



TITLE: Banner Health Observer Policy			
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Type: Administrative		Author: Christine Austin/HIPAA Compliance	
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Facility: System			
Population (Define): All Employees			
Replaces:			
Approved by: Administrative Policy Committee; David Bixby, Chief Legal Officer/General Counsel			

TITLE: *Banner Health Observer Policy***I. Purpose/Expected Outcome:**

- A. It is an important part of Banner Health's (BH) educational, community and business mission to permit Observers on a BH facility campus to tour the facility, observe facility operations, and provide educational or technical support. (See ***Policy: Use and Disclosure of Protected Health Information (PHI) for Treatment, Payment and Health Care Operations (TPO)***.) This policy sets forth the circumstances under which Observers may be permitted in areas in which the Observers may see or hear patient protected health information (PHI), and under what circumstances PHI may be disclosed to Observers. Observation by health care providers is permitted to allow them to learn and improve their skills.

II. Definitions:

- A. Applicant: A person applying to be an Observer at a BH facility.
- B. BH Workforce: Banner Health (BH) employees, volunteers, trainees, and other persons whose conduct, in the performance of work is under the direct control of BH, whether or not they are paid by Banner.
- C. Escort: BH facility personnel or Medical Staff member who accompanies an Observer throughout a visit. An Escort may also be the Sponsor of the Observer.
- D. Incidental Disclosure: A disclosure of PHI by BH that is incidental to a use or disclosure otherwise permitted or required under the Privacy Rule, provided BH has implemented reasonable safeguards to limit Incidental Disclosures.
- E. Observer: A person who wishes to come to the BH facility to tour the facility, observe BH facility operations, provide or receive educational or technical support, or to shadow BH personnel or Medical Staff members.
1. An Observer **does not include** students/residents/preceptors who are part of a formal education program contracted with BH. These contracted programs may include health professional, college and secondary school programs and they are deemed part of BH's workforce.
 2. An Observer **does not include** visitors of BH facility patients.
 3. An Observer **does not include** workforce or business associates performing services for BH. This would include accountants, consultants, attorneys, repair persons, equipment vendors (installing or removing machinery or repairing machinery), etc.
 4. An Observer **does not include** vendors or technical representatives.

5. **An Observer does not include a Medical or Allied Health Staff Member.**

- F. **Privacy Rule:** The Standards for Privacy of Individually Identifiable Health Information promulgated pursuant to Title II, Subtitle F of the Health Information Portability and Accountability Act of 1996 (HIPAA).
- G. **Protected Health Information (PHI):** Health information including demographic information that individually identifies a patient and relates to past, present or future physical, genetic or mental health condition of an individual for the provision of **health care**; or the past, present or future **payment** for the provision of health care to an individual.
- H. **Sponsor:** BH facility personnel or Medical Staff member who requests an Observer visit and who agrees to be responsible for the conduct of the Observer while at the BH facility.

III. Policy:

A. **Types of Observers Permitted.**

- 1. The following types of Observers will be permitted at the BH facility, **if the other requirements of this Policy are met.**
 - a. **Students.** Students who are not part of a formal educational program with which BH contracts.
 - b. **Health Care Professionals for Recruitment.** Health care professionals, include physician, nurses, technologists, and other professionals.
 - c. Physicians who are not Members of the Medical Staff. Physicians who are not members of the BH facility's Medical Staff may visit the BH facility at the invitation of BH facility personnel or Medical Staff members for educational programs or other similar purposes, including education regarding new procedures and surgical techniques.
 - d. **BH Facility Tour Groups.** Tour groups will be limited to 10-12 individuals per Escort to permit the Escort adequate control over the Observers. Members of tour groups will not be permitted in individual patient treatment areas while patients are present, such as patient rooms or operating rooms. BH facility/Medical Staff personnel providing a tour to a group of individuals must ensure that each individual has signed a confidentiality agreement.
 - e. **BH Facility Personnel Family Members.** BH facility personnel who wish to bring a child to observe on a "Bring Your Child to Work Day" or other similar occasion must obtain advance approval of their supervisor.
 - f. **Others.** Other Observers not listed in these paragraphs may be approved on an ad-hoc basis by Administration, Medical Staff or Medical Education. Before approval, Administration, Medical Staff Services or Medical Education will confirm that the purpose of the visit is consistent with those permitted in this policy in support of the BH facility's health care operations. Verify with the Privacy Officer or the Legal Department, whether any disclosures of PHI to the Observer is permitted under the Privacy Rule and BH policies and procedures.

