

**Title: HIPAA: Disclosures of Protected Health Information (PHI) to Family Members and Persons Involved in an Individual's Care**

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<p><b>Discrete Operating Unit/Facility:</b>          Banner Baywood Medical Center          Banner Behavioral Health          Banner Boswell Medical Center          Banner Casa Grande Medical Center          Banner Churchill Community Hospital          Banner Del E Webb Medical Center          Banner Desert Medical Center          Banner Estrella Medical Center          Banner Fort Collins Medical Center          Banner Gateway Medical Center          Banner Goldfield Medical Center          Banner Heart Hospital          Banner Ironwood Medical Center          Banner Lassen Medical Center          Banner Ocotillo Medical Center          Banner Payson Medical Center          Banner Thunderbird Medical Center          Banner—University Medical Center Phoenix          Banner—University Medical Center South          Banner—University Medical Center Tucson          East Morgan County Hospital          McKee Medical Center          North Colorado Medical Center          Ogallala Community Hospital          Page Hospital          Platte County Memorial Hospital          Sterling Regional MedCenter          Torrington Community Hospital          Washakie Medical Center          Wyoming Medical Center</p>	<p><b>Banner Corporate</b></p> <p><b>Ambulatory Services</b>          Banner Health Clinics          Banner Imaging Services          Banner MD Anderson Cancer Center          Banner Surgery Centers          Banner Urgent Care Centers          Occupational Health/Employee Services          Rural Health Clinics</p> <p><b>Banner Home Care and Hospice</b></p> <p><b>Insurance</b>          Banner Health Network          Banner Plan Administration          University Physicians Health Plans</p> <p><b>Banner Pharmacy Services</b></p> <p><b>Post-Acute Care Services</b></p> <p><b>Research</b></p>
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## I. Purpose/Population:

- A. **Purpose:** To identify the circumstances in which Banner Health (BH) personnel may disclose Protected Health Information to a Individual's family member, relative, friend, or other person the Individual identifies as being involved in the Individual's care. It also allows disclosures of Protected Health Information (PHI) to disaster relief organization to assist in notifying family and friends.
- B. **Important Note:** This policy sets forth the federal requirements (HIPAA) regarding the permissible use and disclosure of PHI. State laws must be reviewed to determine if disclosure is required or prohibited disclosure.
1. If HIPAA prohibits disclosure, PHI will not be released, regardless of state law.
  2. If HIPAA permits disclosure and state law requires disclosure, PHI will be released as required by law.
  3. If HIPAA permits disclosure and state law prohibits disclosure, PHI will not be released.
- C. **Population:** All Employees.

## II. Definitions:

- A. **Individual:** The person (Patient or Member of BH Health and Dental Plan) who is the subject of PHI.
- B. **Legally Authorized Representative** is a person who is authorized, either by the patient or by law, to make health care treatment decisions for the Individual when the Individual lacks capacity for decision making.
- C. **Protected Health Information (PHI):** Any oral, written, or electronic individually identifiable health information. PHI may relate to the past, present, or future physical or mental health or condition of an individual; or the payment for the provision of health care to an individual. The Health Insurance Portability and Accountability Act (HIPAA) further defines PHI as information that identifies the individual by one or more (depending on context) of the following 18 identifiers:
1. Names
  2. Geographic subdivisions smaller than a state, including street address, city, county, precinct, zip code, and their equivalent geocodes except for the initial three digits of a zip code in certain situations
  3. All elements of a date (except the year) directly related to an individual, including birth date, discharge date, date of death; and all ages over 89 and all elements of dates indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older
  4. Telephone Numbers
  5. Fax Numbers
  6. Electronic mail addresses
  7. Social Security Numbers (SSNs)
  8. Medical record numbers
  9. Health plan beneficiary numbers
  10. Account numbers
  11. Certificate/license numbers
  12. Vehicle identifiers and serial numbers
  13. Medical device identifiers
  14. Web Universal Resource Locators (URLs)

15. Internet Protocol (IP) addresses
16. Biometric identifiers, including finger and voice prints
17. Full-face photographic images and any comparable image
18. Any other unique identifying number, characteristic, or code

D. Relevant PHI: PHI that is limited to only the PHI directly relevant to the friend or family member's involvement with the patient's care or payment for care

