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## **HIPAA Policy 5031**

### **Authorization Requirements for Use and Disclosure of Protected Health Information, Including Verification of Identification**

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**Responsible Office** Office of the Provost  
**Responsible Official** Privacy Officer

**Effective Date** April 14, 2003  
**Last Revision** Oct. 13, 2015

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#### **Scope**

This policy applies to the University's Covered Components and those working on behalf of the covered components, designated as such for purposes of complying with the privacy provisions of the Health Insurance Portability and Accountability Act of 1996. The Covered Components are: (1) the Group Health Plan Component; and (2) the Covered Health Care Component, which includes the School of Nursing, the Department of Psychology clinics, Yale Health and the School of Medicine (except the School of Public Health and the Departments of Cell Biology, Cellular and Molecular Physiology, Comparative Medicine, History of Medicine, Immunobiology, Microbial Pathogenesis, Molecular Biophysics & Biochemistry, Neurobiology, Pharmacology, and WM Keck Biotechnology Resources Laboratory).

This policy and procedure addresses the uses and disclosures of protected health information for which an Authorization is required and not required, and how the identity of the requestor is verified.

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#### **Policy Statement**

The Yale Covered Components (the Yale Employer Group Health Plan and the Yale Covered Health Care Component) will obtain an Authorization from the individual or the individual's Personal Representative to use and disclose the individual's protected health information, unless the use or disclosure is otherwise permitted or required by federal and/or state law.

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#### **Reason for the Policy**

To provide direction on when a valid Authorization for release of information is required from a patient, what a valid Authorization must contain and when uses and disclosures may be made without an Authorization.

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#### **Definitions**

##### **Designated Record Set**

Medical, clinical research and billing records about an individual maintained or used to make decisions about the individual and the individual's treatment. and subject to an individual's right to request access and amendment.

##### **Disclosure**

The release, transfer, provision of access to, or divulging in any other manner of protected health information outside of the entity holding the information.

##### **Health Care Operations**

Any of the following activities of a covered entity that relate to its covered functions (i.e., acting as a health care provider and an employer group health plan): conducting quality assessment and improvement activities;

reviewing the competence or qualifications of health care professionals; underwriting (except as prohibited when involving genetic information), premium rating, and other activities relating to the creation, renewal or replacement of a contract of health insurance or health benefits; conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs; business planning and development; and business management and general administrative activities of the entity.

### **HIPAA Authorization**

a specific type of permission given by the individual to use and/or disclose protected health information about the individual. The requirements of a valid authorization are defined in the HIPAA regulations. Yale recommends use of the Yale authorization form in Policy 5031 for patient requests, or the research authorization form in Policy 5032. Use of a modified form other than addition of required information requires review and approval by the privacy office.

### **Marketing**

To make a communication about a product or service that encourages recipients of the communication to purchase or use the product or service, unless the communication is made:

- (a) to provide refill reminders or otherwise communicate about a drug or biologic that is currently being prescribed for the individual, only if the financial remuneration received by the covered entity in exchange for making the communication is reasonable in relation to the covered entity's costs of making the communication; or
- (b) for the following purposes except where the covered entity receives financial remuneration in exchange for the communication
  - i. to describe a health-related product or service (or payment for such product or service) that is provided by, or included in a plan of benefits of, the covered entity making the communication (including communications about the entities participating in a health care provider network or health plan network; replacement of, or enhancements to, a health plan; and health related products or services available only to a health plan enrollee that add value to, but are not part of, a plan of benefits); or
  - ii. for treatment of the individual, including case management or care coordination, or to direct or recommend alternative treatments, therapies, health care providers, or settings of care to the individual; or
  - iii. for case management or care coordination, contacting of individuals with information about treatment alternatives and related functions to the extent that these activities do not fall within the definition of treatment.

### **Payment**

The activities undertaken by (1) except as prohibited when involving genetic information, a health plan to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the health plan, including determinations of eligibility and adjudication of claims; risk adjusting; billing, claims management, and collection activities; review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges; utilization review activities; and disclosure to consumer reporting agencies of certain PHI relating to collection of premiums or reimbursement; or (2) a covered health care provider or health plan to obtain or provide reimbursement for the provision of health care.

