



SAINT LOUIS UNIVERSITY

DENIAL OF ACCESS TO INSPECT AND COPY

Policy Number: OUC-036

Version Number: 2.0

Effective Date: 04/14/2003

Responsible University Official: Privacy Officer

Approved By: Executive Staff
Legal and Compliance Committee

1.0 INTRODUCTION

Saint Louis University (hereinafter the “University”) is committed to provide services in compliance with all state and federal laws governing its operations, incorporating the highest levels of business and professional ethics. Situations may arise when the University must make a determination to deny an individual access to their protected health information, in accordance with applicable laws and regulations. Reviewable grounds for denial of access require decisions be made on a case-by-case basis through the professional judgment of licensed health care providers. Professional judgment also would be required if individuals exercise their right to appeal a denial of access made on reviewable grounds.

2.0 PURPOSE

This policy is established to assist workforce in evaluating the appropriateness for determination of denying a patient’s access to inspect and copy.

3.0 PERSONNEL AFFECTED

This policy applies to all regular full-time and part-time faculty and staff and volunteers within all divisions of the University, including employees, professional staff members, residents, agents, representatives and consultants tasked with providing access to or copies of patients’ protected health information.

4.0 DEFINITIONS

Designated Record Set (DRS): A group of records that is maintained, collected, used or disseminated by Saint Louis University. It includes, but is not limited to:

1. Medical records and billing records about individuals maintained by or for a covered entity;
2. Enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan;
3. Information used, in part or in whole, to make decisions about individuals;
4. Research activities documented only in a research record are not considered part of the Designated Record Set and should not be documented and retained as such.

Medical Records: A compilation of information regarding a specific patient's demographics, symptoms, medical, psychiatric, social and family histories, objective findings, diagnoses, treatments, responses to treatments and future care plans; created and maintained in the regular course of business in accordance with University and SLUCare policies, made by persons who have knowledge of the acts, events, opinions or diagnoses relating to the patient, and made at the time indicated in the document. The medical record may include records maintained in formats such as electronic, paper, or other media that integrate data from multiple sources, capture data at the point of care; and support caregiver decision making, billing for health services provided, and legal requests.

Protected Health Information (PHI): Any individually identifiable health information transmitted or maintained in any form or medium, including oral, written, and electronic. Individually identifiable health information relates to an individual's health status or condition, furnishing health services to an individual or paying or administering health care benefits to an individual. Information is considered PHI where there is a reasonable basis to believe the information can be used to identify an individual.

Workforce: Employees, volunteers, trainees, contractors, and other persons under the direct control of the covered entity, whether or not paid by the covered entity, who have access to confidential information.

5.0 POLICY

1. Saint Louis University will take necessary steps to address individual requests to access, inspect, and/or obtain a copy of their protected health information that is maintained in a designated record set in a timely and professional manner.
2. The University will adhere to the following procedures when denying access to inspect or obtain a copy of protected health information.

6.0 PROCEDURES

1. Individuals will be required to direct requests for access, inspection, or a copy of protected health information to Medical Records and complete an access request form.
2. The individual will be informed that a request for access is required to be in writing.
3. An appropriate request from an individual regarding protected health information using the required Access Request form, will, within reasonable time period, be reported, along with the form, to Medical Records personnel with appropriate access and clearance to release protected health information.
4. Medical Records personnel will inform the individual where to direct the request for access if it does not maintain the requested protected health information and knows where the requested information is maintained.

