

Release of Information Policy

Introduction

Highgate Medical Group has adopted this Release of Information Policy to comply with legal and accreditation standards governing release of medical information and the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the Department of Health and Human Services (“DHHS”) security and privacy regulations’ requirement to protect the security and privacy of health information, as well as our duty to protect the confidentiality and integrity of confidential medical information as required by law, professional ethics, and accreditation requirements.

Assumptions

This Release of Information Policy is based on the following assumptions:

- Although patient medical records are the “property” of the practice, patients have rights of access to the information contained in the records.
- Highgate Medical Group may maintain or transmit individually identifiable health information of individuals who are not “patients” of Highgate Medical Group.
- Other than disclosures authorized by the DHHS Standards on the Privacy of Individually Identifiable Health Information (privacy regulations) and federal and state law, Highgate Medical Group must obtain a consent or an authorization or give the individual an opportunity to object to a use or disclosure in order to use or disclose medical information.
- Any use or disclosure of confidential patient or other information carries with it the potential for an unauthorized use or redisclosure that breaches confidentiality.
- Highgate Medical Group incurs costs when releasing patient information, such as copying, postage, and so forth and may charge a reasonable fee to offset those costs.

Policy

All persons authorized to release medical records and information must read, understand, and comply with this policy.

General Principle

The practice has a legal and an ethical responsibility to preserve the privacy and confidentiality of patient information. Accordingly, all personnel will adhere strictly to this basic principle: the individual’s prior consent, authorization, or an opportunity to object or a ground specified in the privacy regulations that does not require such consent, authorization, or opportunity to object is required before use or disclosure of patient information.

Compliance with Laws and Regulations

These policies and practices shall be consistent with state and federal laws and regulations that have not been preempted by HIPAA and its implementing regulations, including the privacy regulations and that contain provisions relating to the release of information from patient records. The legal department, risk management, and the director of health information are responsible for reviewing the laws and regulations specified in Appendix A to this policy and any new laws and regulations and amending this policy to comply with changed provisions.

Administrative Processes

Highgate Medical Group will process requests for information from patient records in a timely, consistent manner as set forth in this policy.

Priorities and Time Frames

The following priorities and time frames shall apply to release of information requests processed by the health information department:

- Emergency requests involving immediate emergency care of patient: immediate processing.
- Priority requests pertaining to current care of patient: within one workday.
- Patient request for access to own record: within three workdays.
- Subpoenas and depositions: as required.
- *All other requests:* within five workdays.

Courtesy Notification to Practitioners

Highgate Medical Group will notify the appropriate health care practitioner when any of the following events occur:

- Patient or his or her representative requests information from the medical record.
- Patient or representative requests direct access to the complete medical record.
- Patient or representative institutes legal action.

Monitoring Process

Medical Records Department will maintain a log to track the step-by-step process toward completion of each request for release of information. The Medical Records Department will review and update this log daily to give proper priority to requests and to provide early intervention in problem situations. The log shall contain the following information:

- Date request received.
- Name of patient.
- Name and status (patient, parent, guardian) of person making request.
- Authority for release.
- Reason for release.
- Information released.

- Date released.
- Fee charged.

Fee Schedule

Highgate Medical Group will charge a reasonable fee to offset the costs associated with specific categories of requests. Highgate Medical Group will base the fee on an assessment of such factors as the costs of equipment and supplies, employee costs, and administrative overhead and shall include postage, including express mail costs when incurred at the request of the authorizing party. The state of New York has established maximum fees for copies of patient records. See Appendix B for the current fee schedule.

Highgate Medical Group may waive fees for good reason and shall note the reason for waiver in the release of information tracking log.

Preparation of Response

Unless the request specifies release of the complete medical record, Highgate Medical Group shall release only selected portions of the record.

Prohibition of Redisclosure

Unless a law or regulation requires a more specific prohibition on redisclosure (see Appendices for particular types of information, such as that regarding AIDS/HIV, alcohol and drug abuse, and other particularly sensitive medical information), each disclosure outside the practice will contain the following notice:

The attached medical information pertaining to [name of patient] is confidential and legally privileged. Highgate Medical Group has provided it to [name of recipient] as authorized by the patient. The recipient may not further disclose the information without the express consent of the patient or as authorized by law.

Retention of Request

Highgate Medical Group will retain the original request, the authorization for release of information, and a copy of the cover letter in the patient's medical record for the appropriate record retention period for medical and business-related records or for not less than six years from the date of release, whichever is longer.

