI only on a need-to-know basis for carrying out their specific job duties. PHI includes demographic information only, such as name, medical record number, date of birth, and address visible on the Patient Lookup screen in Epic. Employees and other members of the UAMS Workforce may only access patient demographic information and/or clinical information on a need-to-know basis for carrying out their specific job duties.

Employees and other members of the UAMS Workforce **shall not** intentionally:

- A. Access their own record using their own employee log on credentials to UAMS clinical information systems unless the access is related to their roles, responsibilities, and duties as a member of the UAMS Workforce.
- B. Access PHI of a family member, friend, coworker, or colleague using their own log on credentials to UAMS clinical information systems if the access is not necessary to perform their roles, responsibilities, and duties as a member of the UAMS Workforce. Examples of access to PHI that violates this Policy may include:
 - i. looking up a coworker's date of birth or phone number in Epic if accessing such information is not necessary to carry out their specific job duties;
 - ii. scheduling an appointment for a family member or friend in Epic if scheduling appointments is unrelated to the job duties of the employee or other member of the Workforce; and
 - iii. viewing test results of a family member or friend unrelated to the job duties of the employee or other member of the Workforce.

SANCTIONS

Violation of this Policy will result in disciplinary action, in accordance with Administrative Guide 4.4.02, *Employee Discipline* and Administrative Guide 2.1.42, *HIPAA Sanctions Policy*.

Signature: 

Date: **April 27, 2022**