

# UNIVERSITY PHYSICIANS OF BROOKLYN

## POLICY AND PROCEDURE

No. HIPAA-31

Subject: USES AND DISCLOSURES OF  
DECEDENT INFORMATION

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### I. PURPOSE

To ensure that all uses and disclosures of protected health information (PHI) of decedents comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.

### II. POLICY

- A. HIPAA Privacy Standards-** All HIPAA Privacy policies and procedures apply to the PHI of deceased patients; however individuals that are deceased for more than fifty (50) years are no longer covered under HIPAA.
- B. Personal Representatives-** A “qualified person” may be treated as the patient’s personal representative in regard to his/her PHI. See the policy on Personal Representatives for guidelines.
- C. Family Members / Others Involved in Care –** PHI may be disclosed to a decedent’s family member or others who were involved in the care or payment for the care of the decedent prior to death, unless doing so would be inconsistent with

any prior expressed preference of the deceased individual that is known to University Physicians of Brooklyn.

1. A provider may describe the circumstances that led to an individual's passing with family members and other persons who s/he believes to have been involved in the care or payment for the care of that individual if in their professional judgment they do not believe that doing so would be inconsistent with the deceased individual's prior expressed wishes. A provider that questions the relationship of the person to the decedent or otherwise believes, based on the circumstances, that disclosure of the decedent's PHI would not be appropriate should not make the disclosure.
2. A provider generally should not share information about past, unrelated medical problems in disclosures made under this provision.

**D. Law Enforcement-** PHI about a patient who has died may be disclosed to a law enforcement official for the purpose of alerting law enforcement of the patient's death if there is suspicion that the death may have resulted from criminal conduct.

**E. Coroners, Medical Examiners and Funeral Directors**

1. PHI may be disclosed to a coroner or medical examiner, without authorization, for the purpose of identifying a deceased person, determining a cause of death or for other duties authorized by law.
2. PHI may be disclosed to funeral directors without authorization, as necessary, to carry out their duties with respect to the decedent. PHI may also be disclosed prior to, and in reasonable anticipation of, the patient's death, when necessary.

**F. Organ Transplantation-** PHI may be disclosed to an organ procurement organization 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.

**G. Research-** PHI may be used or disclosed, without authorization, for research purposes if the researcher presents:

1. Representation that the use or disclosure sought is solely for research on the PHI of decedents;
2. Documentation of the death of such patients; and
3. Representation that the PHI for which the use or disclosure is sought is necessary for research purposes.

PHI may also be disclosed for research purposes for individuals who are deceased for more than 50 years, except in cases where State or other law may prohibit such disclosure.

**III. DEFINITION(s)**

None

**IV. RESPONSIBILITY**

It is the responsibility of all medical staff members and hospital staff members to comply with this policy. Medical staff members include physicians as well as allied health professionals. Hospital staff members include all employees, medical or other students, trainees, residents, interns, volunteers, consultants, contractors and subcontractors at the hospital.

**V. PROCEDURE/GUIDELINES**

The development of the procedure section is the responsibility of the respective department. It is dependent upon the unique needs of each department's operating structure and shall be advanced and customized accordingly.

**VI. ATTACHMENTS**

None

**VII. REFERENCES**

Standards for Privacy of Individually Identifiable Health Information, 45 CFR §164.502(f)(g), §164.512(f)(g)(i)

	<b>Revision</b>	<b>Required</b>	<b>Responsible Staff Name and Title</b>
<b>01/2017</b>	<b>Yes</b>	<b>(No)</b>	<b>Shoshana Milstein /AVP, Compliance &amp; Audit</b>