Quality Control

Medical Records Department or designee shall carry out a routine audit of the release of information at least quarterly, paying particular attention to the following factors:

- Validity of authorization.
- Appropriateness of information abstracted in response to the request.
- Retention of authorization, request, and transmitting cover letter.
- Procedures for telephone, electronic, and in-person requests.
- Compliance with designated priorities and time frames.
- Proper processing of fees.
- Maintenance of confidentiality.

Medical records management shall give periodic in-service training to all employees involved in the release of information process.

Cynthia Maynard shall review this policy and associated procedures with risk management and legal counsel at least semiannually.

Capacity to Authorize

Highgate Medical Group requires a written, signed, current, valid authorization to release medical information as follows:

<u>Patient Category</u>	<u>Required Signature</u>
Adult patient	The patient or a duly authorized representative, such as court-appointed guardian or attorney. Proof of authorized representation required, such as notarized power of attorney.
Deceased patient	Next of kin as stated on admission face sheet (state relationship on authorization) or executor/administrator of estate.
Unemancipated minor	Parent, next of kin, or legally appointed guardian/attorney (proof of relationship required).
Emancipated minor ¹	Same as adult patients above.
Psychiatric, drug, alcohol program patients/clients	Same as adult patients above, but see Appendix D for special requirements.
AIDS/HIV or other sexually transmitted disease patients	Same as adult patients above, but see Appendix D for special requirements.

¹State law defines which minors are “emancipated,” that is, able to act as an adult. Typical factors resulting in emancipation are marriage, pregnancy, earning a living as an adult, and having moved out of the family home.

Content and Format of Consent

Highgate Medical Group must obtain a consent to use or disclose protected health information (“PHI”) for treatment, payment, or health care operations.² Such a consent must contain the following information:

- Inform the individual that PHI may be used and disclosed to carry out treatment, payment, or health care operations.
- Refer the individual to the statement of information practices for a complete description of such uses and disclosures and state that the individual has the right to review the notice before signing the consent.
- State that Highgate Medical Group has reserved the right to change its privacy practices that are described in the notice and that the terms of its notice may change and describe how the individual may obtain a revised notice.
- State that the individual has the right to request that the covered entity restrict how PHI is used or disclosed to carry out treatment, payment, or health care operations and state that the covered entity is not required to agree to the restriction, but that, if it does, the agreement to the restriction is binding.
- State that the individual has the right to revoke the consent in writing, except to the extent that the covered entity has already taken action in reliance on it.
- Signature of the individual and date signed.

See Appendix E for the current consent form.

Content and Format of Authorization

Written authorization is required for all other uses and disclosures except those such as marketing, practice directories, and involvement of family members that require only an opportunity to object. Written authorization must contain detailed, specific information directing the release of patient information. Authorizations must include the following information:

- Name and address of the practice.
- Name of the patient.
- Person or organization, including complete address, to whom the information is to be released.
- Purpose of the disclosure.
- Signature of the patient or duly authorized representative.
- Date signed.
- Information to be released.

² The proposed change to the privacy regulations would omit the requirement for consent for treatment, payment, and healthcare operations. In the event that this change is adopted and the practice decides not to request consent, it should strike this paragraph and replace it with the following: The Department of Health and Human Services has granted regulatory authority to the practice to use protected health information for treatment, payment, and health care operations. Thus, a consent is not necessary unless another state or federal law requires a consent.

- Signature of witness.

Medical Records Department shall develop and use an approved authorization form. See Appendix F. Health information management department personnel will use this form whenever possible. Health information management department personnel shall, however, honor letters and other forms, provided that they include all the required information.

Revocation of Authorization

A patient may revoke an authorization by providing a written statement to the practice. The revocation shall become effective when the practice receives it.

Patient Education

To facilitate the timely and proper release of information, the practice will provide patients an explanation of the release of information requirements as part of the admission process and/or in its notice of information practices.

Refusal to Honor Authorization

Highgate Medical Group personnel authorized to release information will not honor a patient authorization when they have a reasonable doubt or question as to the following information:

- Identity of the person presenting the authorization.
- Status of the individual as the duly appointed representative of a minor, a deceased, or an incompetent person.
- Legal age or status as an emancipated minor.
- Patient capacity to understand the meaning of the authorization.
- Authenticity of the patient's signature.
- Current validity of the authorization.

In such situations, the employee shall refer the matter to the Privacy Officer, Cynthia Maynard, for review and decision.

Electronic Records

The above requirements apply equally to electronic records, such as e-mail, telefacsimile, internet, or other electronically maintained or transmitted PHI. No employee shall release electronic records without complying with this policy. See also Highgate Medical Group's E-Mail Policy, Telefacsimile Policy, and Internet Policy.

