

POLICY INFORMATION

Policy Title: Uses and Disclosures of PHI With and Without Authorization Policy and Procedure

Departmental Owner: Chief Compliance, Audit, and Privacy Officer

Version Effective Date: 2/28/24

Last Reviewed: 2/28/24

SCOPE

This policy applies to the following individuals and/or groups:

All of the below categories

All Employees CT Employees NY Employees Remote Employees Contractors Volunteers Students/Interns Vendors

This policy applies to all above listed Nuvance Health workforce members including but not limited to the following locations:

All of the below entities

Nuvance Health Systems

Danbury Hospital (including New Milford Hospital Campus)

Northern Dutchess Hospital

Norwalk Hospital

Putnam Hospital

Sharon Hospital

Vassar Brothers Medical Center

Health Quest Systems, Inc. "(HQSI)"

Health Quest Home Care, Inc

Hudson Valley Cardiovascular Practice, P.C. (aka The Heart Center) ("HVCP")

Other HQSI-affiliated Entities Not Listed

Western Connecticut Home Care, Inc ("WCHN")

Western Connecticut Health Network Physician Hospital Organization ACO, Inc.

Western Connecticut Home Care, Inc

Other WCHN-affiliated Entities Not Listed

Nuvance Health Medical Practices (NHMP PC, NHMP CT, ENYMS & HVCP)

POLICY STATEMENT/PURPOSE

To ensure Nuvance Health and its affiliates ("Nuvance") receives written authorization from a patient prior to releasing or utilizing healthcare information outside of the boundaries of treatment, payment of operations, or in the case of psychotherapy notes.

DEFINITIONS

See: HIPAA Glossary

POLICY

It is the policy of Nuvance, in compliance with 45 C.F.R. §164.508 to obtain written authorization to use and disclose medical information except when needed for the purposes of treatment, payment of services, or to carry out healthcare operations. New York State P.L 104191 requires an authorization for treatment, payment and healthcare operations with individuals and entities outside of Nuvance, even treating providers.

A valid authorization is required for the release of any personal health information and is processed by the Health Information Management Department.

Original Effective Date: LHQ= 2/1/10

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Supersedes: HQ 5.2.02 Uses and Disclosures of PHI With and Without Authorization Policy;
HQ 5.2.02 Uses and Disclosures of PHI With and Without Authorization Procedure

Psychotherapy notes cannot be used or disclosed for treatment, payment, or operations without the written authorization of the patient. (Refer to the policy entitled Release of Information for further clarification). The following exceptions to share psychotherapy protected health information are listed below:

- Authorization is not needed by the originator of the psychotherapy notes to use the notes for treatment
- Authorization to use psychotherapy notes is not needed if the notes are to be used in the course of training students, trainees or practitioners in mental health.
- Authorization to use psychotherapy notes is not needed by a Nuvance covered entity to defend itself a legal action or any other legal proceeding brought forth by the patient.
- Authorization to use psychotherapy notes is not needed when used by a medical examiner or coroner.
- Authorization is not needed by the government to investigate or determine Nuvance compliance with HIPAA.
- Authorization is not needed by a health oversight agency with respect to the originator of the psychotherapy notes.
- Authorization is not needed when the request is consistent with law and ethical conduct and Nuvance believes the use or disclosure:
 - a. Is necessary to prevent or lessen a serious or imminent threat of the health or safety of a person or the public and is to a person or persons reasonably able to prevent or lessen the threat, including the target of a threat
 - b. Is necessary for law enforcement authorities to identify or apprehend an individual, because of a statement by an individual admitting participation in a violent crime that Nuvance reasonably believes may have caused serious physical harm to the victim
 - c. Appears from all circumstances that the individual has escaped from a correctional institution or from lawful custody

PROCEDURE

Nuvance Health has in place a process for when protected health information (“PHI”) is requested to be disclosed. The process will follow applicable Federal and State laws.

Note: Without a valid authorization, PHI may only be used or disclosed for the purposes of treatment, payment, or health care operations, unless otherwise permitted or required by law as detailed below.

1. DISCLOSURE WITHOUT AUTHORIZATION

Workforce members are not permitted to use or disclose PHI without a valid authorization by the individual unless use or disclosure is permitted under the following circumstances and in accordance with state and federal law and this policy:

- a. To carry out treatment, payment or health care operations within Nuvance and its affiliates. Providers, individuals or entities outside of Nuvance and its affiliates must have a valid authorization in order for PHI to be released to them.;
- b. When requested by the Department of Health and Human Services (“HHS”) to investigate or determine compliance with the privacy standard;
- c. When the disclosure is to the individual to whom the PHI pertains, or a legal personal representative, including requests for accounting or access to inspect or copy;
- d. Where an opportunity to agree or to object has been afforded to the individual and the individual does not object to the use and disclosure of PHI in the following circumstances:

- i. To include the individual in facility directories;
 - ii. To family and friends involved with the individual's care or payment related to the individual's healthcare, or
 - iii. To disaster relief agencies to coordinate the notification of family and friends regarding the individual's location, condition, or death;
- e. Under the following circumstances in accordance with 45 CFR 164.512(a) through (k):
- i. For public health activities;
 - ii. To governmental authorities about victims of abuse, neglect and domestic violence;
 - iii. To health oversight agencies for oversight activities;
 - iv. For judicial and administrative proceedings;
 - v. To law enforcement officials for certain law enforcement purposes;
 - vi. To coroners and medical examiners for the purpose of identifying a deceased person or cause of death, or other duties authorized by law; and to funeral directors to carry out their duties;
 - vii. For cadaveric organ, eye or tissue donation;
 - viii. For research purposes when the Institutional Review Board approved an alteration to or waiver of the individual authorization requirement;
 - ix. To avert a serious threat to health or safety of a person or the public;
 - x. For specialized government functions including military and veterans' activities; protective services to the President; for national security activities; and to a correctional institution or law enforcement official about a lawfully detained individual under certain conditions; and
 - xi. To the extent that the use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.

2. DISCLOSURE WITH AUTHORIZATION

Note: All uses and disclosures made pursuant to a signed authorization must also be consistent with the terms and conditions of the authorization.

- a. Review the purpose of the authorization with the patient.
- b. Ask the patient to read, complete, sign, and date the authorization form on the designated areas.
- c. Place the completed authorization form in the patient's medical record.
- d. Explain to the patient that the authorization form can be revoked at any time in writing.
- e. Nuvance must retain the signed authorization form for a period of six (6) years.

3. MINIMUM NECESSARY STANDARD (45 CFR 164.502(B), 164.514(D))

- a. Minimum necessary standard limits the PHI used or disclosed to the least amount necessary to achieve the intended purpose. This includes limiting the type, amount, or scope of PHI, but also includes limiting the number of people who access or view the PHI.
- b. Minimum necessary standard applies to all permitted uses and disclosures of PHI, including uses and disclosures by Nuvance's Business Associates. However, the Minimum Necessary Standard does not apply to the following:
 - i. Treatment purposes, including disclosures to or requests by, a health care provider for treatment purposes;

- ii. Uses or disclosures to the individual who is the subject of the information;
 - iii. Uses or disclosures made pursuant to an individual's HIPAA authorization;
 - iv. Disclosures to the Secretary of Health and Human Services (HHS);
 - v. Uses or disclosures required by law; and
 - vi. Uses and disclosures required for compliance with HIPAA.
- c. The minimum necessary standard applies to voice-mail messages left for patients. When leaving a voice-mail message, please only state your name, whom you are calling for, where you are calling from, and a telephone number where you may be reached.

4. ACCESS TO AND USE OF PHI BY WORKFORCE MEMBERS

Workforce members may gain access to PHI only for permitted or required purposes. Use of PHI will be governed by principles of role-based access (i.e., only those persons whose job duties require them to use PHI will be permitted to access the information).

5. PROCESS FOR DISCLOSURE OF PHI

- a. All requests for disclosure of PHI should be forwarded to the appropriate department for processing. For example, patients requesting copies of medical records should be referred to HIM.
- b. Departments responsible for processing requests for disclosure of PHI must review each request and determine if the stated purpose of the request is for a prohibited disclosure. In the event that the disclosure is prohibited, the request must be denied.
- c. If the stated purpose of the request is for a permitted or required disclosure, determine whether an exception to the minimum necessary standard exists. In the event that an exception to the minimum necessary standard applies, the request should be approved, and the disclosure made. In the event that no exception applies, each request must be reviewed on an individual basis to determine whether the PHI being requested is limited to the minimum amount necessary to achieve the stated purpose. If the PHI being requested is not limited to the minimum amount necessary to achieve the stated purpose, the request must be modified to meet the minimum necessary standard.
- d. Departments responsible for processing requests for disclosure of PHI will provide guidelines and other policies and procedures, as needed, to assist workforce members in making these determinations.

6. ROUTINE AND RECURRING DISCLOSURES

For routine or recurring requests for disclosure, the above determination need only be made the first time the request is received. Departments responsible for processing requests for disclosure of PHI will maintain procedures related to processing routine or recurring requests as necessary and appropriate. If the request is modified or altered in any way, the determination will need to be made again.

7. MAKING REQUESTS FOR PHI

When the minimum necessary standard applies to a request from Nuvance to either another part of Nuvance or to an external entity, the PHI must be limited to the amount which is reasonably necessary to achieve the intended purpose of the request.

8. NO REQUIREMENT TO WAIVE RIGHTS

Original Effective Date: LHQ= 2/1/10

Revision Dates: 2/28/24

Supersedes: HQ 5.2.02 Uses and Disclosures of PHI With and Without Authorization Policy;
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Under no circumstances will Nuvance require an individual, including any Nuvance workforce member, to waive his or her rights under 45 C.F.R. § 160.306, the HIPAA Privacy Rule, or the HIPAA Breach Notification Rule as a condition for receiving treatment, payment, enrollment in a health plan, or eligibility for benefits offered by Nuvance.

9. POLICY AND PROCEDURE VIOLATIONS

Knowledge of a violation or potential violation of this procedure must be reported immediately to a Supervisor, Department Director, the Compliance Office at 203-739-7110 or compliance@nuvancehealth.org; or the Confidential Compliance Helpline at 1-844- YES-WeComply (1-844.937-9326) or 1-844-395-9331.

ENFORCEMENT

All Workforce Members and individuals whose responsibilities are affected by this policy are expected to be familiar with the basic procedures and responsibilities created by this policy. Failure to comply with this policy and related procedures will result in appropriate remedial and/or disciplinary actions up to and including termination of any employment or other relationship.

REFERENCES

45 CFR 164.506
45 CFR 164.508
45 CFR 164.512
NYS P.L.104-191

APPROVAL

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Jared B Gaynor

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Signature

2/28/2024

Date