B. **Observer Activities:**

- 1. Observers are allowed to observe only. They may not assist a health care provider in any way. If Observers visit an operating room, they may not scrub in, enter a sterile field, open sterile products, touch the patient, participate in patient care, or operate equipment associated with a medical procedure. They are prohibited from observing any procedure which involves a patient who is a family member or friend.
- 2. Observers who are health care providers are allowed to view patient information in BH Electronic Health Records (EHR), if observation is supervised and designed to improve their skills.

C. **Observer Application.**

1. To permit an Observer in areas of the BH facility in which the Observer may see or hear patient information, an Applicant or the Applicant's Sponsor will file an application with Administration, Medical Staff Services or Medical Education who will screen the application. (See ***Form: Observer Application***).
2. Administration, Medical Staff Services or Medical Education will evaluate whether the Applicant satisfies one of the Observer definitions set forth in Section II.E. If the Applicant does not satisfy an Observer definition, or if the Sponsor has not signed the Observer Application, Administration, Medical Staff Services or Medical Education will contact the Applicant or the Applicant's Sponsor and explain why observation will not be permitted. If the Applicant satisfies the requirements set forth in Section II.E and the Sponsor has signed the Observer Application, Administration, Medical Staff Services or Medical Education will sign the Observer Application and will contact the Department Director(s) for approval under Section II.B.
3. During the flu season all Observers accessing patient care areas must provide evidence of a current flu vaccination or the Observer must wear a mask.
4. The Observer who will be in the Operating Room or Intensive Care Unit must provide evidence of freedom from tuberculosis (TB).
5. The Observer must provide copy of state or federal ID.
6. The Administration, Medical Staff Services or Medical Education which receives the application will ensure that the forms are completed and will maintain them.

D. Approval of Department Director(s).

1. The director(s) of department(s) where the Observer plans to visit will approve or deny the proposed visit.

E. Signed Confidentiality Agreement.

1. The Observer will sign a confidentiality agreement before being permitted access to areas of the BH facility in which patient information may be seen or heard. (See ***Form: Observer Confidentiality Agreement***). If the Observer is a minor, the Observer's parent will sign the Observer Confidentiality Agreement.
2. The Signed Confidentiality Agreement(s) will be filed with the Observer Application and retained by Administration, Medical Staff Services or Medical Education.

F. Disclosures of Protected Health Information.

1. In nearly all cases Observers may not be permitted access to PHI where that access would be more than an Incidental Disclosure of PHI, but there may be very specific instances where if permitted or required by the Privacy Rule and applicable BH policies and procedures, minimal amount of information could be disclosed. (See ***Policies: Use and Disclosure of Protected Health Information (PHI) for Treatment, Payment and Health Operations (TPO); and Disclosures of Protected Health Information (PHI) Required by Law.***)
2. Observers who are health care providers are allowed to view patient information in BH EHRs if observation is supervised and designed to improve their skills.

G. Observer Sponsor.

1. Each Observer will have a Sponsor who is responsible for the Observer during the visit to the BH facility. The Sponsor may not allow the Observer to see or hear patient information other than Incidental Disclosures of PHI. The Sponsor may not leave the Observer unattended in the BH facility without an Escort. If the Sponsor fails to adequately supervise the Observer, the Sponsor may be subject to disciplinary action.

H. Identification Badges.

1. The Observer must obtain a BH identification badge from the Security Department or other facility designated department. This identification badge must be worn and clearly visible while

the Observer is at a BH facility. Observers who are part of an organized tour are exempt from this requirement.

I. Access to Patient Treatment Areas.

1. An Observer is not allowed to enter a patient's room or other treatment area, unless the Observer is a health care professional or student who is supervised and is participating in the observation program to improve their skills. Before entering a patient's room or other treatment area, the Sponsor or Escort will ask the patient if the Sponsor or Escort may bring the Observer into the patient's room or other treatment area.
2. If an Observer is not a health care professional or student who is participating in an observation program to improve their skills, the Sponsor or Escort must obtain a signed HIPAA authorization from the patient(s) before permitting access to the patient's room or other treatment area.

J. Removal of Observer.

1. The Sponsor or Escort will ensure that an Observer will leave a patient care area, or the facility, immediately at the request of a department director or manager, physician, or charge nurse. If an Observer refuses to leave a patient care area, or the facility, BH facility personnel will call Security to have the Observer escorted to an appropriate area.

IV. Procedure/Interventions:

- A. N/A

V. Procedural Documentation:

- A. Form: Observer Confidentiality Agreement
B. Form: Observer Application

VI. Additional Information:

- A. N/A

VII. References:

- A. N/A

VIII. Other Related Policies/Procedures:

- A. Policy: Use and Disclosure of Protected Health Information (PHI) for Treatment, Payment and Health Care Operations (TPO)
B. Policy: Disclosures of Protected Health Information (PHI) Required by Law.
C. Policy: Use and Disclosure Requiring Patient Authorization for Protected Health Information
D. Policy: System Security – Photo Identification Badges and Access Provisioning

IX. Keywords and Keyword Phrases:

- A. Observation
B. Observe
C. Watch
D. HIPAA
E. HIPAA Privacy

X. Appendix:

- A. Form: Observer Application
B. Form: Observer Confidentiality Agreement
C. Sponsor of Observer Agreement

OBSERVER APPLICATION

This form should be submitted at least 24 hours prior to potential observance.

Name: _____

Address: _____

Telephone: _____ Email: _____

D.O.B.: _____ Driver's License Number: _____

Last 4 of SS number: _____

Date of Proposed Visit: _____ (Choose at least 2 dates)

Circle One: D1, D2, D3, D4

Dental School: _____

Department Director(s) decision on application to observe:

Department: **Oral & Maxillofacial Surgical Residency** Director: **John M. Gillis, DMD**

☐ Approved or ☐ Denied

Reason for decision: _____

OBSERVER CONFIDENTIALITY AGREEMENT

Name: _____

If proposed Observer is a minor, name of the minor's parent: _____

Address, day-time phone number, and email if different from above: _____

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I understand that I may see or hear confidential patient information when I visit the BH facility. If I see or hear any information about BH facility patients, I will respect patient confidentiality and I will not share, discuss, or release that information to anyone else without the written permission of the BH facility.

I will not take any pictures while at the BH facility (including with my cell phone) and I will not make any audio or video records while at the BH facility.

I will follow all directions of BH facility personnel while I am a visitor at the BH facility. I will leave a patient care area, or the facility, immediately upon the request of BH facility personnel or physicians.

If I am visiting an operating room, I will not scrub in, enter a sterile field, open sterile products, touch a patient, participate in patient care, or operate equipment associated with a medical procedure.

I will not go anywhere in the BH facility without my Sponsor or an Escort by BH facility personnel.

I understand that if I do not follow these requirements, I may be asked to leave the BH facility, and I may not be allowed to return.

*If I am the parent of the Observer, I am responsible for my child following these requirements. I will not allow my child to participate as an Observer unless I believe that my child understands and will follow these requirements.

Signature of Observer

Date

Required Documentation

2 X 2 Photo

Driver's License

Current FLU and TB Immunizations

Fully Boosted COVID Card

CV