Minimum Necessary Standard

Under § 164.502(b) of the DHHS privacy regulations, Highgate Medical Group must make all reasonable efforts not to use or disclose more than the minimum amount of PHI necessary to

accomplish the intended purpose of the use or disclosure. This requirement does not apply to the following disclosures (section numbers refer to the privacy regulations):

- Those made in accordance with §§ 164.508(a) (upon request by an individual), 164.514 (pursuant to an individual's right of access), or 164.522 (as required by the Secretary of DHHS to enforce compliance).
- Those required by law and permitted by § 164.510 (uses and disclosures for which individual authorization is not required).
- Those required for compliance with the privacy regulations.
- Those made by a covered health care provider to a covered health plan when the information is requested for audit and related purposes.

To comply with the minimum necessary standard, Highgate Medical Group must identify those persons or classes of persons in its workforce who need access to PHI to carry out their duties. For each such person or class of persons, Highgate Medical Group must identify the category or categories of PHI to which access is needed and any conditions appropriate to such access. Highgate Medical Group must make reasonable efforts to limit the access of such individuals or classes to the degree of access and the conditions placed thereon. Supervisors are responsible for making such determinations and reporting the same to Privacy Officer, who will maintain such records for not less than six years.

Supervisors must implement policies and procedures, which may be standard protocols for routine and recurring uses and disclosures, that limit the PHI to that reasonably necessary to achieve the purpose of the disclosure.

For all other disclosures, department directors must take the following steps:

- Develop criteria designed to limit the PHI disclosed to the information reasonably necessary to accomplish the purpose for which disclosure is sought.
- Review requests for disclosure on an individual basis in accordance with such criteria.

Highgate Medical Group, its officers, and employees may rely, if such reliance is reasonable under the circumstances, on a requested disclosure as the minimum necessary for the stated purpose in the following circumstances:

- When making disclosures to public officials that are permitted under § 164.512 (uses and disclosures not requiring consent, such as for health oversight, to coroners, and so forth), if the public official represents that the information requested is the minimum necessary for the stated purpose.
- When another covered entity requests the information.
- When the information is requested by a professional who is a member of the Highgate Medical Group's workforce or is its business associate for the purpose of providing professional services to the Highgate Medical Group, if the professional represents that the information requested is the minimum necessary for the stated purpose(s).

- When documentation or representations that comply with the applicable requirements of § 164.512(i) (disclosures for research purposes) have been provided by the requester for research purposes.

For all uses, disclosures, or requests to which the minimum necessary rule applies, Highgate Medical Group may not use, disclose, or request an entire medical record, except in cases in which the entire medical record is justified as the amount that is reasonably necessary to accomplish the purpose of the use, disclosure, or request.

Methodology for Disclosures Under the Privacy Regulations Not Requiring Consent, Authorization, or Opportunity to Object

When an employee who is authorized to disclose individually identifiable health information receives a request for a use or disclosure that does not require consent, authorization, or opportunity to object under § 164.512 of the DHHS privacy regulations, the employee must observe the following procedure to determine whether the employee may disclose the PHI:

- Determine whether the use or disclosure is one that the employee is authorized to make. Privacy Officer will determine which categories of employees are allowed to disclose under this policy. The following uses and disclosures **must be referred to [the legal department] [outside legal counsel] [other]:**
 - Disclosures about victims of abuse, neglect, or domestic violence.
 - Disclosures and uses for judicial and administrative proceedings.
 - Disclosures for law enforcement purposes (except in an emergency in which no time exists for legal review).
 - Uses and disclosures to avert a serious threat to health and safety (except in an emergency in which no time exists for legal review).
 - National security and intelligence activities.
 - Correctional institutions and other law enforcement custodial institutions.
- Verify the identity of the requester and the requester's authority to receive the information. For example, if the requester states that the requester is from law enforcement, request to see a badge or credentials. If the requester represents that the requester is from the department of health at the practice to audit medical records, ask to see documentation of the authorization on department letterhead. Unless something about the badge, credential, letter on department letterhead, or other proof of authority appears suspicious, the employee can rely on such evidence.
- Compare the facts and circumstances of the request to the detailed criteria of the relevant category or categories under § 164.512 of the DHHS privacy regulations (see relevant appendices to this Release of Information Policy).
- If the facts and circumstances do not meet **all** of the relevant criteria of at least one category under § 164.512 of the privacy regulations, **do not** release the information. Note the request and why it was not granted on the form developed by [name of responsible person or entity].
- If the facts and circumstances do meet all of the relevant criteria of at least one category under § 164.512, **do not release the information until after you have determined whether another state or federal law prohibits or restricts the disclosure.** In other

words, if the privacy regulations permit the disclosure, but state law specifies that the requester must obtain a court order, do not release the information without a court order. See Appendix A for a listing of such laws that override (were not preempted by) the privacy regulations.

