A-0147(Rev. 95, Issued: 12-12-13, Effective: 06-07-13, Implementation: 06-07-13)

§482.13(d)(1) - The patient has the right to the confidentiality of his or her clinical records.

Interpretive Guidelines §482.13(d)(1)

The right to confidentiality of the patient's medical record means the hospital must safeguard the contents of the medical record, whether it is in paper or electronic format, or a combination of the two, from unauthorized disclosure. Confidentiality applies wherever the record or portions thereof are stored, including but not limited to central records, patient care locations, radiology, laboratories, record storage areas, etc.

A hospital is permitted to disclose patient information, without a patient's authorization, in order to provide patient care and perform related administrative functions, such as payment and other hospital operations.

- Payment operations include hospital activities to obtain payment or be reimbursed for the provision of health care to an individual.
- Hospital operations are administrative, financial, legal, and quality improvement
 activities of a hospital that are necessary to conduct business and to support the core
 functions of treatment and payment. These activities include, but are not limited
 to: quality assessment and improvement activities, case management and care
 coordination; competency assurance activities, conducting or arranging for medical
 reviews, audits, or legal services, including fraud and abuse detection and compliance
 programs; business planning, development, management, and administration and
 certain hospital-specific fundraising activities.

The hospital must develop policies and procedures that reasonably limit disclosures of information contained in the patient's medical record to the minimum necessary, even when the disclosure is for treatment or payment purposes, or as otherwise required by State or Federal law.

When the minimum necessary standard is applied, a hospital may not disclose the entire medical record for a particular purpose, unless it can specifically justify that the whole record is the amount reasonably needed for the purpose.

A hospital may make an authorized disclosure of information from the medical record electronically, and may also share an electronic medical record system with other health care facilities, physicians and practitioners, so long as the system is designed and operated with safeguards that ensure that only authorized disclosures are made. The hospital must obtain the patient's, or the patient's representative's, written authorization for any disclosure of information in the medical record when the disclosure is not for treatment, payment or health care operations.

Survey Procedures §482.13(d)(1)

- Verify that the hospital has policies and procedures addressing the protecting of information in patients' medical record from unauthorized disclosures.
- Observe locations where medical records are stored to determine whether appropriate safeguards are in place to protect medical record information.
- Interview staff to determine their understanding of and compliance with the hospital's policies and procedures for protecting medical record information.