### **III. Policy:**

- A. Oral Communication. BH personnel may orally communicate, in person or telephonically, Relevant PHI to an Individual's family, relative or friend who is directly involved in the Individual's care or payment for that care in the following circumstances:
1. When the Individual Is Available and Competent. If the Individual is available and has the capacity to make health care decisions, BH personnel may disclose Relevant PHI to an Individual's family member, relative or friend if:
    - a. BH personnel obtain the Individual's verbal agreement. If an Individual asks that a family member or friend be included in a discussion concerning Individual care, BH personnel may do so.
    - b. BH personnel provide the Individual with the opportunity to object to the disclosure and the Individual does not express an objection.
  2. When the Individual Is Not Competent. If the Individual is not competent, BH personnel may disclose Relevant PHI to an Individual's family member, relative or friend if BH personnel obtain the Individual's Legally Authorized Representative's verbal agreement.
- B. Restriction Request. BH personnel will honor a request from the Patient or Individual's Legally Authorized Representative to restrict the use and disclosure of PHI to family members and friends for an episode of care. (See **Policy: "[HIPAA: Patient Requests for Restriction of Protected Health Information \(PHI\)](#) ."**)
- C. Medical Records and Billing Records. BH personnel may disclose medical records to an Individual's family member, relative or friend in the following circumstances:
1. When the Individual Is Available and Competent. If the Individual is available and has the capacity to make health care decisions, Facility personnel may disclose medical records or billing records to an Individual's family member, relative or friend upon signed authorization by the Individual.
  2. When the Individual Is Not Available or Competent. If the Individual is not available or competent to make health care decisions, or in an emergency situation, Hospital personnel may not disclose the Individual's medical records or billing records to family members or friends unless the person requesting the disclosure is the Individual's Legally Authorized Representative.
- D. In Emergency Situations. If an emergency situation prevents BH personnel from obtaining authorization from the Individual or the Individual's Legally Authorized Representative, BH personnel will determine whether the disclosure to the family member or friend is in the Individual's best interests. In determining whether the disclosure is in the Individual's best interests, BH personnel may use their professional judgment and experience with common practice to make reasonable inferences.

- E. Disaster. BH personnel may disclose PHI to a public or private entity that is authorized by law or its charter to assist in disaster relief efforts, in order to inform family member or other persons of an Individual's location or condition. If it would not interfere with the disaster emergency conditions, BH personnel shall follow Section III.A regarding oral communications and Section III.C regarding providing medical or billing records. (See **Policy: [HIPAA: Media Relations](#) and Document: *Facility Disaster Plans***)
- F. For notification purposes. BH personnel may use or disclose PHI to notify, or assist in the notification of (including identifying or locating), a family member, a personal representative of the Individual, or another person responsible for the care of the Individual of the Individual's location, general condition, or death.
- G. Deceased patient. If the Individual is deceased, BH personnel may disclose Relevant PHI to an Individual's family, relative or friend who is directly involved in the Individual's care or payment for that care prior to the Individual's death, unless doing so is inconsistent with any prior expressed preference of the Individual that is known by BH.

#### **IV. Procedure/Interventions:**

- A. N/A

#### **V. Procedural Documentation:**

- A. **Document: *Facility Disaster Response Plans*** – Located on each facility's employee website under one of the following:
  1. Resources,
  2. Tools
  3. Tools & Resources,
  4. Tools & Services,
  5. Department – Emergency Preparedness,
  6. Department – Emergency Management

#### **VI. Additional Information:**

- A. N/A

#### **VII. References:**

- A. Federal Register, Vol. 65, No. 250, December 28, 2000, Standards for Privacy of Individually Identifiable Health Information; Final Rule.
- B. Federal Register, Vol. 67, No. 157, August 14, 2002, Standards for Privacy of Individually Identifiable Health Information; Final Rule.

#### **VIII. Other Related Policies/Procedures:**

- A. [HIPAA: Identifying and De-Identifying Protected Health Information \(PHI\) and Creation of a Limited Data Set](#)
- B. [HIPAA: Patient Request for Records](#)
- C. [HIPAA: Media Relations](#)
- D. [HIPAA: Banner Health and Dental Plan Member Requests for Records](#)
- E. [HIPAA: Patient Requests for Restriction of Protected Health Information \(PHI\)](#)

#### **IX. Keywords and Keyword Phrases:**

- A. HIPAA

- B. Privacy
- C. Release of Information
- D. Patient Rights
- E. PHI Restriction
- F. PHI
- G. Family
- H. Friends

**X. Appendix:**

- A. N/A