- Record the disclosure on the form developed by Privacy Officer, Cynthia Maynard.

Enforcement

All supervisors are responsible for enforcing this policy. Employees who violate this policy are subject to discipline up to and including termination from employment in accordance with Highgate Medical Group's Sanction Policy.

List of Appendices

- A. List of state and federal laws regarding release of medical information.
- B. Schedule of fees for copying.
- C. Copies of contracts with copying services.
- D. State and federal laws providing enhanced confidentiality protection that were not preempted by HIPAA, such as laws covering information about AIDS/HIV, mental health, alcohol and drug abuse, other sexually transmitted and communicable diseases, and so forth.
- E. Consent form.
- F. Authorization form.
- G. Uses and disclosures required by law.
- H. Uses and disclosures for public health activities.
- I. Disclosures about victims of abuse, neglect, or domestic violence.
- J. Disclosures for health oversight activities.
- K. Disclosures and uses for judicial and administrative proceedings.
- L. Disclosures for law enforcement purposes.
- M. Uses and disclosures about decedents.
- N. Uses and disclosures for research purposes.
- O. Uses and disclosures to avert a serious threat to health and safety.
- P. Military and veterans activities.
- Q. National security and intelligence activities.
- R. Correctional institutions and other law enforcement custodial institutions.
- S. Workers' compensation.

Appendix G

Uses and Disclosures Required by Law

Under § 164.512(a) of the DHHS privacy regulations, Highgate Medical Group may use or disclose protected health information (“PHI”) when required by law. The use or disclosure must be required by a state or federal law, and the use and disclosure must comply with and be limited to the relevant requirements of the law. Highgate Medical Group must meet the requirements of § 165.512(c) (disclosures about victims of abuse, neglect, or domestic violence, see Appendix I below), § 165.512(e) (disclosures for judicial or administrative proceedings, see Appendix K below), or § 165.512(f) (disclosures for law enforcement purposes, see Appendix L below) for uses or disclosures required by law.

Appendix H

Uses and Disclosures for Public Health Activities

Under § 164.512(b) of the DHHS privacy regulations, Highgate Medical Group may disclose PHI to the following public health activities for the specified purposes:

- Public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including but not limited to, the reporting of disease, injury, vital events, such as birth or death, and the conduct of public health surveillance, public health investigations, or, at the direction of a public health authority, to an official of a foreign government agency that is acting in collaboration with a public health authority.
- Public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect.
- Person subject to the jurisdiction of the Food and Drug Administration (“FDA”):
 - To report adverse events (or similar reports with respect to food or dietary supplements), product defects or problems (including problems with the use or labeling of a product), or biological product deviations if the disclosure is made to the person required or directed to report such information to the FDA.
 - To track products if the disclosure is made to a person required or directed by the FDA to track the product.
 - To enable product recalls, repairs, or replacement, including notifying individuals who have received products of product recalls, withdrawals, or other problems.
 - To conduct postmarketing surveillance to comply with FDA requirements.
- Person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or infection, if the covered entity or public health authority is authorized by law to notify such person as necessary in the conduct of a public health intervention or investigation.
- Employer, about an individual who is a member of the workplace of that employer, under the following conditions:
 - The covered entity (a health plan, health care clearinghouse, or health care provider that is covered by HIPAA) is a covered health care provider who is a member of the workforce of such employer or who provides health care to the individual at the request of the employer (1) to conduct an evaluation relating to medical surveillance of the employer or (2) to evaluate whether the individual has a work-related illness or injury.
 - PHI consists of findings concerning a work-related illness or injury or a workplace-related medical surveillance.
 - Employer needs such findings to comply with federal or state law to record illnesses or injuries or to carry out responsibilities for workplace medical surveillance.
 - Covered provider gives written notice to the individual that PHI relating to medical surveillance of the workplace and work-related illnesses and injuries is disclosed to the employer (1) by giving a copy of the notice to the individual at the time the health care is provided or (2) if the health care is provided on the

work site of the employer, by posting the notice in a prominent place at the location where the health care is provided.

