Purpose:

To establish guidelines for disclosing protected health information to ensure the protection of the patient’s right to privacy and confidentiality. Any and all disclosures of protected health information made to any individual, agent or entity, which are not pursuant to an authorization and are not part of treatment, payment or operations, must be accounted for according to the Health Insurance Portability and Accountability Act. See HIPAA Policy Number 2.5, Accounting of Disclosures for Protected Health Information. The LSUHSC-S Disclosure Log can be accessed at www.compliance.lsuhscshreveport.edu/secure/disclosures/

Policy:

1. The paper and electronic medical records of a patient are the property and business records of the healthcare provider.

2. The original medical record may not be removed from the hospital premises except upon receipt of a subpoena duces tecum, court order or state statute.

3. LSUHSC-S may not use or disclose protected health information (PHI), except as permitted or required under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), other federal laws, Louisiana state laws and hospital policies and procedures.

4. LSUHSC-S may use and disclose protected health information for the following without an individual’s signed authorization:
   a. its own treatment, payment or healthcare operations
   b. treatment activities of a healthcare provider
   c. the payment activities of another covered entity or healthcare provider
   d. the healthcare operation of another covered entity or healthcare provider, if each entity has or had a relationship with the individual who is the subject of the PHI being requested and the disclosure is:
      • for a purpose listed in the definitions of healthcare operations; or
      • for the purpose of healthcare fraud and abuse detection
   e. another covered entity that participates in an organized healthcare arrangement with LSUHSC-S for any healthcare operation activities of the organized healthcare arrangement.

5. The privacy and confidentiality of health information is the right of each patient seeking healthcare at LSUHSC-S. All protected health information (both written and verbal) is strictly confidential. Use and disclosure of PHI based on patient authorization shall be done only after completion of a valid authorization and obtaining the patient’s signature.

6. A valid authorization must contain at least the following elements and must be in plain language:
a. A specific and meaningful description of the information to be used or disclosed
b. The name or other specific identification of the person(s) or class of person(s) authorization to use or disclose the information.
c. The name or other specific identification of the person(s) or class of persons to whom LSUHSC-S may make the use or disclosure.
d. A description of each purpose of the requested use or disclosure. The statement ‘at the request of the individual’ is sufficient when an individual initiates the authorization and does not provide a statement of the purpose.
e. An expiration date or event that relates to the individual or the purpose of the use or disclosure. The statement ‘end of the research study,’ ‘none,’ or similar language is sufficient if the authorization is for a use or disclosure for research, including for the creation and maintenance of a research database or repository.
f. Signature of the individual and date. If the authorization is signed by a personal representative of the individual, a description of the representative’s authority to act for the individual.
g. A statement of the individual’s right to revoke the authorization in writing and either:
   • A reference to the revocation right and a reference to the Notice of Privacy Practices" or
   • A statement about the exceptions to the right to revoke and a description of how the individual may revoke the authorization
h. A statement about the ability or inability of LSUHSC-S to condition treatment, payment, enrollment or eligibility for benefits on the authorization:
   • The covered entity must state that it will not condition treatment, payment, enrollment, or eligibility for benefits on whether the individual signs the authorization or
   • The covered entity must describe the consequences of a refusal to sign an authorization when the covered entity conditions research-related treatment, enrollment or eligibility for benefit, or the provision of healthcare solely for the purpose of creating protected health information for a third party on obtaining an authorization
i. A statement that information used or disclosed pursuant to the authorization may be subject to re-disclosure by the recipient and may no longer be protected by the rule.

7. A patient or the patient’s legally authorized representative may examine all, or a designated part, of the patient’s healthcare information (excluding information used for internal quality assurance, peer review, audit and committee purposes).

8. Requests for both paper and electronic records shall be referred to the Health Information Management Department for disposition. The requesting party may view electronic records and/or receive a copy. Requested information is retrieved and tracked via the electronic health record release of information (ROI) application.

