HIPAA PRIVACY MATTERS: SHARING PROTECTED HEALTH INFORMATION (PHI) WITH FAMILY, FRIENDS, & OTHERS

Patients typically involve family, friends, or others in their medical care or payment for that care, but also have the right to request PHI restrictions for those individuals. If a patient requests that we not share PHI with these individuals, we should accommodate the request and document it in the patient's chart.

What if the patient is present and able to make health care decisions?

The HIPAA Privacy Rule requires the organization to first obtain the patient's agreement, provide the patient an opportunity to object, and/or use our professional judgment to reasonably infer from the circumstance that the patient doesn't object to the sharing of PHI.

- **Patient's agreement.** To meet this condition, you must get the patient's agreement to disclose his/her PHI. This agreement may be oral or written. For example, a hospital patient has many relatives visiting her in the room when a physician comes in. The physician asks the patient if it's a good time to discuss treatment options. If the patient agrees that it is, it's okay for the doctor to discuss her treatment options in front of her relatives.
- **Opportunity to object.** To meet this condition, you must give the patient the opportunity to object to the disclosure and the patient doesn't express an objection. Using the example above, in which the hospital patient is being visited by relatives, the physician could instead ask the patient if she would like her relatives to leave the room while she and the physician discuss her treatment options. If the patient says no, it's okay for the physician to discuss her treatment options in front of her relatives.
- **No objection inferred.** To meet this condition, you must use your professional judgment to reasonably infer from the circumstances that the patient doesn't object to the disclosure.

What if the patient is not present or incapacitated?

We may share the patient's information with family, friends, or others as long as the health care provider determines, based on professional judgment, that it is in the best interest of the patient. The health care provider may only discuss information that the person involved needs to know about the patient's care or payment. Here are some examples:

- A surgeon who did emergency surgery on a patient may tell the patient's spouse about the patient's condition while the patient is unconscious.
- A pharmacist may give a prescription to a patient's friend who the patient has sent to pick up the prescription.
- A hospital may discuss a patient's bill with her adult son who calls the hospital with questions about charges to his mother's account.
- A nurse <u>may not</u> tell a patient's friend about a past medical problem that is unrelated to the patient's current condition.
- A health care provider is <u>not</u> required by HIPAA to share a patient's information when the patient is not present or is incapacitated, and can choose to wait until the patient has an opportunity to agree to the disclosure.

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The following examples are permissible as long as the patient is present and has capacity to make health care decisions.

- A physician may give information about a patient's mobility limitations to a friend driving the patient home from the hospital;
- A physician may instruct a patient's roommate about proper medicine dosage when the roommate comes to pick up the patient from the hospital;
- A physician may discuss a patient's treatment with the patient in the presence of a friend when the patient brings the friend to a medical appointment and asks if the friend may come into the treatment room;
- A physician may notify a pregnant patient's husband that his wife arrived at the hospital in labor and is about to give birth; and
- A nurse may notify a patient's friend that his roommate broke his leg falling down the stairs, has had surgery, and is in recovery.
- A nurse <u>may not</u> tell a patient's mother about her condition if the patient requested the restriction.