If the covered entity is also a public health authority, it may use PHI in all cases in which it is permitted to disclose such information for public health activities as above.

Appendix I

Disclosures About Victims of Abuse, Neglect, or Domestic Violence

Note: Refer this type of disclosure to [the legal department] [outside counsel] [other] for review except in an emergency in which time will not permit legal review before disclosure.

Except for reports of child abuse under uses and disclosures required by law, see Appendix G, Highgate Medical Group may disclose PHI about an individual whom Highgate Medical Group reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority, including a social service or protective services agency, authorized by law to receive such reports as follows:

- To the extent that the disclosure is required by law and the disclosure complies with and is limited to the requirements of that law.
- If the individual agrees to the disclosure.
- To the extent that the disclosure is expressly authorized by statute or regulation and if either of the two following conditions applies:
 - Highgate Medical Group, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or other potential victim.
 - If the individual is unable to agree because of incapacity, such as if unconscious or mentally disabled, a law enforcement or other public official authorized to receive the report represents that the PHI is not intended to be used against the individual and that an immediate enforcement activity that depends on the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.
- If Highgate Medical Group makes a disclosure concerning victims of abuse, neglect, or domestic violence, it must promptly inform the individual that such a report has or will be made, unless one of the following conditions applies:
 - Highgate Medical Group, in the exercise of professional judgment, believes informing the individual would place the individual at risk of serious harm.
 - Highgate Medical Group would be informing a personal representative, and Highgate Medical Group reasonably believes that the personal representative is responsible for the abuse, neglect, or other injury and that informing such person would not be in the best interests of the individual.

Appendix J

Uses and Disclosures for Health Oversight Activities

Under subsection 164.512(d) of the DHHS privacy regulations, Highgate Medical Group may disclose protected health information (“PHI”) to a health oversight agency for oversight activities authorized by law, including the following: audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administration, or criminal proceedings or actions; or other activities necessary for appropriate oversight of the following:

- Health care system.
- Government benefit programs for which health information is relevant to beneficiary eligibility.
- Entities subject to government regulatory programs for which health information is relevant to eligibility.
- Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards.
- Entities subject to civil rights laws for which health information is necessary for determining compliance.

Under § 164.512(d) of the DHHS privacy regulations, a health oversight activity does not include an investigation or other activity in which the individual is the subject of the investigation or other activity and in which such investigation or other activity does not arise out of and is not directly related to the following:

- Receipt of health care.
- Claim for public benefits related to health.
- Qualification for or receipt of public benefits or services when a patient’s health is integral to the claim for public benefits or services.
- With regard to joint activities or investigations, if a health oversight activity or investigation is conducted in conjunction with an oversight activity or investigation relating to a claim for public benefits not related to health, the joint activity or investigation is considered a health oversight activity for purposes of the standard for uses and disclosures by health oversight activities. If the covered entity is also a health oversight agency, it may use PHI for health oversight activities as permitted above.

Appendix K

Disclosures and Uses for Judicial and Administrative Proceedings

Note: Refer this type of disclosure to [the legal department] [outside counsel] [other] for review except in an emergency in which time will not permit legal review before disclosure.

Section 164.512(e) of the Department of Health and Human Services (“DHHS”) privacy regulations makes uses and disclosures under state subpoena or court order permissible under the DHHS privacy rules (all citations below refer to these regulations). Highgate Medical Group may disclose protected health information (“PHI”) in the course of any judicial or administrative proceeding as follows:

- In response to an order of a court or administrative tribunal, provided that Highgate Medical Group discloses only the PHI expressly authorized by such order.
- In response to a subpoena, a discovery request, or other lawful process that is not accompanied by an order of a court or an administrative tribunal, if one of the following conditions applies:
 - Highgate Medical Group receives satisfactory assurance, as described below, from the party seeking the information that it has made reasonable efforts to ensure that the individual whom is the subject of the PHI has been given notice of the request, § 164.512(e)(1)(ii)(A). For purposes of this disclosure, Highgate Medical Group receives satisfactory assurances from a party seeking PHI when a written statement and accompanying documentation demonstrates that all of the following conditions apply:
 - Party requesting such information has made a good faith attempt to provide written notice to the individual (or if the individual’s location is unknown, to mail a notice to his or her last known address).
 - Notice included sufficient information about the litigation or proceeding for which the PHI is requested to permit the individual to raise an objection to the court or administrative tribunal.
 - Time for the individual to raise objections to the court or administrative tribunal has elapsed, and either no objections were filed or all objections filed have been resolved, and the disclosures being sought are consistent with such resolution.
- Highgate Medical Group receives satisfactory assurance from the party seeking the information that it has made reasonable efforts to secure a qualified protective order that meets the requirement of §§ 164.512(e)(1)(v) and 164.512(e)(1)(ii)(B). Highgate Medical Group receives satisfactory assurance from a party seeking PHI if the [name of practice] receives from such party a written statement and accompanying documentation demonstrating that either of the following conditions applies:
 - Parties to the dispute giving rise to the request for information have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute.
 - Party seeking the PHI has requested a qualified protective order from such court or administrative tribunal.