9. A facsimile copy of the authorization to disclose protected health information will be honored. PHI will be sent by facsimile only when the original record or mail-delivered copies will not meet the needs for treatment, payment or operations. (see Hospital Policy 6.3.1)

10. The following authorizations require special instructions:
   • Use and Disclosure of Protected Health Information for Facility Directory Purposes (see HIPAA Hospital Policy #3.2)
11. Permitted Uses and Disclosures of Protected Health Information (an individual’s oral or signed authorization is not required):
   a. To the individual patient (patient identification is required prior to disclosure)
   b. For treatment reasons, to obtain payment or for healthcare business operations
   c. Incidental to a use or disclosure, i.e., overheard conversations, sign-in sheets
   d. Pursuant to an oral agreement with the individual to make such disclosures to a relative or friend
   e. As required by law
   f. For public health activities
   g. To a government authority, including a social service or protective service agency authorized by law to receive reports about an individual whom LSUHSC-S reasonably believes to be a victim of abuse, neglect or domestic violence.
   h. To a health oversight agency
   i. To any judicial or administrative proceeding (an authorization is not needed, but the disclosure must comply with other requirements of the privacy regulations for judicial disclosures and any state law requirements)
   j. To a court pursuant to a court order or court subpoena.
   k. In response to a law enforcement request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person; a victim of crime; or for information about an individual who is on or is suspected to be a victim of a crime.
   l. About an individual who has died to a law enforcement official for the purpose of alerting law enforcement of the death of the individual if LSUHSC-S has a suspicion that such death may have resulted from criminal conduct.
   m. To a law enforcement official that LSUHSC-S believes in good faith constitutes evidence of criminal conduct that occurred on the premises of LSUHSC-S.
   n. To a law enforcement official if LSUHSC-S is providing emergency healthcare in response to a medical emergency other than on the premises of LSUHSC-S.
   o. 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.
   p. To funeral directors consistent with applicable law as necessary to carry out their duties with respect to the decedent.
   q. 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 donation and transplantation.
   r. To prevent or lessen a serious and imminent threat to the health safety of a person or the public or to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat or to identify or apprehend an individual.
s. To the extent necessary to comply with Louisiana Workers' Compensation statutes.
t. To a business associate for the purpose of raising funds for its own benefit – demographic information and dates of healthcare provided to the patient.
u. To an individual when requested under ad as required by the access or accounting requirements of the HIPAA Privacy Regulations.
v. To investigate or determine LSUHSC-S compliance with the HIPAA Privacy Regulations.
w. To the Poison Control Center to assure that safe and effective treatment recommendations are rendered.

12. Uses and Disclosures of Protected Health Information Requiring an Individual’s Signed Authorization:
   a. Armed Forces
   b. Current or prospective employer
   c. Fund Raising
   d. Insurance carrier for the purpose of determining eligibility for coverage
   e. MAP unit (Medicaid Assistance Program) for determination of benefits
   f. Marketing
   g. Patient’s attorney for litigation
   h. Psychotherapy notes
   i. Request for photocopies of medical records
   j. Research
   k. School referrals and school evaluation

13. Subpoena Duces Tecum
   A healthcare provider shall disclose records of a patient who is a party to litigation pursuant to a subpoena issued in that litigation, whether for purposes of deposition or for trial and whether issued in a civil, criminal, workers' compensation, or other proceeding, **but only if**: the healthcare provider has received an affidavit of the party or the party's attorney at whose request the subpoena has been issued that attests to the fact that such subpoena is for the records of a party to the litigation and that notice of the subpoena has been mailed by registered or certified mail to the patient whose records are sought, or, if represented, to his counsel of record, at least seven days prior to the issuance of the subpoena; and the subpoena is served on the healthcare provider at least seven days prior to the date on which the records are to be disclosed, and the healthcare provider **has not received** a copy of a petition or motion indicating that the patient has taken legal action to restrain the release of the records. If the requesting party is the patient or, if represented, the attorney for the patient, the affidavit shall state that the patient authorizes the release of the records pursuant to the subpoena. No such subpoena shall be issued by any clerk unless the required affidavit is included with the request.

