

## **CONFIDENTIALITY**

Scott and White Health Plan adheres to strict rules of confidentiality by its employees in matters related to provider and member information.

The Scott and White commitment to confidentiality is stated in the members' health care agreement. "If permitted by law, any data or information pertaining to the diagnosis, treatment, or health of any Member or to an application obtained from such person or from any physician or provider by Health Plan shall be held in confidence and shall not be disclosed to any person except (1) to the extent that it may be necessary to carry out purposes required by or to administer this agreement; or (2) upon the express consent of the Member; or (3) pursuant to a law or in the event of claim or court order for the production of evidence or to discovery thereof; (4) in the event of claim or litigation between such person and Health Plan wherein such data or information is pertinent, or (5) bona fide medical research or studies by Health Plan. Health Plan shall be entitled to claim the same privilege against such disclosures as the physician or provider who furnishes such information to it is entitled to claim."

Member's medical records should be made available to Scott & White Health Plan for reviews to ensure compliance with standards and goals, utilization reviews, and case management activities.

Providers are expected to have a system of medical records that is organized and ensures patient confidentiality. The medical records system will be evaluated during the initial site visit and subsequent site visits. Additionally, there should be a written policy in the office site regarding their employee responsibilities to confidentiality.

The statement found within the Member's contract releases Member information for the above purpose, however, if a provider desires a signed Medical Authorization form, a sample form is attached.



Policy Number:	RR 5.1
Original Effective Date:	11-19-98; 11-18-99
Review w/o revision dates:	9-30-04
Revision Dates:	7-18-02, 2-07, 4-08
Scope:	All Health plan Divisions; All Health plan products
Cross Reference:	NCQA RR 6
Originated by:	Quality Improvement
Approved by:	( CEO )

**POLICY / PROCEDURE**

**Member Confidentiality**

**TOPIC: Privacy and Confidentiality**

**CATEGORY: Members’ Rights and Responsibilities**

**I. POLICY:**

- A. Scott & White Health Plan (SWHP) protects the confidentiality of Members’ medical information and records, in accordance with Federal and State statutes.
- B. Confidentiality policies and the practices regarding the collection, use and disclosure of medical information should be reviewed as needed by the Administrative Sub-Committee.
- C. Scott & White Health Plan, all health care practitioners and providers should not release identifiable information, obtained from medical records or other sources, for any purpose other than treatment, payment, or health care operations, in any manner, without the Member’s expressed written authorization or specific legal authority.
- D. Members are afforded the opportunity to authorize or deny the release of identifiable medical or other information by SWHP, except when law requires such release, for research approved by the Institutional Review Board (IRB) or for treatment, payment or health care operations purposes.
- E. Member identifiable medical information should not be shared with employers or plan sponsors without certification that the plan sponsor’s documents have been amended to incorporate the following provisions and the plan sponsor agrees to:
  - 1. Not use or disclose PHI, other than as permitted by plan documents or required by law
  - 2. Ensure that agents and subcontractors of the employer or plan sponsor agree to the same restrictions and conditions as the employer or plan sponsor, with regard to PHI
  - 3. Prohibit the use of PHI by the employer or plan sponsor for employment or other benefit-related decisions
  - 4. Notify the organization of any use or disclosure of PHI that is inconsistent with use and disclosure established in plan documents
  - 5. Allow member access to PHI, including access to amend PHI
  - 6. Make necessary information available to the organization in order to provide individuals with accountings of disclosure.



7. Procedures for return, destruction and restriction of further use of PHI by employers or plan sponsors.
8. Identify the sponsor or employer staff who have access to PHI
9. Include provisions for taking action if the sponsor or employer staff inappropriately use or disclose PHI.

## **II. DEFINITIONS:**

- A. Protected Health Information – Information that is a subset of health information, including demographic information collected from an individual and which
  1. Identifies the individual (explicit) or there is a reasonable basis to believe that the information can be used to identify the individual (implicit)
  2. Is transmitted by electronic media or transmitted or maintained in any other form or medium - includes medical records, claims, benefits and other administrative data that are personally identifiable
- B. Plan Sponsor refers to the employer, employee organization or the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