A qualified protective order means, with respect to PHI, an order of a court or of an administrative tribunal or a stipulation by the parties to the litigation or administrative proceeding that both (1) prohibits the parties from using or disclosing PHI for any purpose other than the litigation or proceeding for which such information was requested and (2) requires the return to Highgate Medical Group or the destruction of the PHI, including all copies made, at the end of the litigation or proceeding.

- Notwithstanding the requirements above in cases in which no order of a court or administrative tribunal ordered the disclosure, Highgate Medical Group may disclose PHI in response to lawful process (subpoena or discovery request) without receiving satisfactory assurance if one of the following conditions exist:
 - Highgate Medical Group makes reasonable efforts to provide notice to the individual sufficient to meet the requirements of § 164.512(e)(1)(ii)(A) (notice of the request for the information), as discussed above.
 - Party seeking the information has made reasonable efforts to secure a qualified protective order, as discussed above, or to seek a qualified protective order sufficient to meet the requirements of § 164.512(e)(1)(iv).

Appendix L

Disclosures for Law Enforcement Purposes

Note: Refer this type of disclosure to [the legal department] [outside counsel] [other] for review except in an emergency in which time will not permit legal review before disclosure.

Section 164.512(f) of the Department of Health and Human Services (“DHHS”) privacy regulations (all citations below refer to these regulations) governs disclosures for law enforcement purposes.

A law enforcement official is an officer or employee of any agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, that is empowered by law to (a) investigate or conduct an official inquiry into a potential violation of law or (b) prosecute or otherwise conduct criminal, civil, or administrative proceedings arising from an alleged violation of law.

Highgate Medical Group may disclose in the following circumstances protected health information (“PHI”) to a law enforcement official if a state law does not prohibit the disclosure, such as a law protecting mental health information that prohibits disclosure except pursuant to a court order:

- Pursuant to process and as otherwise required by law, a covered entity may disclose PHI in the following situations:
 - As required by law, § 164.512(f)(1), including laws that require the reporting of certain types of wounds or other physical injuries. This disclosure does not include uses and disclosures subject to subsection (b)(1)(ii) (uses and disclosures for public health activities under subsection (b)(1)(ii) (see Appendix H) or disclosures about victims of abuse, neglect, or domestic violence to the extent the disclosure is required by law under (b)(1)(i) (see Appendix I). Those two types of uses and disclosures should be handled in accordance with Appendices H and I.
 - In compliance with and as limited by the relevant requirements of the following documents:
 - Court order or court-ordered warrant or a subpoena or summons issued by a judicial officer.
 - Grand jury subpoena.
 - Administrative request, including an administrative subpoena or summons, a civil or an authorized demand, or similar authorized process, provided that all of the following conditions apply:
 - ❑ Information sought is relevant and material to a legitimate law enforcement inquiry.
 - ❑ Request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought.
 - ❑ De-identified information could not reasonably be used.

- Limited information for identification and location purposes. Section 164.512 (f)(2)(i) permits Highgate Medical Group to disclose PHI (except for disclosures required by law, see above which would follow § 164.512(f)(1), above), in response to a law enforcement official's request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that Highgate Medical Group may disclose only the following information:
 - Name and address.
 - Date and place of birth.
 - Social Security number.
 - ABO blood type and Rh factor.
 - Type of injury.
 - Date and time of treatment.
 - Date and time of death, if applicable.
 - Description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair, and tattoos.

Highgate Medical Group may not, except as permitted by § 164.512(f)(2)(i) (immediately above), disclose for the purposes of identification or location any PHI related to the individual's DNA or DNA analysis, dental records, or typing, samples, or analysis of bodily fluids or tissue.

- Victims of a crime. Except for disclosures required by law, see above, Highgate Medical Group may disclose PHI in response to a law enforcement official's request for such information about an individual who is suspected to be a victim of a crime, other than disclosures under sections (b) and (c) of § 164.512 (for public health activities (see Appendix H) and victims of abuse, neglect or domestic violence (see Appendix I), which uses and disclosures follow those rules, see relevant appendix), if (1) the individual agrees to the disclosure or (2) Highgate Medical Group is unable to obtain the individual's agreement because of incapacity or other emergency circumstance, provided that the following conditions apply:
 - Law enforcement official represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred and that such information is not intended to be used against the victim.
 - Law enforcement official represents that immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.
 - Disclosure is in the best interests of the individual as determined by Highgate Medical Group, in the exercise of professional judgment.
- Decedents. Highgate Medical Group may disclose PHI about a deceased individual to a law enforcement official for the purpose of alerting law enforcement of the death of the individual if the covered entity has a suspicion that such death may have resulted from criminal conduct.
- Crime on premises. Highgate Medical Group may disclose to a law enforcement official PHI that Highgate Medical Group believes in good faith constitutes evidence of criminal conduct that occurred on the premises of Highgate Medical Group.
- Reporting crime in emergencies. Highgate Medical Group when providing emergency health care in response to a medical emergency, other than such emergency on the

premises of Highgate Medical Group, may disclose PHI to a law enforcement official if such disclosure appears necessary to alert law enforcement to the following facts:

- Commission and nature of a crime.
- Location of such crime or of the victim(s) of such crime.
- Identity, description, and location of the perpetrator of such crime.
- If the provider believes that the emergency is the result of abuse, neglect, or domestic violence, this ground for disclosure does not apply, and the disclosure falls under § 164.512(c) (see Appendix I), governing disclosure for those reasons.

Appendix M

Uses and Disclosures about Decedents

Under § 164.512(g) of the Department of Health and Human Services (“DHHS”) privacy regulations, [name of practice] may disclose protected health information (“PHI”) to a coroner or medical examiner for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law:

- Highgate Medical Group may disclose PHI to funeral directors, consistent with applicable law, as necessary, to carry out their duties with respect to the decedent. If necessary, Highgate Medical Group may disclose such information before and in reasonable anticipation of the individual’s death.
- Highgate Medical Group may use or disclose PHI to organ procurement organizations or other entities engaged in the procurement, banking, or transplantation of cadaveric organs, eyes, or tissue for the purpose of facilitating such donations or transplants. In such cases, Highgate Medical Group must have the proper consent to release of such organs, eyes, or tissues.

Appendix N

Uses and Disclosures for Research Purposes

Highgate Medical Group may use or disclose protected health information (“PHI”) for research, regardless of the source of funding for the research, in the following situations:

- Board approval of a waiver of authorization.³ Highgate Medical Group obtains documentation that an alteration to or a waiver of, in whole or in part, of the individual authorization required by § 164.508 of the Department of Health and Human Services (“DHHS”) privacy regulations (all citations are to the privacy regulations) has been approved by either of the following:
 - Highgate Medical Group’s institutional review board (“IRB”) established in accordance with federal regulations.
 - Highgate Medical Group’s privacy board that meets all of the following criteria:
 - Has members with varying backgrounds and appropriate professional competency as necessary to review the effect of the research protocol on the individuals’ privacy rights and related interests.
 - Includes at least one member who is not affiliated with Highgate Medical Group, not affiliated with any entity conducting or sponsoring research, and not related to any person who is affiliated with any of such entities.
 - Does not have any member participating in any review of any project in which the member has a conflict of interest.

For a use or disclosure under § 164.508, Highgate Medical Group must maintain documentation of approval or alteration of a waiver. The documentation must include all of the following information:

- Identification and date of action identifying the IRB or privacy board and the date on which the alteration or waiver was approved.
- Waiver criteria that the IRB or privacy board use to determine that the alteration or waiver satisfies the criteria specified in § 164.512(i)(2)(ii).
- Brief description of the PHI that the IRB or privacy board has determined to be necessary.
- Statement that the alteration or waiver of authorization has been reviewed and approved under either normal or expedited review procedures, which are specified in § 164.512(i)(2)(iv).
- Signature of the chair or other member, as designated by the chair, of the IRB or privacy board.
- Reviews preparatory to research. Section 164.512(i)(ii) specifies that the second way Highgate Medical Group may use or disclose PHI for research is to obtain assurances from the researcher that all of the following conditions apply:
 - Use or disclosure is sought solely to review PHI as necessary to prepare a research protocol or for similar purposes preparatory to research.

³ The proposed changes to the privacy regulations would change this language. If the change is adopted, call or e-mail Veterans Press/EMR Legal for suggested language.

