

SUBJECT: PATIENT RIGHTS AND NOTICE OF PRIVACY PRACTICES

POLICY:

An individual must be informed of the privacy practices and the privacy rights regarding personal health information. The notice must provide a clear explanation of the privacy practices and privacy rights. The individual will be informed through the distribution of a Privacy Notice. The Privacy Notice will be posted and a copy will be offered to the patient.

A copy of the Privacy Notice does not have to be placed in the patient's record. Instead, the edition of the privacy notice should be assigned a form or edition number. The number is placed on the patient's acknowledgment that he / she received the notice or a data field in the registration screen on the computer system will be used to record the privacy notice edition given to the patient.

1. Content of the Privacy Notice

- a. Must be in plain language
- b. Must contain the following statement as a header or otherwise prominently displayed:

“THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.”

- c. Describe
 - i. How protected health information may be used and disclosed with sufficient detail
 - (1) A description, including at least one example, of the types or uses and disclosures that the organization is permitted to make for each of the following purposes: treatment, payment, and health care operations.
 - (2) A description of each of the other purposes for which the organization is permitted or required to use or disclose protected health information without the individual's written authorization.
 - (3) A description of uses and disclosures required by State Laws, if any, that are more stringent than HIPAA regulations.
 - ii. The individual's rights and how the individual may exercise these right
 - (1) How the individual may complain,
 - (2) The right to request restrictions on certain uses and disclosures,
 - (3) The right to receive confidential communications,
 - (4) The right to inspect and copy protected health information,
 - (5) The right to amend protected health information,

- (6) The right to receive an accounting of disclosures of protected health information, and
- (7) The right to obtain a paper copy of the Privacy Notice.
- iii. Include statements on
 - (1) Legal duties, including
 - (A) Requirement to maintain the privacy of protected health information; and to abide by the terms of the Privacy Notice currently in effect;
 - (B) The right to change the terms of its Privacy Notice and to make the new Privacy Notice provisions effective for all protected health information that the organization maintains; and how the organization will provide individuals with a revised notice.
 - (C) Other uses and disclosures made only with the individual's written authorization and that the individual may revoke such authorization
 - (2) Any intention of the organization to contact the individual to provide appointment reminders or information about treatment alternatives or other health-related benefits and services that may be of interest to the individual.
 - (3) The right to complain, a brief description of how a complaint can be filed, and that the individual will not be retaliated against for filing a complaint.
 - (4) The name or title and telephone number of a person or office to contact for further information.
- iv. An effective date

2. Providing the Privacy Notice

- a. Must be provided on or before the first patient encounter on or after April 14, 2003.
 - i. Telephone contact with the patient can occur, for example, to obtain pre-procedure information and review pre-procedure instructions prior to the patient signing an acknowledgment of the receipt of the Privacy Notice.
 - ii. The Privacy Notice can be provided to the patient at registration.
 - iii. It can be mailed to the patient. Some organizations that mail registration or pre-admission packets to patients may choose to mail the Privacy Notice in the packet.
 - iv. Established patients of a physician may be mailed the Privacy Notice so the physician can provide health care services over the phone on or after April 14, 2003 but before the patient appears at the physician's office.
- b. May be provided via e-mail if the patient agrees to receive the Privacy Notice in this manner. A return receipt or other transmission must be obtained from the individual in response to the receipt of the Notice.

- c. To anyone, whether a patient or not, who requests a copy of the organization's privacy notice.
- 3. Posting of Privacy Notice
 - a. Must be posted in a clear and prominent location where the patient would reasonably be expected to look, such as the waiting area.
 - b. Newest version of the Privacy Notice must be the version posted.
 - c. If the organization has a web site, a copy of the most current version of the Privacy Notice must be displayed on the web site.
- 4. Acknowledgment of Privacy Notice
 - a. Direct treatment providers must make a good faith effort to have the patient sign or initial an acknowledgment (a statement) that the patient received the Privacy Notice.
 - b. The acknowledgment is not asking the patient to acknowledge that he/she agrees with the Privacy Notice or he/she understands the notice. It is only asking the patient to acknowledge that he/she received it.
 - c. An acknowledgment must be clear that the patient is acknowledging he/she received the Privacy Notice. Although the acknowledgment may be located on another form, the acknowledgment statement should be signed separately from other items that appear on the form.
 - d. If a signed acknowledgment cannot be obtained, the organization must document the good faith efforts that were made to obtain the acknowledgment and the reason why the acknowledgment could not be obtained. If the acknowledgment cannot be obtained because of an emergency, the organization must make good faith efforts to obtain the signed acknowledgment as soon as practical after the emergency situation has ended.
 - e. The medical record will contain either an acknowledgment that the patient received the notice or it will contain a "good faith effort" form the employee completes to record the attempt to get the patient to sign an acknowledgment.
- 5. Revisions to Privacy Notice
 - a. A revision is required if there are material changes affecting any of the following:
 - i. The organization's uses and disclosures of the patient's information
 - ii. The individual's rights
 - iii. The organization's duties
 - iv. Any other change to the organization's privacy practice

6. Retention of Privacy Notice and Acknowledgments
 - a. A copy of all versions of the Privacy Notice must be kept for at least six years.
 - b. Signed acknowledgments and “Good Faith Effort” forms must also be kept for at least six years.

PROCEDURE:

1. The most current Privacy Notice will be posted in the waiting area where individuals can read the notice.
 - a. The regulation does not specify how it is to be posted. Since the Privacy Notice may be several pages in length, a sign may point individuals to the Privacy Notice located in a binder or notebook located in the waiting area and easily assessable to individuals.
2. The most current Privacy Notice will also be on the organization’s web site, if the organization has a web site.
3. When a patient signs in for a procedure, the registration staff is responsible for determining whether the patient has visited in the past to see if the patient has a signed acknowledgment on file and the version of the Privacy Notice the patient received.
4. If the patient does not have a signed acknowledgment on file or if the Privacy Notice has been revised since the patient signed an acknowledgment, the registration staff is responsible for giving the patient a copy of the current Privacy Notice and obtaining a signed acknowledgment.
5. The signed acknowledgment will be placed in the patient’s chart.
6. When the Privacy Notice is mailed, faxed, or e-mailed, an acknowledgment form should also be sent with instructions for the patient to sign and return the acknowledgment form. The copy of the mailed, faxed, or e-mailed acknowledgment form should be placed in the chart until the signed copy is received or a “Good Faith Effort” Form is completed.
7. If an employee is unable to get a signed acknowledgment, he or she is responsible for completing a “Good Faith Effort” Form and placing a copy of that form in the patient’s chart.

8. If the acknowledgment cannot be obtained because of an emergency, employees will obtain the signed acknowledgment as soon as practical after the emergency situation has ended. If the acknowledgment cannot be obtained on that date of service, a “Good Faith Effort” Form will be completed and an attempt will be made to get the acknowledgment signed on the next date of service.
9. If the Privacy Notice is revised because of a material change in the privacy practices, the newest version will be posted in the organization and on the web site.
10. All versions of the Privacy Notice, acknowledgment form and “Good Faith Effort” forms will be retained for at least six years.