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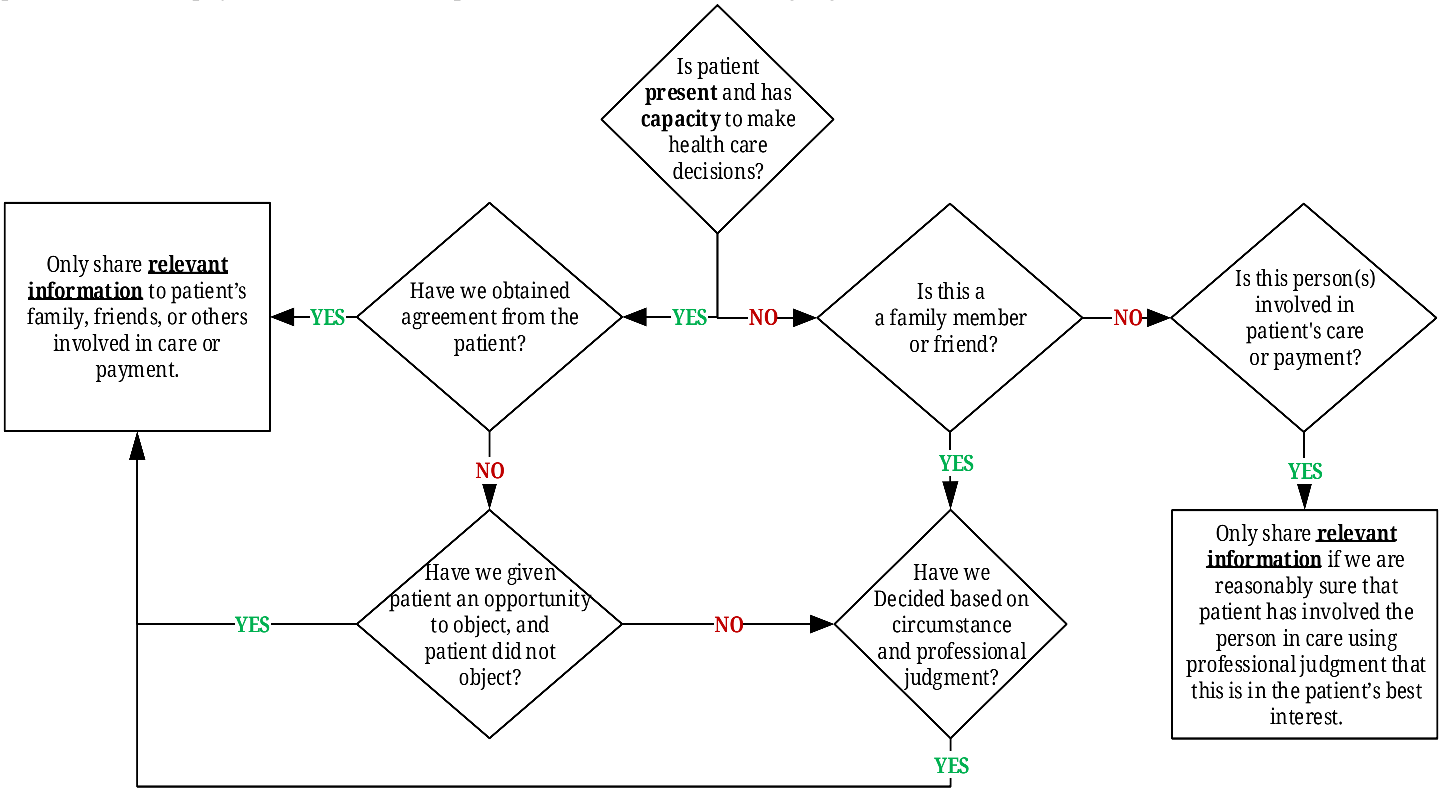
To assist with determining whether it would be appropriate to share PHI with family, friends, and others involved in the patient's care or payment for that care, please reference the following algorithm.



What is considered "relevant information"?

Relevant information follows the minimum necessary rule which requires the organization to only share PHI that applicable to the care or payment. This may mean you need to ask the patient, or use your professional judgment to determine the scope of a person's involvement in care or payment, and the time period for which the patient is agreeing to the other person's involvement.

Frequently Asked Questions

- Question: How do I know which family and friends can be told information about a patient?
  Answer: The easiest way is to ask the patient who can receive information and document it in the patient's chart. If the patient is Strictly No Information, do not share any PHI unless if they provide you with the patient's PIN number.
- Question: When I am speaking to a patient, and friends or family members are in the treatment room, do I assume the patient has given me permission to speak of the PHI in front of these persons or do I need to ask them to leave?
  Answer: No, do not assume anything. If you are uncertain, ask the patient if it okay to discuss their PHI in front of the person.
- Question: What if I get approached by an individual who just says he's a friend of a patient?
  Answer: Check with the patient to see if this individual has been approved by the patient for disclosure of PHI. If the patient is Strictly No Information, do not share any PHI unless if they provide you with the patient's PIN number.
- Question: What if a patient requests me to leave information on a family member's voice mail or answering machine?
  Answer: If you are asked to phone or leave confidential information via voice mail, for example, verify with the patient that it is okay to leave messages this way. Make sure you confirm the number. Your unit may have more restrictive policies, so check with your supervisor or department head.

Questions, comments, or concerns?

Contact the Corporate Integrity department at:

Ellen Hampton	503-814-2828	Ellen.Hampton@salemhealth.org
Sue Xiong	503-814-2826	Sue.Xiong@salemhealth.org

Corporate Integrity Hotline 1-800-944-4908

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