



Harris County Hospital District

POLICY AND REGULATIONS MANUAL HIPAA ADMINISTRATIVE POLICY

Notice of Policy Practices
Policy

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Effective Date: 041403
Board Motion No:

TITLE: NOTICE OF PRIVACY PRACTICES POLICY

PURPOSE:

The purpose of this policy is to describe the process for documentation and maintenance of a Notice of Privacy Practices (Notice), identify the process for making changes to the terms of the Notice, establish the process for making Notice provisions effective for all Protected Health Information (PHI) maintained by Harris County Hospital District (HCHD), outline the process for providing and making available the Notice to patients at the first point of services, and provide an opportunity for the patients to discuss any concerns related to their PHI with their health care Provider.

This policy supports Harris County Hospital District's HIPAA policy and may require development of department specific procedures.

[Key Words: Individually Identifiable Health Information (IIHI), Protected Health Information (PHI)]

POLICY STATEMENT:

Harris County Hospital District will ensure that all patients are provided with a Notice of Privacy Practices describing their rights and Harris County Hospital District's duties with respect to Protected Health Information. This Notice of Privacy Practices will contain the necessary requirements and be distributed in accordance with Federal and state privacy laws.

POLICY ELABORATION:

I. DEFINITIONS

- A. Individually Identifiable Health Information (IIHI) - is information, including demographic information, that:



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- (1) Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
 - (2) Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and
 - (3) Identifies the individual; or
 - (4) There is a reasonable basis to believe the information can be used to identify the individual.
- B. Joint Notice – is a Notice of Privacy Practices that can be shared by:
- (1) Affiliated Covered Entities, or
 - (2) Covered Entities who participate in an Organized Health Care Arrangement.
- C. Organized Health Care Arrangement – means:
- (1) A clinically integrated care setting in which individuals typically receive health care from more than one health care provider;
 - (2) An organized system of health care in which more than one covered entity participates, and in which the participating covered entities:
 - (i) Hold themselves out to the public as participating in a joint arrangement; and
 - (ii) Participate in joint activities that include at least one of the following:



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(A) Utilization review, in which health care decisions by participating covered entities are reviewed by other participating covered entities or by a third party on their behalf;

(B) Quality assessment and improvement activities, in which treatment provided by participating covered entities is assessed by other participating covered entities or by a third party on their behalf; or

(C) Payment activities, if the financial risk for delivering health care is shared, in part or in whole, by participating covered entities through the joint arrangement and if protected health information created or received by a covered entity is reviewed by other participating covered entities or by a third party on their behalf for the purpose of administering the sharing of financial risk.

(3) A group health plan and a health insurance issuer or HMO with respect to such group health plan, but only with respect to protected health information created or received by such health insurance issuer or HMO that relates to individuals who are or who have been participants or beneficiaries in such group health plan;

(4) A group health plan and one or more other group health plans each of which are maintained by the same plan sponsor; or

(5) The group health plans described in paragraph (4) of this definition and health insurance issuers or HMOs with



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respect to such group health plans, but only with respect to protected health information created or received by such health insurance issuers or HMOs that relates to individuals who are or have been participants or beneficiaries in any of such group health plans.

- D. Protected Health Information (PHI) - is individually identifiable patient health information in any form that is created or received by a healthcare provider, and relates to the patient's healthcare condition, provision of healthcare, or payment for the provision of healthcare.
- E. Treatment - means the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another.

II. REQUIRED ELEMENTS

- A. The Notice must contain the following statement as a header or otherwise be 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.”
- B. A description, including at least one example, of the types of uses and disclosures that Harris County Hospital District



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is permitted to make for Treatment, Payment, and Healthcare Operations.

- C. A description of each other purpose for which Harris County Hospital District is permitted or required by law to Use or Disclose PHI without the individual's Authorization or Consent.
- D. Description of Uses and Disclosure must reflect more stringent law, if applicable.
- E. Description must include sufficient detail to place the individual on Notice of the Uses and Disclosures that are permitted or required.
- F. A statement that Harris County Hospital District is required by law to maintain the privacy of PHI and to provide patients with Notice of legal duties and privacy practices with respect to PHI.
- G. A statement that Harris County Hospital District is required to abide by the terms in the Notice.
- H. A statement that Harris County Hospital District reserves the right to change the terms of the Notice and a description of how HCHD will provide individuals with a revised Notice.
- I. A statement that other Uses and Disclosures will be made only with the individual's written Authorization and that the individual may revoke such Authorization (See Policy 3.11.300, Authorization for Use and Disclosure of Protected Health Information for Purposes Other Than Treatment, Payment and Health Care Operations).
- J. The Notice must contain the name, and/or title and telephone number of the Privacy Officer or Office of



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Privacy Administration or designee to contact for further information.