## **III. PROCEDURES:**

- A. Member Requests
  1. If a Member makes a written request **to restrict or prohibit** some or all of the uses or disclosures of identifiable medical or other information, the following steps should be taken:
    - a. Request should be reviewed by a Medical Director(s) for applicability with current law and regulations
    - b. If approved, the Medical Director should share the request with Directors of areas involved for implementation and if not approved, should notify the Member of the reason for the denial.
  2. If a Member makes a written request to **amend** their PHI, the steps in A. above should be taken.
  3. If a Member makes a written request to obtain accounts of the disclosures of their PHI (except for disclosures for treatment, payment and health care operations or disclosures for which member has provided authorization), the steps in A. above should be taken.
- B. Authorization for non-routine uses of data should be obtained. SWHP considers the purpose of the non-routine use of the data and seeks advice from legal counsel to ensure that the action taken is consistent with state and federal law. This process also applies to obtaining special authorization for those who lack the ability to give authorization.



**C. Uses of Personal Health Information:**

SWHP may permit the use of personal health information for treatment, payment, or health care operations needs including but not limited to the following:

- Treatment
- Coordination of Care (Utilization Management/Case Management)
- Quality Assessment and Measurement, including surveys of Members
- Accreditation
- Billing
- Research

In the use of data for these purposes, personal information may be transmitted to people or organizations outside SWHP. The use of aggregated data in which an individual's personal information is not identifiable is not subject to privacy restrictions.

**D. Internal Protection Of PHI**

1. All committee-meeting minutes should be documented in a way that de-identifies Members.
2. Quality Improvement Subcommittee minutes should be kept within the Health Plan, which is a locked building with restricted access, and in a locked area within the Quality Division when not in use. All committee members should sign a confidentiality statement (Attachment A).

**E. Access To Medical Records**

1. SWHP does not maintain or store medical records. On some occasions, medical records may be checked out from a clinical facility during the day but, not kept over night. If the facility's Medical Record Department calls for the return of a record, it should be returned within the timeframe requested.
2. For access, Members should contact the organization that keeps the medical record.

**F. Employee Education:**

1. New employees should be given a personnel handbook that contains information on the policy regarding confidentiality.
2. New employees should sign a confidentiality statement that is kept in the employees' personnel files.
3. Confidentiality policy/practice should be covered in organization and department level orientations.

**G. Transmission Of PHI Data To Another Organization**

1. When PHI data is transmitted electronically to another organization, as permitted by law, the information is protected through encryption or other methods in compliance with HIPAA regulations.



H. Contracts:

Contracts with practitioners and providers should explicitly state expectations about the confidentiality of Member information and records.

I. Communication of PHI Use and Disclosure:

1. SWHP informs Members of policies and practices related to the collection, use and disclosure of medical information at enrollment and through an annual publication. Communication should include how SWHP routinely uses and discloses PHI, uses authorizations, who has access to PHI, internal protection of oral, written and electronic PHI across the organization and the protection of information disclosed to plan sponsors.
2. A standard notification of privacy practices should be provided at enrollment.
3. Members have access to confidentiality policies on the SWHP web site or by requesting a copy from Customer Service.

J. Member Concerns Regarding Confidentiality:

1. The existing complaint and appeals process is used to address Member concerns regarding confidentiality of data.
2. Complaint files should be kept within the Health Plan, which is a locked building with restricted access, and locked in Member Relations and Health Services when not in use.

K. Protection for PHI Sent to Plan Sponsors:

1. When SWHP receives a request for PHI from a Plan Sponsor, written certification is requested (See Attachment B). No PHI information should be shared until such certification is obtained.
  - a. Exceptions include:
    - i. For products are managed by third-party administrators
    - ii. For products sponsored by state or federal government (e.g. Medicare)
    - iii. For services that the organization delegates to other entities
2. It is not necessary to ensure that the required provisions in the certification are in plan documents when PHI is shared with plan sponsors for the purpose of obtaining premium bids or modifying, amending or terminating the group health plan.

L. Web Site:

3. The SWHP web site should display what data is collected by the site and how that information is used.

**Internal Confidentiality Committee**

The Administrative Subcommittee of the Board has the responsibility for reviewing confidentiality policies and practices regarding the collection, use and disclosure of medical information. Composition includes the Quality Improvement Subcommittee (QIS) Chairperson and the SWHP Directors with the Chief Executive Officer serving as chairperson.