   Unless the subpoena or court order otherwise specifies, it shall be sufficient compliance therewith if the healthcare provider delivers by registered or certified mail, at least forty-eight hours prior to the date upon which production is due, or delivers by hand on the date upon which production is due a true and correct copy of all records described in such subpoena.

   The records shall be accompanied by the certificate of the healthcare provider or other qualified witness, stating in substance each of the following:
   a. That the copy is a true copy of all records described in the subpoena.
b. That the records were prepared by the healthcare provider in the ordinary course of the business of the healthcare provider at or near the time of the act, condition, or event.

If the healthcare provider has none of the records described, or only part thereof, the healthcare provider shall so state in the certificate, and deliver the certificate and such records as are available.

The healthcare provider shall be reimbursed by the person causing the issuance of the subpoena, summons, or court order in accordance with the provisions of R.S. 40:1299.96.

Out of State Subpoenas – subpoenas by courts of other states are not valid, unless accompanied by a medical authorization. Questions regarding out of state subpoenas should be directed to Compliance and/or Legal Affairs.

14. Confidentiality of HIV test result; disclosure:
   a. Except as otherwise provided by law, no person who obtains, retains, or becomes the recipient of confidential HIV test results in the course of providing any health or social service or pursuant to a release of confidential HIV test results may disclose such information pursuant to a written authorization to release medical information when such authorization contains a refusal to release HIV test results.
   b. Notwithstanding the provisions of Subsection A, HIV test results may be released to the following:
      1) Any person to whom disclosure of medical information is authorized by law without the consent of the patient.
      2) Any agent or employee of a health facility or healthcare provider if:
         a) The agent or employee is permitted access to medical records.
         b) The health facility or healthcare provider is authorized to obtain the HIV test results.
         c) The agent or employee provides healthcare to the patient or maintains or processes medical records for billing or reimbursement purposes.
      3) A healthcare provider or health facility, when knowledge of the HIV test results is necessary to provide appropriate care or treatment to the patient and afford the healthcare provider and the personnel of the health facility an opportunity to protect themselves from transmission of the virus.
      4) A health facility or healthcare provider, in relation to the procurement, processing, distributing, or use of a human body or a human body part, including organs, tissues, eyes, bones, arteries, blood, semen, or other body fluids, for use in medical education, research, therapy, or transplantation.
      5) Any health facility staff committees or accreditation or oversight review organizations authorized to access medical records, provided that the committee or organization shall only disclose confidential HIV test results:
         a) To the facility or provider of a health or social service.
         b) To a federal, state, or local government agency for the purposes of and subject to the conditions provided in Paragraph (6) of this Subsection.
         c) To carry out the monitoring evaluation, or service for which it was obtained.
      6) A federal, state, parish, or local health officer when the disclosure is mandated by federal or state law.
      7) An agency or individuals in connection with the foster care programs of the Department of Social Services or an agency or individual in connection with the adoption of a child.
      8) Any person to whom disclosure is ordered by a court of competent jurisdiction.
9) An employee or agent of the Board of Parole of the Department of Public Safety and Corrections to the extent that the employee or agent is authorized to access records containing HIV test results in order to implement the functions, powers, and duties with respect to the individual patient of the Board of Parole, Department of Public Safety and Corrections.

10) An employee or agent of the office of probation and parole of the Department of Public Safety and Corrections, division of correction services, to the extent the employee or agent is authorized to access records containing HIV test results in order to carry out the functions, powers, and duties, with respect to patient of the office.

11) A medical director of a local correctional facility, to the extent the medical director is authorized to access records containing HIV test results in order to carry out the functions, powers, and duties with respect to the patient.

12) An employee or agent of the Department of Public Safety and Corrections, to the extent the employee or agent is authorized to access records containing HIV test results in order to carry out the Department of Public Safety and Corrections functions, powers, and duties with respect to the patient.