- No PHI is to be removed from Highgate Medical Group by the researcher in the course of the review.
 - The PHI is necessary for the research purposes.
- Research involving decedent's information requires Highgate Medical Group to obtain the following from the researcher:
 - Representation that the use or disclosure is sought solely for research on the PHI of decedents.
 - Documentation, at the request of Highgate Medical Group, of the death of such individuals.
 - Representation that the PHI is necessary for the research.

Appendix O

Uses and Disclosures to Avert a Serious Threat to Health or Safety

Note: Refer this type of disclosure to [the legal department] [outside counsel] [other] for review except in an emergency in which time will not permit legal review before disclosure.

Highgate Medical Group may, under the Department of Health and Human Services (“DHHS”) privacy regulations (all citations refer to the privacy regulations) and consistent with applicable laws and ethical standards, use or disclose (“PHI”) if Highgate Medical Group believes, in good faith, that the use or disclosure is necessary in either of the following situations:

- To prevent or lessen a serious and imminent threat to the health or safety of a person or of the public and the disclosure is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat.
- For law enforcement authorities to identify or apprehend an individual in either of the following cases:
 - Because of a statement by an individual admitting participation in a violent crime that [name of practice] reasonably believes caused serious physical harm to the victim.
 - In cases in which it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody.

Highgate Medical Group may not use or disclose PHI to prevent or lessen a serious and imminent harm if Highgate Medical Group learned of the information in either of the following situations:

- In the course of treatment to affect the propensity to commit the criminal conduct that is the basis for the disclosure, counseling, or therapy. For example, if a psychotherapist is counseling a child abuser to prevent further such criminal conduct and learned of the patient’s intention to continue to do so, Highgate Medical Group could not disclose the PHI.
- Through a request by the individual to initiate or to be referred for the treatment, counseling, or therapy to affect the propensity to commit the criminal conduct that is the basis for the disclosure.

A disclosure to prevent such a serious and imminent threat may contain only the information in § 164.512(j)(1)(ii)(A) (the statement of an individual admitting participation in a violent crime) and (f)(2)(i) (limited information for identification and location purposes, see Appendix L).

An employee that uses or discloses PHI to prevent or lessen a serious and imminent threat is presumed to have acted in good faith with regard to the employee’s belief justifying use or disclosure under this ground for disclosure (to avert a serious threat to health or safety) if the belief is based upon the Highgate Medical Group’s actual knowledge or in reliance on a credible representation by a person with apparent knowledge or authority.

Appendix P

Military and Veterans Activities

Highgate Medical Group may use and disclose the protected health information (“PHI”) of armed services personnel for activities appropriate for military command authorities to assure the proper execution of the military mission if such authorities publish notice in the *Federal Register*. The notice must include who the authorities are and the purposes for which the PHI may be used or disclosed.

Appendix Q

National Security and Intelligence Activities Authorized by the National Security Act, 50 U.S.C. 401, et seq., and Executive Order 12333, for the Conduct of Lawful Intelligence, Counterintelligence, and other National Security Activities

Note: Refer this type of disclosure to [the legal department] [outside counsel] [other] for review except in an emergency in which time will not permit legal review before disclosure.

Highgate Medical Group may disclose protected health information (“PHI”) to authorized federal officials providing protective services for the President or other persons authorized by 18 U.S.C. 3056 or to foreign heads of state or other persons authorized by 22 U.S.C. § 2709(a)(3) or for the conduct of investigations authorized by 18 U.S.C. §§ 871 and 879 (investigations of persons threatening U.S. Secret Service protectees).

Appendix R

Correctional Institutions and Other Law Enforcement Custodial Institutions

Highgate Medical Group may disclose protected health information (“PHI”) about an inmate or individual in custody for any purpose for which PHI may be disclosed if the correctional institution or law enforcement official represents that the information is necessary for the following purposes:

- Provision of health care to such individuals.
- Health and safety of such individuals or other inmates.
- Health and safety of officers, employees, or others at the correctional institution.
- Health and safety of such individuals and officers or other persons responsible for the transporting of inmates or their transfer from one institution, practice, or setting to another.
- Law enforcement on the premises of the correctional institution.
- The administration and maintenance of the safety, security, and good order of the correctional institution.

For purposes of this use or disclosure, an individual is no longer an inmate after release on parole, probation, or supervised release or after he or she is no longer in custody.

Appendix S

Workers' Compensation

Highgate Medical Group may disclose protected health information (“PHI”) as authorized by and to the extent necessary to comply with laws relating to workers’ compensation and similar programs established by law that provide benefits for work-related injuries or illness without regard to fault.