- K. The Notice must have an effective date, which may not be earlier than the date on which the Notice is printed or otherwise published.
- L. The Notice must contain a statement of the individual's rights with respect to PHI and a brief description of how the individual may exercise these rights, as follows:
 - 1. The right to request restrictions on certain uses and disclosures of PHI, including a statement that Harris County Hospital District is not required to agree to a requested restriction.
 - 2. The right to receive confidential communications of PHI (See Policy 3.11.202, Patient's Request for Confidential Communications).
 - 3. The right to inspect and copy PHI (See Policy 3.11.303, Patient's Access to the Designated Record Set).
 - 4. The right to receive an accounting of disclosures of PHI (See Policy 3.11.304, Accounting of Disclosures of Protected Health Information).
 - 5. The right of an individual, including an individual who has agreed to receive the Notice electronically, to obtain a paper copy of the Notice from HCHD upon request.

III. COMPLAINTS

The Notice must contain a statement that individuals may complain to Harris County Hospital District and to the Secretary of the Department of Health and Human Services (DHHS) if they believe their privacy rights have been violated, a brief



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description of how the individual may file a complaint with HCHD, and a statement that the individual will not be retaliated against for filing a complaint (See Policy 3.11.102, Complaints Regarding Privacy Policies and Procedures).

IV. OPTIONAL ELEMENTS

- A. In addition to the information listed in items A. - L. above; if Harris County Hospital District elects to limit the uses or disclosures that it is permitted to make under HIPAA, HCHD may describe its more limited uses or disclosures in its Notice, provided that HCHD may not include in its Notice a limitation affecting its right to make a use or disclosure that is required by law or permitted to avert a serious threat to health or safety (See Policy 3.11.306, Permitted Use and Disclosure of Protected Health Information Without Patient's Authorization).
- B. For Harris County Hospital District to apply a change in its more limited uses and disclosures to PHI created or received prior to issuing a revised Notice, the Notice must include the statements described in II. H. above.

V. SEPARATE STATEMENTS FOR CERTAIN USES AND DISCLOSURES

- A. Harris County Hospital District may 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;
- B. Harris County Hospital District may contact the individual to raise funds for HCHD; or



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- C. A group health plan, or a health insurance issuer or HMO with respect to a group plan, may disclose PHI to the sponsor of the plan.

VI. IMPLEMENTATION AND MAINTENANCE OF NOTICE

- A. The Notice of Privacy Practices will be offered to all individuals whenever they enter Harris County Hospital District seeking health care services.
- B. Except in an emergency treatment situation, patient access departments such as pre-registration, registration or admission will provide the Notice of Privacy Practices to individuals at the first provision of services.
- C. At the time the Notice is provided, an offer should be made by HCHD staff to review the Notice with the patient or answer questions. The patient may also be asked if restrictions or confidential communications would be appropriate to ensure privacy. See Policy 3.22.202, Patient's Request for Confidential Communications for additional information on the process to secure these patient rights. The Privacy Officer is also available and responsible for responding to questions about specific statements made in the Notice.
- D. Upon provision of the Notice HCHD staff will, in good faith, attempt to obtain a written acknowledgement of receipt signed by the patient or the patient's Personal Representative. If the acknowledgement cannot be obtained, staff will document their effort to obtain acknowledgement and the reason the acknowledgement was not obtained (HCHD is not in violation of the rule as



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long as documentation exists to support such good faith efforts. A valid reason for failure to obtain the acknowledgement may be, for example, that the patient refused to sign acknowledgment after being requested to do so).

- E. If the Notice cannot be provided and/or the acknowledgement is not signed due to an emergency situation, HCHD staff will provide the Notice and attempt to obtain the acknowledgement as soon as reasonably practical after the emergency treatment situation is resolved. The privacy rule exempts health care providers from having to make a good faith effort to obtain an individual's acknowledgment in emergency situations.
- F. The Notice will be posted in prominent locations such as patient access areas including inpatient and outpatient registration areas, and the emergency department.
- G. In the event the first delivery of health care services occurs over the phone, the Notice will be mailed to the individual on the same day. An acknowledgement should be included with the Notice and request that the individual sign the acknowledgement and mail it back to HCHD. HCHD is not in violation of the privacy rule if the individual fails to mail the acknowledgement back. However, HCHD must document that the request for return mail was made.

