

## CONNECTICUT VALLEY HOSPITAL OPERATIONAL PROCEDURE MANUAL

<b>SECTION II:</b>	Organization Focused Functions
<b>CHAPTER 9:</b>	Management of Information/HIPAA
<b>PROCEDURE 9.23:</b>	<b>Use and Disclosure of Protected Health Information Without Authorization</b>
<b>REVISED:</b>	04/24/03; 06/01/09; 08/12; 3/14/16; 4/26/18; Reviewed 11/16/18
<b>Governing Body Approval:</b>	11/19/18( <i>electronic vote</i> )

**PURPOSE:** To inform HIM and clinical staff of the recipients/purposes that Protected Health Information (PHI) may be disclosed without authorization (*see specific definitions below*).

**SCOPE:** All Clinical Staff and HIM and Unit Clerk Staff

### **POLICY:**

Recipients/purposes that Protected Health Information (PHI) may be disclosed without authorization include:

1. Public Health activities and purposes;
2. addressing concerns about victims of abuse or neglect;
3. health oversight activities;
4. judicial or administrative proceedings;
5. deceased individuals;
6. to avert a serious threat to health or safety of a person or the public;
7. specialized government functions;
8. shared government services; and
9. workforce member crime victims.

### **Definitions:**

1. Correctional Institutions: Any penal or correctional facility, jail, reformatory, detention center, work farm, halfway house, or residential community program center operated by, or under contract to, the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, for the confinement or rehabilitation of persons charged with or convicted of a criminal offense or other persons held in lawful custody. Other persons held in lawful custody include juvenile offenders, adjudicated delinquents, aliens detained awaiting deportation, persons committed to mental institutions through the criminal justice system, witnesses, or others awaiting charges or trial.
2. Disclosure: The release, transfer, provision of access to, or the divulging in any other manner of information outside the agency holding the information.
3. Health Oversight Agency: A governmental agency or authority, or a person or entity acting

under a grant of authority from, or a contract with, such a public agency, including the employees or agents of the public agency, its contractors and those to whom it has granted authority, that is authorized by law to oversee the public or private health care system or government programs in which health information is necessary to determine eligibility or compliance.

4. Individually Identifiable Health Information – Information that is a subset of health information, including demographic information collected from an individual, and that: (1) is created or received by a health care provider, health plan, employer, or health care clearinghouse, and (2) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, and (3) which identifies the individual, or (4) with respect to which there is a reasonable basis to believe the information can be used to identify the individual. Note: Individually identifiable health information is to be treated as protected health information.
5. Workforce Members – Employees, volunteers, trainees, and other persons whose conduct, in the performance of work for the Agency, is under the direct control of the Agency, regardless of whether they are paid by the Agency.
6. Protected Health Information (PHI): Individually identifiable information relating to past, present or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present or future payment for health care provided to an individual.
7. Public Health Authority: A governmental agency or authority, or a person or entity acting under a grant of authority from or a contract with such a public agency, including the employees or agents of the public agency, its contractors and those to whom it has granted authority, that is responsible for public health matters as part of its official mandate.
8. Use: With respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

## **PROCEDURE:**

### **1. Public Health Activities**

CVH may disclose PHI for the following public health activities and purposes:

- A. A public health authority that is authorized by law to receive such information for the purpose of preventing or controlling disease, injury, or disability, including but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations and public health interventions, or at the direction of the public health authority, to an official of a foreign government agency that is acting in collaboration with a public health authority;
- B. A public health authority or other appropriate government authority authorized by law to receive reports of child abuse, neglect;
- C. A person subject to the jurisdiction of the Food and Drug Administration; or
- D. A person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition, if CVH or public health authority is authorized by law to notify such person as necessary in the conduct of a public health

intervention or investigation.

## 2. Victims of Abuse or Neglect

CVH may disclose PHI about individuals:

- A. whom they reasonably believe to be victims of abuse or neglect, to a government authority, including a social service or protective services agency, authorized by law to receive reports of such abuse or neglect. If CVH makes this disclosure, CVH promptly informs the individual that such reports have been or will be made, except if:
  - 1. CVH, in the exercise of professional judgment, believes informing the patient would place him/her at risk of serious harm; or
  - 2. CVH would be informing a personal representative, and reasonably believes the personal representative is responsible for the abuse, neglect, or domestic violence, or other injury, and that informing such person would not be in the best interests of the patient.
- B. as required by law including laws that require the reporting of certain types of wounds or other physical injuries, or in compliance with a court order.

## 3. Health Oversight Activities

CVH may disclose PHI to a Health Oversight Agency for oversight activities authorized by law, including audits, civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight.

## 4. Judicial or Administrative Proceedings

CVH may disclose PHI in the course of any judicial or administrative proceedings in response to an order of a court or administrative tribunal, provided that CVH discloses only the PHI expressly authorized by such order.

## 5. Deceased Individuals

- A. CVH may disclose PHI to a coroner or medical examiner for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law.
- B. CVH may disclose PHI to funeral directors, as necessary, to carry out their duties with respect to the decedent. If necessary for funeral directors to carry out their duties, CVH may disclose the PHI prior to, and in reasonable anticipation of, the individual's death.
- C. CVH may use or disclose PHI to organ procurement organizations or other entities 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.

## 6. To Avert a Serious Threat to Health

- A. CVH is permitted to use and disclose PHI if CVH believes, in good faith, the use or disclosure:
  - 1. is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public, and is to a person or persons reasonably able to prevent or lessen the threat including the target of the threat; or,
  - 2. is necessary for the law enforcement authorities to identify or apprehend an individual,
    - a. because of a statement by an individual admitting participation in a violent crime

- that CVH reasonably believes may have caused serious physical harm to the victim; or,
- b. where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody.
- B. CVH is not permitted to use or disclose the PHI, if the information is learned by CVH:
1. in the course of treatment, counseling, or therapy, to affect the propensity to commit the criminal conduct that is the basis for the disclosure; or
  2. through a request by the individual to initiate or to be referred for the treatment, counseling, or therapy.
7. Specialized Government Functions
- A. CVH discloses PHI to authorized federal officials for the conduct of lawful intelligence, counter-intelligence, and other national security activities authorized by the National Security Act (50 U.S.C. 401, *et seq.*) and implementing authority (e.g., Executive Order 12333).
- B. CVH discloses PHI to authorized federal officials for the provision of protective services to the President or other persons authorized by 18 U.S.C. 3056, or to foreign heads of state or other persons authorized by 22 U.S.C. 2709(a)(3), or to the conduct of investigations authorized by 18 U.S.C. 871 and 879.
8. Shared Government Services
- DMHAS' State Administered General Assistance Program may disclose PHI relating to eligibility for or enrollment in the program, to another agency administering a government program providing public benefits, if the sharing of eligibility or enrollment information between the agencies, or the maintenance of such information in a single or combined data system accessible to the agencies, is required or expressly authorized by statute or regulation.
9. Workforce Member Crime Victims
- CVH is not considered to have violated the rights of a patient if a member of its workforce, who is the victim of a criminal act, discloses PHI to a law enforcement official, provided that:
- A. the PHI disclosed is about the suspected perpetrator of the criminal act; and
  - B. the PHI disclosed is limited to the following:
    - 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. a description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars and tattoos.