- A. Responsibilities may include but not limited to:
- Approve changes in the confidentiality policy
  - Routinely assess confidentiality policies and practices and ensure they are followed
  - Approve mechanisms to oversee the application of the policies
  - Consider existing and potential disclosure of data within and outside SWHP from the Members' perspective
  - Ensure that the minimum amount of personal data necessary is collected/disclosed for the purposes of managing care well, through the function of the QIS
  - Identify opportunities for reducing collection of unnecessary Member data or blinded data as close to its source as possible, through the function of the QIS
  - Review and decide on specific requests to limit access to data
  - Approve levels of authorized user access to data across the delivery system, including practitioners, their staff and the administrative staff, such as the claims, UM and customer service departments
  - Approve requests to establish access to data over time that have not been approved by IRB or approved as QIS initiatives. This refers not to every individual request for data but to such examples as a request to access pharmacy data to provide updates for practitioners on whether their patients are taking prescribed medications.
- B. Each Director is responsible for identifying confidentiality issues described above and reporting them to the Quality Improvement Director or designee who routinely compiles a report for the Administrative Subcommittee's consideration.

## **Scott and White Health Plan**

### **Quality Improvement Committee Confidentiality Statement**

As a member of the Scott and White Health Plan Quality Improvement Committee, I agree to hold confidential all information: (1) that could be used to specifically identify any patient; (2) that could be used to identify any health-care provider with regard to any information pertaining to the qualifications of or fitness of that provider to practice his or her profession; (3) that contains any sensitive information about the business operations of the Scott and White Health Plan or of the Scott and White Hospital and Clinic. I will use all such information only for the official business of the Quality Improvement Committee and I will not reveal any such information except as required by applicable law. To maintain this confidentiality, when I have possession of such documentation, I will keep the documentation in a secure and locked place.

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Signature

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Date

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Print Name

## **PLAN SPONSOR CERTIFICATION OF HIPAA COMPLIANCE**

I hereby certify that the plan documents for \_\_\_\_\_  
Employer Name

(Plan Sponsor) comply with the requirements of 45 C.F.R. Section 164.504(f)(2) and that Plan Sponsor will safeguard and limit the use and disclosure of protected health information (PHI) that the Plan Sponsor may receive from Scott and White Health Plan to perform the plan administration functions. Specifically, Plan Sponsor certifies that:

- PHI will not be used or disclosed other than as permitted by plan documents or required by law;
- Any agents and subcontractors of plan sponsor have agreed as part of their contracts with Plan Sponsor to the same restrictions and conditions with regard to use of PHI;
- PHI shall not be used for employment or benefit-related decisions;
- Plan sponsor shall notify SWHP of any use or disclosure of PHI that is inconsistent with the use and disclosure established in the plan documents;
- Plan Sponsor will allow member access to PHI, including access to amend PHI;
- Plan Sponsor will provide SWHP with necessary information to provide individuals with accountings of disclosures;
- Plan Sponsor has procedures for the return, destruction and restriction of further use of PHI;
- Plan Sponsor will identify staff who have access to PHI;
- Plan Sponsor shall take appropriate action should any employee or agent of Plan Sponsor inappropriately use or disclose PHI.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

## Member Confidentiality Policy-Attachment B

Please include the following:

- A copy of your HIPAA Notice of Privacy Practices
- A list of employees, and their titles, who are authorized to receive Private Health Information

Claim #

MEDICAL AUTHORIZATION

PATIENT'S NAME:

DATE OF BIRTH:

I AUTHORIZE:

TO RELEASE COPIES OF MY MEDICAL RECORDS COVERING THE PERIOD

FROM: THRU:

TO: SCOTT AND WHITE HEALTH PLAN  
2401 SOUTH 31ST  
TEMPLE TX 76508-3000  
ATTN: CLAIMS PROCESSING DEPT.

THE COPIES ARE FOR THE PURPOSE OF CLAIMS PROCESSING.

THE SPECIFIC RECORDS TO BE RELEASED ARE:

\_\_\_\_\_ EMERGENCY ROOM REPORT

\_\_\_\_\_ DAILY PROGRESS NOTES

\_\_\_\_\_ ADMIT SUMMARY

\_\_\_\_\_ DISCHARGED SUMMARY

OTHER  
\_\_\_\_\_

THIS AUTHORIZATION SHALL REMAIN IN EFFECT FOR A PERIOD OF THREE (3) MONTHS UNLESS REVOKED BY ME IN WRITING.

\_\_\_\_\_  
Signature of Patient or  
Authorized Person

\_\_\_\_\_  
Date

\_\_\_\_\_  
Relationship to Patient

\_\_\_\_\_  
Witness