

MOUNT SINAI HEALTH SYSTEM, NEW YORK	SUBJECT NO. ACS-H.42
STANDARD: POLICY AND PROCEDURE	
DEPARTMENT: ALL	
SUBJECT: ACCESS TO PHI IN ARCHIVES	
<u>CROSS-REFERENCE:</u> Confidentiality of the medical record (GPP-403.5); Uses and Disclosures for Research (HIM-M.I.6.2)	

Original date of issue: April 20, 2005

Reviewed:	3/08	6/08	6/11	11/14			
Revised:	7/13	1/16					

DEFINITION:

1. Protected Health Information as defined under HIPAA includes any clinical, demographic, financial or psychosocial information linked to a patient identifier.
2. With the exception of information in psychiatric or HIV-related records, PHI does not include information in medical records of patients who are deceased more than 50 years.

TOOLS: MR-219 (Request for Access to PHI of Decedents)

POLICY:

It is the responsibility of the Mount Sinai Archives to balance the researcher's need for access with the needs for confidentiality of the persons and the institutions whose activities are reflected here. Consequently, the use of some material in the Archives is subject to restrictions. Access to records containing Protected Health Information (PHI) is governed by the Privacy Rule of the Health Insurance Portability and Accountability Act (HIPAA), New York State (NYS) Public Health Law and the NYS Mental Hygiene Law. The Privacy Rule establishes the conditions under which records containing PHI may be used or disclosed for research purposes.

PROCEDURE:

1. Access may be obtained to records in the Mount Sinai Archives that contain PHI with the following guidelines:
 - A. Mount Sinai workforce:
 - 1) May access unredacted files subject to waiver of IRB

- 2) May not document any identifiable information (including the 19 identifiers specified in HIPAA) unless part of an IRB approved project

B. Outside researchers using non-patient records:

- 1) Must sign an Access Agreement form

C. Outside researchers using patient records:

- 1) Must sign an Access Agreement form
- 2) Access will be provided only:
 - a) with a Waiver of Authorization from the Mount Sinai IRB. Schedule a meeting with the Privacy Office to facilitate submitting request for waiver or,
 - b) to decedent records at the discretion of the Privacy Office. Submit Request for Access to PHI of Decedents (MR-219) to the Privacy Office.

2. Identifiable photographic images in the Archives may be reproduced if there is a signed consent form on file or it can be presumed that a signed consent was obtained at the time.
3. In all cases it is required that the researcher will refrain from copying PHI to the extent possible to successfully conduct the research project and that any research notes containing PHI will be destroyed at the end of the project.

REFERENCES: 45 CFR §160.103
10 NYCRR §405.10
Mental Hygiene Law §33.13
NY Public Health Law Article 27-F (§ 2782)