### **Protected Health Information (PHI)**

Any individually identifiable health information, including genetic information and demographic information, collected from an individual, whether oral or recorded in any form or medium that is created or received by a covered entity (Yale School of Medicine (excluding the School of Public Health, the Animal Resources Center, and the basic science departments: Cell Biology, Cellular and Molecular Physiology, Comparative Medicine, History of Medicine, Immunobiology, Microbial Pathogenesis, Molecular Biophysics & Biochemistry, Neurobiology, Pharmacology and WM Keck Biotechnology Resources Laboratory), Yale School of Nursing, Yale Health, Department of Psychology Clinics and the Group Health Plan component)

PHI encompasses information that identifies an individual or might reasonably be used to identify an individual and relates to:

- The individual's past, present or future physical or mental health or condition of an individual; OR
- The provision of health care to the individual; OR
- The past, present or future payment of health care to an individual.

Information is deemed to identify an individual if it includes either the patient's name or any other information that taken together or used with other information could enable someone to determine an individual's identity. (For example: date of birth, medical records number, health plan beneficiary numbers, address, zip code, phone number, email address, fax number, IP address, license numbers, full face photographic images or Social Security Number see [Policy 5039](#) for a list of [HIPAA Identifiers](#))

PHI excludes individually identifiable health information in education records covered by the Family Educational Right and Privacy Act (FERPA) (records described in 20 USC 1232g(a)(4)(B)(iv)) and employment records held by a covered entity in its role as employer. PHI also excludes information related to individuals who have been deceased for more than 50 years. (see also definitions of "health information" and "individually identifiable health information")

### **Psychotherapy Notes**

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 individual's medical record. Psychotherapy notes exclude 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. See [Policy 5031](#).

### **TPO**

Treatment, Payment, Health Care Operations

#### **Treatment**

The provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another.

#### **Use**

Sharing, employment, application, utilization, examination, or analysis of individually identifiable health information within an entity that holds such information.

(See [HIPAA Glossary](#) for complete list of terms)

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### **Procedures**

[5031.PR.1](#) Authorization Requirements for Use and Disclosure of Protected Health Information, Including Verification of Identification

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### **Forms and Exhibits**

[Form 5031](#) - Authorization for Use or Disclosure of Protected Health Information

[Form 5003](#) – Accounting for Disclosures Log

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## Related Information

- Policy [5032](#): Uses and Disclosures of PHI for Research
- Policy [5033](#): Disclosures to Business Associates
- Policy [5034](#): Uses and Disclosures of PHI for Marketing
- Policy [5035](#): Uses and Disclosures of PHI for Fundraising
- Policy [5036](#): transmission of PHI via FAX
- Policy [5037](#): Minimum Necessary Uses, Disclosures and Requests
- Policy [5038](#): Personal Representatives

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## Contacts

| Subject              | Contact   | Phone                        |
|----------------------|---|------------------------------|
| HIPAA Compliance     | HIPAA Privacy Office  | 203-432-5919                 |
| Information Security | Central Campus Help Desk<br>Medical School Campus Help Desk | 203-432-9000<br>203-785-3200 |
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## Roles and Responsibilities

### Office of the Provost

responsible for University compliance issues including HIPAA

### Office of General Counsel

interprets HIPAA regulations; reviews and approves all HIPAA related contracts including contracts with Business Associates or for research contracts

### University Information Security Officer

individual responsible for overseeing information security and ensuring compliance with security requirements of HIPAA

### Chief HIPAA Privacy Officer

individual responsible for overseeing and ensuring HIPAA compliance throughout Yale University; coordinates compliance related activities through the following deputies in each of the covered schools, departments, or other entities:

- Deputy Privacy Officer, School of Medicine
- Deputy Privacy Officer, School of Nursing
- Deputy Privacy Officer, Yale Health Services
- Deputy Privacy Officer, Yale Health Plan/Benefits Office

- Deputy Privacy Officer, Department of Psychology Clinics

**Procurement Office**

identifies Business Associates and ensures appropriate contracts in place

**Grants & Contracts Administration**

Responsible for negotiating data use agreements and research related contracts.

**Institutional Review Boards (HIC, HSC, HSRRC)**

Responsible for review and approval of waivers of authorization for research purposes.

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**Revision History**

Revised 9/26/2011

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