5. Upon receipt of a request, Medical Records will act on the request by
 - a. Informing the individual of the acceptance and providing the access requested or
 - b. Providing the individual with a written denial in accordance with policy.
6. Action taken pursuant to procedure item #4 must be taken:
 - a. No later than 30 days after the request is made
7. If the University cannot take action on a request for access to protected health information within the relevant time periods, the University may extend the time required by 30 days.
8. A denial of access will be issued and will not be reviewed in the following circumstances:
 - a. Psychotherapy notes;
 - b. Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding;
 - c. Protected health information that is:
 - i. Subject to the Clinical Laboratory Improvements Amendments of 1988, pursuant to HIPAA regulation 493.3(a), to the extent the provision of access to the individual would be prohibited by law;
 - ii. Exempt from the Clinical Laboratory Improvements Amendments of 1988, pursuant to HIPAA regulation 493.3(a)(2)
 - d. Acting under the direction of a correctional institution upon an inmate's request for a copy of the protected health information and obtaining a copy would jeopardize the health, safety, security, custody, or rehabilitation of the individual or of other inmates, or of any officer, employee, or other person at the correctional institution or responsible for the transporting of the inmate;
 - e. Access to protected health information that was created or obtained by the University in the course of research that includes treatment may be temporarily suspended for as long as the research is in progress, provided that the individual has agreed to the denial of access when consenting to participate in the research, and has been informed that the right of access will be reinstated upon completion of the research;
 - f. The individual's access to protected health information that is contained in records that are subject to the HIPAA Privacy Rule, may be denied if the denial of access under the Privacy Rule requirements.
 - g. The individual's access may be denied if the protected health information was obtained from someone other than a health care provider under

promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information.

9. Saint Louis University will review a denial for access to protected health information when requested by an individual in the following situations:
 - a. A licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person;
 - b. The protected health information makes reference to another person (unless such other person is a health care provider) and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person or;
 - c. The request for access is made by the individual's personal representative and a licensed health care professional has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the individual or another person.
10. See policy on Reviewing Denial to Access for reviewing a denial of access to protected health information.
11. In denying access in whole or in part, to the extent possible, the individual may be granted access to any other protected health information requested, after excluding the protected health information that was denied.
12. When denying an individual access to protected health information, the denial will:
 - a. Be written in plain language;
 - b. Contain the basis for the denial;
 - c. Contain the following statement if applicable:

THE INDIVIDUAL HAS THE RIGHT TO HAVE THE DENIAL REVIEWED BY A LICENSED HEALTH CARE PROFESSIONAL, DESIGNATED BY THE UNIVERSITY TO ACT AS A REVIEWING OFFICIAL AND WHO DID NOT PARTICIPATE IN THE ORIGINAL DENIAL DECISION.

- d. Contain a description of how the individual may complain to the University pursuant to the University's complaint process or to the Secretary of Health and Human Services.

13. The description of how the individual may complain will include the name, or title, and telephone number of the contact person or office designated to receive such complaints.
14. This policy and procedure will be documented and retained for a period of at least six years from the date of its creation or the date when it last was in effect, whichever is later.
15. Knowledge of a violation or potential violation of this policy must be reported directly to the Privacy Officer, Executive Director of Compliance, or to the Compliance Hotline.

7.0 SANCTIONS

Individuals who fail to comply with this policy and the procedures associated with it will be subject to disciplinary actions guided by the University's Staff Performance Management Policy, Faculty Manual, or Student Guidelines.

Non-compliance in this Policy can result in disciplinary action, including but not limited to, restricted incentive payments, suspension or termination. It may also result in the enforcement of a corrective action plan, as well as notification of the suspected misconduct and/or violation to government regulatory agencies.

This Policy does not limit the University's ability to impose greater sanctions or impose immediate action against serious violations. Disciplinary actions appropriate to the severity of the infraction will be carried out as needed.

8.0 CHANGES TO THIS POLICY

Changes to this policy may be necessary from time to time. At a minimum, the policy and all other program policies, procedures and guidelines will be reviewed on an annual basis.

9.0 RELATED POLICIES & DOCUMENTS

- Access to Inspect and Copy Policy
- Compliance Hotline Reporting Policy
- Authorization for Disclosure (Form)

REVISION HISTORY

EFFECTIVE DATE	VERSION NUMBER	MODIFICATION
4/14/2003	1.0	New Policy
7/01/2008	1.1	Review & Change Format
3/01/2015	1.2	Review & Change Format
	2.0	Ownership Shifted from Provost to General Counsel