

Privacy – FAQs for CMC & CCH

- Q: When is it ok to USE and/or DISCLOSE Protected Health Information (PHI)? **TPO – Treatment, Payment, and Hospital Operations ONLY.**
 - **Treatment** Example: As a clinician, with a treatment relationship with the patient, you have authorization to **USE** the information in their medical record for the purpose of treating the patient.
 - **Payment** Example: A patient calls the billing office to find out why their bill was more than expected. The billing representative now has the authorization to access/**USE/DISCLOSE** the billing portion of the patient's record in order to help the patient with their questions.
 - **Hospital Operations:** A Clinical Educator is tasked to perform 10 patient audits to make sure that we are following protocol. This particular Clinical Educator doesn't have a treatment relationship to any of the 10 patients; however, she has authorization to be in the patient's medical records because he/she is performing an audit and this task, therefore falling under Hospital Operations.
- Q: Since I have access to ALL the patients who are currently being seen at Covenant, or have been seen at Covenant in the past, am I able to look at their information at any time? **No. The only reason you should be looking at past, present, or future patients is for 1 or more of the 3 reasons stated above – TPO (Treatment, Payment, or Hospital Operations)**
- Q: I have a concern that my co-worker is not documenting patient care correctly in the EMR; is it ok that I go in to her patient's records to make sure that she is documenting correctly – I want to make sure that patient safety comes first in this situation. **If you do not have a treatment relationship with this patient (remember TPO) then it is not appropriate for you to be in the patient's record. If you have a concern about a co-workers documentation or feel that they are causing risk to the patient, then utilize the chain of command. If you go into the patient record for this purpose then it is considered "unauthorized access".**
- Q: How do I search for a patient in the hospital? **Using 2 patient identifiers; for example a name and date of birth**
- Q: What do I do if I am searching for a patient, using 2 patient identifiers, and I choose the wrong patient? **Immediately email your Manager/Supervisor to let them know that you accidentally chose person "X", but meant to choose person "Y". If Privacy has a question about your access then the email you sent your Manager/Supervisor will coincide with the Meditech audit date and time.**
- Q: Is it ok to search for a patient by location or by unit? **No, you must use 2 patient identifiers. You may look at the unit status board where you are working at that specific time.**
- Q: What if a physician asks me to find their patient in Meditech? **Indicate to the physician that the best thing for them to do is to log in and locate the patient themselves. If they cannot log in then ask them for the 2 patient identifiers and call the hospital operator to assist you.**
- Q: Can I look at the Meditech STATUS BOARD outside of the unit I am working? **No, you may only access the status board of the unit you are currently working at during the time of the search.**

- Q: Can I, Charge Nurse, or Unit Secretary, look at the ER Status Board to see if our unit might be receiving patients? **No, you may not look at any status boards outside of the unit you are currently working on. Another option that may help you prepare for patients coming to you from AED/PED – call the AED/PED/Patient Placement to see if you might be receiving any patients.**
- Q: My co-worker ran downstairs to get lunch and now one of his patient's is requesting a medication. I am not this patient's nurse and I am fearful to get into the patient's record to see if he can have the medication. What should I do? **If you need to get into a patient's record, for the purpose of treatment, then you have authorization to do so – you don't have to be the patient's "assigned nurse" to help another nurse with a patient's treatment. Remember → Treatment/Payment/Operations.**
- Q: If I am notified that I am receiving a patient from the ED or another unit, may I view the patient's information? **If you receive notification from patient placement that a patient from the ED is coming to your unit, ask them for the 2 patient identifiers you need to access the patient's record. Once you have received your 2 patient identifiers, on the patient you are going to receive, then you can review the patient's information to prepare for their arrival. Do not access the status board; use the 2 patient identifier method only.**
- Q: What if I was told I am going to receive a patient from the ED, I have already looked in their record, and then they end up sending the patient to another unit? **Document on the patient's record that they were going to come to your unit, but their condition/room changed and now they are going to "X" unit (see Exhibit 1).**
- *Q: Can I view my child's Electronic Medical Record (EMR) in the computer? **No, you may not review any of your family member's records, including your child's, in the Meditech system or any other program the hospital uses to store PHI (protected health information). However, you may go to Medical Records and request a hard copy of your family's medical record, if you are authorized to do so. You can also view your family's medical information electronically via Follow My Health; if you have authorization.**
- Q: Can I view my own Medical Record using Meditech, MPF, or Allscripts? **No, you may not use any hospital program to view your medical record; however, you may go to Medical Records and request a hard copy of your medical record. You can also view your medical information electronically via Follow My Health; if you have authorization.**
- Q: I had lab work done yesterday and my physician has not called me back with my results. Since my lab work was done at Covenant, can I have my co-worker look up my lab results for me, if I give him/her permission? ***No, you must obtain the results the same way any other person outside of the hospital would – get the information from your physician or physician's office staff.**
 - *Scenario 1: I bring a family member to Covenant because I work here and I can keep a close eye on their care. I see that the nurses are very busy and can't get to my family member in a timely manner; this is a huge concern to me and I feel I must step in and help with the care of my loved one – this is my 1st priority! Can I step in and help with my family members care and access their electronic medical record to document or gather pertinent information about their care? **We must always make sure that our patients' safety comes first, so if you feel that your family member is not being taken care of in a timely or safe manner then it is your responsibility to elevate your concern**

by utilizing the chain of command. Accessing your family member's medical record/information is not an option in this instance; again, you must elevate your concern to a leader.

- *Scenario 2: I am here at the hospital visiting my friend and she has some serious concerns about what the nurse is putting in her electronic medical record (EMR). I told my friend that I would be happy to escalate her concerns to the Nurse Manager and/or House Supervisor, but she insists on having myself and her husband look at her EMR. What should I do? Escalate the issue to an authorized Leadership Team Member (LTM); this would consist of department Nurse Manager/House Supervisor/Department Director of Nursing/CNO
- Q: What if I get a new patient assigned to me and I find out it's one of my family members or x-family member; i.e. my cousin or x brother-in-law? If you find out that your assigned patient is a family member, you need to make arrangements to have the patient (family member) transferred to another nurse or unit. If this practice is not an option, and you are the only one who is available to care for your family member, please document that there was not another nurse/lab tech, etc available to care for your family member.
- Q: What if I work for Risk or Quality Management and I must review my family member's medical information and/or case? The patient's (family member) medical information and/or case need to be transferred to another Coordinator to review. If this is not an option, you need to obtain permission from your Director and Vice President to continue to review.
- Q: What happens if I am caught looking at my own medical record and/or my child's medical record? This offense is grounds for corrective action, up to and including termination.
- Q: What do I do if I am notified that a patient went home with the wrong Discharge paperwork, Rx, etc.?. If the patient calls to tell you that they went home with PHI that doesn't belong to them, please ask them who the information belongs to and have the nurse manager make arrangements to retrieve the paperwork from them and have the patient sign an affidavit stating that the patient, who had the wrong paperwork, didn't disseminate any of the information. Then contact the Privacy Officer immediately to let them know of the incident and give them the patient's name, phone number, and information you obtained from the caller and enter the event into the Ethics Point system. This will insulate our hospital from having to report this incident to the Department of Health & Human Services.
 - Q: What if the patient shows up to the unit with another patient's hospital paperwork and/or prescription? Ask the patient to complete and sign the "**Declaration of PHI Statement**" (see **Exhibit 2**) and retrieve the paperwork from them. Once you have the signed declaration and paperwork please call/email Chloe Howard, the Regional Privacy Officer, to let her know that you need her to pick up the declaration and paperwork and enter the event into the EthicsPoint system.
- Q: How do I send an email containing PHI outside of the Covenant Network? Type the following in the subject line of your email: #SECURE# (see **Exhibit 3**)
- Q: How do I mail out patient information that a patient has requested? We should only mail out patient information if we have obtained a release of information from the patient or their authorized representative. Moreover, we always encourage the patient to come by the Release of Information Office (located in Medical Records) to pick up their records. However, if it is not possible for them to pick up the information then just let the

patient know the risk of whatever method they request. If you mail it, you must send the information certified. If you send the information via email, please send secured “#SECURE#”. If you send patient information on a CD, make sure it is password protected and that you send the password to the recipient via email. Again, be sure you send the encrypted/password protected CD certified or FedEx; you must be able to track the package. Please note we do not allow the faxing of patient information to personal fax numbers. Finally, if you have a need to send 100 or more individuals protected health information outside of the organization please contact your supervisor or the Compliance Office for approval prior to doing so.

- Q: Can I use a FLASH DRIVE on the computer in my office or on my unit, if I make sure not to put any patient information on it? No. The only flash drives you are authorized to use in the hospital are IronKey encrypted flash drives provided by the IT department. If you believe you need an encrypted flash drive please have your Director place a ticket for one in ServiceNow.
- Q: What can or can't I post on social media, in regards to my job, co-workers and patients? The Hospital recommendation is that you **do not post anything about patients** or anything that is taking place on the unit or in the hospital in general. **Any type of information you give about a patient, a patient's condition, etc. could possibly be considered a privacy breach.** Most privacy breaches never even mention a patient's name; it's usually something that is mentioned about a patient that makes the patient identifiable. In addition, do not take any pictures of patients, under any circumstance, without their written consent (using Covenant consent form only). If a picture is needed to document a safety issue then be sure to use one of the Wound Care cameras located on each nursing unit and remember to delete the picture as soon as possible.
- Q: Is it ok to text the patient's treating physician, in regards to the patient's condition or their recommendation? Can I include the patient's name or possibly a picture? You may not text patient names, pictures, or any type of protected health information (PHI) from your cell phone; this includes hospital issued cell phones. PHI is any information that makes a patient identifiable, including patient test results, diagnosis, etc. Any type of PHI being sent via email and/or text must be encrypted and Covenant doesn't have this technology in place at any of our facilities.
- Q: Is it true that I, as an individual, could be held liable for a HIPAA violation that was committed in the hospital? Yes, this is true. HIPAA's criminal provisions are enforced by the Department of Justice. Criminal penalties, under HIPAA, range from a fine of up to \$50,000 and imprisonment for up to 1 year (minor violation); to a fine of up to \$100,000 and imprisonment for up to 5 years for an offense committed under false pretenses; and a fine of up to \$250,000 and imprisonment for up to 10 years for an offense committed with **intent to sell, transfer, or use individually identifiable health information for commercial advantage, gain, or malicious harm.** See [page 14](https://www.providence.org/-/media/files/providence/about/integrity-and-compliance/covenanthealthcodeofconduct.pdf?la=en) of our [Code of Conduct booklet](https://www.providence.org/-/media/files/providence/about/integrity-and-compliance/covenanthealthcodeofconduct.pdf?la=en)
- Q: What do I do if a patient and/or family member request to have a change/amendment done to the medical record? Have the patient/family member contact the Medical Records Department to assist them with their request.

- Q: I am a staff member at Covenant Hospital Levelland and I would like to look a CMC patient's EMR to get an update on their condition. This patient was in our Levelland ER earlier today and I assisted in his/her stabilization treatment for his/her immediate transfer to CMC. Wouldn't this be ok since I had a treatment relationship with the patient? **Once the patient has been dismissed or transferred, you are no longer authorized to access the patient's medical record. However, if the receiving hospital calls for information on the patient, you may access the EMR to provide the receiving hospital with needed patient information, but be sure you DOCUMENT this in the EMR. The KEY here is DOCUMENTATION! It always raises a "red flag" when you are in a patient's EMR and there is no documentation of why you were in it. This answer also applies to a patient who has been transferred to another unit within the same hospital.**
- Q: I have been providing treatment to Jane Doe for the past two days. Jane Doe's health begins to decline and we transfer her to the intensive care unit. Jane Doe has a very rare diagnosis/disease and I think this would be a great learning opportunity for me to take advantage of, so I access Jane Doe's EMR to observe her continued care and progress. I would think that this is an acceptable practice since I am taking the opportunity to broaden my knowledge of how to care for a patient with this rare diagnosis/disease. **This would not be an acceptable practice; you must obtain specific, written patient authorization. The patient must consent to anyone outside the realm of treatment observing or accessing their PHI. Again, the only reason you should be accessing a patient's medical information is for Treatment, Payment, or Hospital Operations – it is not TPO Learning.**
- Q: Can I release information to CPS (Child Protective Services) and APS (Adult Protective Services)? **No. Frontline staff should not release information to regulatory agencies. If Case Management is not available to assist CPS/APS with their needs then a call to the Risk Management on-call phone should be made (806-392-7319). Risk Management requires that CPS/APS provide the following information before any information can be released to them: copy of the requestors badge and a copy of the requestor's business card or letterhead (preferably the requestor's business card).**
- Q: What is the process for releasing information to law enforcement? **If law enforcement presents themselves to the unit asking for patient information, contact your Manager, House Supervisor, or Security.**
- Q: What about mandatory reporting to law enforcement or government officials? **HIPAA allows reporting PHI to law enforcement when reporting is required by law. For example, if you receive a patient whose condition warrants mandatory reporting (i.e. gunshot wound, abuse/neglect, etc.), you have an obligation, by law, to contact the property authority. If you have questions about mandatory reporting obligations please contact the Compliance Department at 806-725-1307.**
- Q: Does the Compliance/Privacy department terminate employees for unauthorized access in the medical record (also known as "snooping")? **No. The Compliance department assigns a sanction Level (I, II, or III) to the manager/director, depending on the severity of the incident in accordance with PROV-HR 422 Policy – Corrective Actions – Integrity, Compliance, Privacy or Security. The Manager/Director is advised to perform a Just Culture Analysis to determine if corrective action is needed. Finally, the Manager/Director, with assistance from HR, administers corrective action.**

*No one can give you permission to go into the patient's record. If someone wants to give you permission to access a patient's medical record, you will need to go to Medical Records to complete the appropriate paperwork. At that time, Medical Records will release the patient information, you still **DO NOT** have permission to access the electronic medical record. In addition, please read and become familiar with the handout titled "**Release of Information Process**" (**Exhibit 4**)

DID YOU KNOW...?

- ❖ Law enforcement is not bound by the HIPAA Law; this means that **any** PHI (protected health information) you release to law enforcement, without a subpoena, would be considered a HIPAA Privacy Breach. This is why it's best to take the responsibility off of you and send these requests to Risk Management.
- ❖ It raises a "**red flag**" when Privacy is auditing and finds an employee in a patient's EMR, but the employee has not documented. However, if your job requires that you view patients' medical records, but no documentation is needed to be done in the EMR then this would be acceptable – this would be considered "Hospital Operations"; just make sure that you can account for the records you are in, in case a question were to arise.

Regional Privacy Officer, Chloe Howard: 806-725-1307

Integrity Hotline: 1-888-294-8455 or <https://secure.ethicspoint.com/domain/media/en/gui/39016/index.html>

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