VII. ELECTRONIC NOTICE

- A. The Notice of Privacy Practices will be prominently displayed on and is available through HCHD's web site.



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- B. If the first service delivery to a patient is delivered electronically, HCHD must provide electronic notice automatically at the time of the individual's first request for service (Note: Provision of an appointment does not require delivery of HCHD's Notice. The Notice will be provided when the patient arrives at HCHD for the first service).
- C. Upon providing the Notice, HCHD will attempt to obtain an acknowledgement of the patient's receipt of the Notice through the facility's information system electronic return receipt functionality. If the acknowledgement cannot be obtained, HCHD staff must document the efforts to obtain the acknowledgement and the reason it was not obtained.
- D. The individual who is the recipient of electronic Notice retains the right to obtain a paper copy of the Notice from HCHD upon request.
- E. HCHD may provide the Notice to an individual by e-mail, if the individual agrees to electronic Notice and such agreement has not been withdrawn. If HCHD staff knows that the e-mail transmission has failed, a paper copy of the Notice must be provided to the individual upon first service delivery.

VIII. REVISIONS TO NOTICE

- A. HCHD must promptly revise and distribute its Notice whenever there is a material change to the uses or disclosures, the individual's rights, HCHD's legal duties, or other privacy practices stated in the Notice.



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- B. Whenever the Notice is revised, HCHD will make the revised Notice available upon request on or after the effective date of the revision and post the Notice on HCHD website, and in clear and prominent locations within HCHD.
- C. Except when required by law, a material change to any term of the Notice may not be implemented prior to the effective date of the Notice in which the change is reflected.

IX. DOCUMENTATION

HCHD must document compliance with the privacy rule's Notice requirements, by retaining copies of the original and any subsequent revisions of the Notice issued by HCHD for six years from the date of the document's creation or the date when it last was in effect, whichever is later. In addition, written acknowledgments of receipt of the Notice or documentation of good faith efforts to obtain such written acknowledgment must also be retained for six years from the date of creation.

X. RESPONSIBILITIES

- A. The Privacy Officer is responsible for all updates or edits to the Notice of Privacy Practices and maintains the master copy and all versions of the Notice.
- B. All department directors or managers are responsible for submitting suggested updates and edits to privacy practices to the Privacy Officer for review and approval prior to any changes in privacy policies, procedures and practices.



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XI. SPECIAL CONSIDERATIONS

- A. Joint Notice by separate covered entities. Covered entities that participate in organized health care arrangements (OHCA) may use a joint Notice, provided that:
1. The covered entities participating in the OHCA agree to abide by the terms of the Notice with respect to PHI created or received by the covered entity as part of its participation in the OHCA;
 2. The joint Notice contains the items listed in the Content of Notice section of this Guideline, except that the statements required by this section may be altered to reflect the fact that the Notice covers more than one covered entity; and
 - a Describes with reasonable specificity the covered entities, or class of entities, to which the joint Notice applies;
 - b Describes with reasonable specificity the service delivery sites, or classes of service delivery sites, to which the joint Notice applies; and
 - c If applicable, states that the covered entities participating in the OHCA will share PHI with each other, as necessary to carry out treatment, payment, or health care operations relating to the OHCA.
 3. The covered entities included in the joint Notice must provide the Notice to individuals in accordance with the statements contained in the Provision of Notice section of this Guideline. Provision of the joint Notice to an individual by any one of the



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covered entities included in the joint Notice will satisfy the provision requirements for all others covered by the joint Notice.

- B. Right to Notice - Exception for inmates. An inmate does not have a right to Notice.

REFERENCES/BIBLIOGRAPHY:

- Policy 3.11.000, HCHD HIPAA Policy
- Policy 3.11.102, Complaints Regarding Privacy Policies and Procedures
- Policy 3.11.202, Patient’s Request for Confidential Communications
- Policy 3.11.300, Authorization for Use and Disclosure of Protected Health Information for Purposes Other Than Treatment, Payment and Health Care Operations
- Policy 3.11.303, Patient’s Access to the Designated Record Set
- Policy 3.11.304, Accounting of Disclosures of Protected Health Information
- Policy 3.11.306, Permitted Use and Disclosure of Protected Health Information Without Patient’s Authorization

OFFICE OF PRIMARY RESPONSIBILITY:

Office of Privacy Administration.

REVISION HISTORY:

Record revisions below:

Effective Date	Version	Approved by: