

Guide to Media Relations for Colorado Hospitals and Health Care Facilities and the News Media

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INTRODUCTION

This document will assist both hospital public relations personnel and the news media with communication about patients and other hospital-related information requested by the media. It will provide details about hospitals' legal and ethical responsibilities to patients in reporting admission and patient status and in protecting patient privacy. Many other health care facilities, such as rehabilitation hospitals, senior facilities and long-term care facilities that are governed by HIPAA regulations also follow these guidelines when communicating with the news media.

HIPAA, or the Health Insurance Portability and Accountability Act of 1996, mandates regulations that govern privacy, security and administrative simplification standards for health care information. Hospital compliance with the final Privacy Rule was required in 2004. HIPAA established major changes in how health care organizations manage health information, including patient records.

The HIPAA Privacy Rule sets forth minimum standards mandated by federal law that hospitals must follow with regard to the release of patient information. State law and individual hospital policies may be even more restrictive than what is required by HIPAA.

HIPAA privacy regulations include restrictions on the information that health care providers may list in a facility directory and release to the public, including the news media. The directory elements are:

- **Name** (can be confirmed only to those who ask about the patient[s] by name)
- **Condition** (using terms defined within this document)

Please Note: The HIPAA Privacy Rule requires that all patients be given the opportunity to opt out of the patient directory. *If a patient chooses to opt out, no information can be released about that patient.*

NO PUBLIC RECORD CASES

No matter how a person arrives at the hospital, the conditions surrounding his/her illness or injuries, or how important or well-known he or she may be, HIPAA requires the hospital to ensure privacy. Unless authorized in writing by the patient or a patient's representative, the hospital is limited to providing only the facility directory information, as previously stated.

AUTHORIZED SPOKESPERSON

Hospitals have a designated person on duty to handle news media inquiries at all times, either at the hospital or on-call. The spokesperson has the authority to release information to representatives of the news media, as outlined in this document.

GAINING ACCESS TO HOSPITALS AND PATIENTS

Media representatives and photographers MUST contact the hospital spokesperson for access to the hospital or to patients within the hospital. All hospitals—whether privately or publicly owned or funded—have policies that require a hospital representative accompany news personnel at all times within the facility.

Interviews or attempts to interview a patient's family members or friends within the hospital must be coordinated in advance with the hospital public relations department in order to protect the privacy and safety of all patients, as well as to support the privacy and safety of family and friends.

Written authorization from the patient is needed to obtain medical information beyond directory information, including photographs or interviews. If the patient is a minor, written authorization must be obtained from a parent or legal guardian.

Please note: Hospitals may deny the media access to a patient if it is determined that the presence of photographers or reporters would cause a disruption or interfere with appropriate clinical care, or if other health or safety factors need to be considered.

MUTUAL OBLIGATIONS

It is the responsibility of news personnel to determine what constitutes news. However, it is the moral and legal responsibility of hospitals to ensure proper and safe care of all patients, to protect the patient's right to privacy, to protect the confidential nature of hospital medical records, and to abide by federal and state privacy laws, including HIPAA.

Within the limits of their mutual capabilities and responsibilities, hospitals and news media organizations have a joint interest in working together to see that news is reported accurately and promptly.

RELEASE OF PATIENT INFORMATION

A hospital's first responsibility is to the health and welfare of the patient. The patient's medical information is, by law, private and confidential. Except in the case of treatment, payment and health care operations, personal health information is subject to release only with the permission and written authorization of the patient or patient's legal representative or as required by law.

Unless the patient opts out, directory information will be released to the media, providing the request includes the patient's full name. Directory information may be delayed or unavailable for a patient who is unconscious or in an emergency situation.

PATIENT CONDITION

The hospital spokesperson may not speculate on how, why or what caused a patient's injury or illness, but may offer a one-word patient condition while the individual is a patient in the facility. The following definitions come from American Hospital Association guidelines. Individual hospitals or health care facilities may assess patient condition differently.

- **Undetermined:** The patient is still awaiting evaluation by a physician and his or her condition is not yet available.

- **Good:** Patient is conscious and comfortable.
- **Fair:** Patient is conscious with minor complications.
- **Serious:** Patient is acutely ill.
- **Critical:** Patient is acutely ill with major complications.
- **Deceased:** Confirmation will be withheld until the next of kin has been notified. A hospital may not disclose information regarding the date, time or cause of death. Information regarding cause of death comes from the coroner in most cases.

The hospital spokesperson may also indicate that a patient has been treated and released, or treated and transferred.

RELATED FEDERAL/STATE PROVISIONS GOVERNING RELEASE OF INFORMATION

There are several federal or state provisions in addition to HIPAA that may also govern the release of patient information to the public. Specifically, all information may be considered confidential and not publicly available for patients whose admission is related to or resulting from:

- Abuse or neglect, including child abuse or neglect, elder abuse or neglect, and sexual assault;
- Psychiatric conditions or diagnoses;
- Substance abuse, including alcohol and/or drug abuse; and
- AIDS or HIV-related illnesses.

Patients who fall into one or more of these categories may not be listed in the hospital's patient directory and the hospital may be precluded by law from releasing any information.

HOSPITAL GUIDELINES

Although hospitals are viewed as public service institutions, medical information is not open public record. Hospitals have an ethical and legal obligation to keep medical information private and confidential, and medical records are not subject to the Open Records Law. Federal and Colorado laws require hospitals to protect the confidentiality of medical information (C.R.S. 18-4-412, C.R.S. 24-72-204 and C.R.S. 25-1-121).

- The hospital should identify authorized spokespeople to respond to media inquiries at all times, including evenings, weekends and holidays. Hospital spokespeople should be accessible and respond as rapidly as possible or advise of delays.
- Hospital spokespeople will present news media requests objectively to patients and their families.
- The hospital spokesperson should work in conjunction with the appropriate caregiver prior to scheduling media interviews.
- When reporters request information beyond directory information, such as photographs of or interviews with a patient, the hospital must obtain written authorization from the patient, or the patient's guardian in the case of a minor.
- An authorized member of the hospital staff will be present at all news media interviews and meetings on hospital premises.
- When requests for interviews and photographs may be detrimental to the patient's well-being or may be disruptive to the welfare of other patients, the hospital may limit or prohibit the admission of media. If appropriate based on condition of the

patient, the hospital will attempt to accommodate media in an alternative location. In certain circumstances, pool coverage may be the most appropriate alternative.

- After a patient is discharged, the hospital is no longer in a position to disclose information concerning that patient. All inquiries should be directed to the patient's immediate family or designated spokesperson.

NEWS MEDIA GUIDELINES

Reporters have the responsibility to respect a patient's physical, mental and emotional rights to privacy and to cooperate with health and medical authorities who are required by law to ensure those rights. Editors and reporters are expected to be familiar with Colorado state laws and federal laws, particularly the HIPAA Privacy Rule, concerning the unauthorized use of medical information.

- Prior to contacting patients or visiting a hospital or other health care setting, reporters *must* contact and coordinate such actions with the hospital spokesperson, even if invited by a patient and/or patient's family.
- Reporters, photographers and television crews *must* be accompanied by authorized hospital personnel while in a hospital or health care facility for the purpose of developing a story or conducting a formal interview, even if invited by a patient or his/her family. The hospital will make every effort to accommodate reasonable interview or meeting requests.
- Reporters, photographers and television crews should minimize their time with patients and care providers in order to not interfere with patient care.
- Reporters, photographers and television crews should realize that at any time hospital personnel may request the interview be terminated or relocated based on the health or comfort of the patient or other patients.
- In instances where a patient is being photographed or videotaped, news photographers should not include any other patients in the picture or video, unless the other patients also have signed an authorization form.
- Media may be asked in advance to withhold the name of the hospital or health care facility in order to ensure the safety of the patient and/or staff (e.g., when documented or potential acts of violence are involved).
- In the interest of accuracy, news media personnel should request hospital information from authorized sources. When information regarding the institution, its patients or personnel is received from sources other than the designated spokesperson, the reporter has the responsibility of verifying its accuracy.
- The hospital will not provide directory information for an emergency or unconscious patient until every attempt has been made to notify next of kin.

MEDIA RIGHTS OF EQUAL ACCESS

All news media should be given equal access to the release of general information. However, if a reporter—through his or her own initiative—obtains an exclusive story concerning a hospital, physician or patient, the right to that exclusive will be respected. In the sense of fairness, the hospital will not take the initiative in providing information for that story to another news agency.

If, however, the hospital spokesperson is approached regarding the same story by another media outlet, he/she is obligated to release the information to that media outlet as well, within the limitations of the privacy regulations. If a family or patient specifically requests

that a particular media outlet be given exclusivity to a story, that request will be honored by the hospital.

PATIENT GUIDELINES

Patients have the right to initiate their own contact with the news media. Regardless, reporters must contact the appropriate hospital personnel before coming to or calling into the hospital. The physician, nurse and/or hospital spokesperson may limit the reporter's access to the patient in order to protect the patient's well-being, the welfare of other patients or the functions of the hospital.

- Aside from directory information, information about patients cannot be released without the patient's written authorization.
- When information beyond directory information has been requested and the patient is conscious, competent and can communicate, it may only be released with written authorization of the patient or legal guardian. If a patient specifically requests that the admission not be included in the facility directory, the hospital is legally obligated to honor such a request.
- If a patient does choose to cooperate with requests for media interviews, all interviews must be coordinated through the hospital public relations department, following the guidelines outlined within this document.

REPORTABLE DISEASES

The Colorado Department of Public Health and Environment (CDPHE) has set forth explicit regulations for the reporting of specific epidemic and communicable diseases (6 C.C.R. § 1009-1). The reporting is done in the strictest confidence, and the information should remain confidential. Media inquiries on epidemic and communicable diseases may be directed to the CDPHE. Hospital personnel cannot release information about individual patients hospitalized with possible or confirmed communicable diseases. Information about such patients is restricted to directory information.

MASS CASUALTY EVENTS

The HIPAA Privacy Rule does not make provisions for releasing patient information to the public in the case of mass casualty events. It does allow the hospital to provide limited information to an authorized agency (i.e., law enforcement or the Red Cross) for the purpose of a) disaster relief, and b) notifying family members or significant others of the individuals' locations and general conditions.

Some limited information may be released to the public through the news media, in accordance with each facility's individual policies as they relate to mass casualty situations. In such cases, the hospital spokesperson may state the number of patients who have been brought to the facility, by gender or by age group (adults, children, teenagers, etc.).

ADDITIONAL RESOURCES

Colorado Hospital Association
www.cha.com

U.S. Dept. of Health and Human Services – Health Information Privacy
www.hhs.gov/ocr/hipaa