13) An employee or agent who is authorized by the Department of Social Services, office of rehabilitative services to access records containing HIV test results in order to carry out the Department of Social Services, office of rehabilitative services functions, powers, and duties with respect to the protected patient.

14) An insurer, insurance administrator, self-insured employer, self-insurance trust, or other person or entity responsible for paying or determining payment for medical services to the extent necessary to secure payment for those services.

c. A state, parish, or local health officer may disclose confidential HIV test results when:
   1) Disclosure is specifically authorized or required by federal or state law.
   2) Disclosure is made pursuant to a release of confidential HIV test results.
   3) Disclosure is requested by a physician pursuant to Subsection E of this Section.
   4) Disclosure is authorized by court order.

d. No person to whom confidential HIV test results have been disclosed pursuant to this Part shall disclose the information to another person except as authorized by this Part, provided, however, that the provisions of this Subsection shall not apply to the individual or to a natural person who is authorized by law to consent to healthcare for the individual.

e. Physician Disclosures
   1) A physician may disclose confidential HIV test results under all of the following conditions:
      a) Disclosure is made to a contact, or to a public health officer for the purpose of making the disclosure to said contact.
      b) The physician reasonably believes disclosure is medically appropriate, and there is a significant risk of infection to the contact.
      c) The physician has counseled the patient regarding the need to notify the contact, and the physician reasonably believes the patient will not inform the contact.
      d) The physician has informed the patient of his or her intent to make such disclosure to a contact and has given the patient the opportunity to express a preference as to whether disclosure should be made by the physician directly or to a public health officer for the purpose of said disclosure. If the patient expresses a preference for disclosure by a public health officer or by the physician the physician shall honor such preference.
   2) When making such disclosures to the contact, the physician or public health officer shall provide or make referrals for the provision of the appropriate medical advice and
counseling for coping with the emotional consequences of the knowledge of the information and for alteration of behavior to prevent transmission or contraction of HIV infection. The physician or public health officer shall not disclose the identity of the patient or the identity of any other contact. A physician or public health officer making a notification pursuant to this Subsection shall make such disclosure in person, except where circumstances reasonably prevent doing so.

3) A physician shall have no obligation to identify or locate any contact.

4) A physician may, upon the consent of a parent or guardian, disclose confidential HIV test results to a state, parish, or local health officer for the purpose of reviewing the medical history of a child to determine the fitness of the child to attend school.

5) A physician may disclose confidential HIV test results pertaining to a patient to a person authorized by law to consent to healthcare for the patient when the physician reasonably believes that disclosure is medically necessary in order to provide timely care and treatment for the patient and, after appropriate counseling as to the need for such disclosure, the patient has not and will not inform the person authorized by law to consent to healthcare. The physician shall not make such disclosure if, in the judgment of the physician, the disclosure would not be in the best interest of the patient or of the individual authorized by law to consent to such care and treatment. Any decision or action by a physician pursuant to this Paragraph and the basis thereof shall be recorded in the patient's medical record.

f. A physician may choose, notwithstanding any other provision of law to the contrary, not to disclose the results of a confidential HIV test to a person upon whom such a test has been performed when in the medical opinion of the physician the disclosure of such results would be medically contraindicated.

15. Adoptions
Requests for disclosing information regarding an adoption shall be referred to the agency, which handled the adoption. The name and phone number of the adoption agency (if known) may be provided, however, no further information shall be disclosed by the facility. Access to the records shall be prohibited.

16. After-Visit Summary
An After-Visit Summary is printed and provided to all patients at the time of departure from the Emergency Center, clinic visit or in-patient stay. The after visit summary documents medications, patient education and other discharge instructions.

17. Birth/Death Certificates
Certified copies of death and birth certificates may be obtained form the Caddo Parish Health Unit, 1035 Creswell, Shreveport, Louisiana. The certified copy is usually available within one hour of the request. There is a fee for obtaining the certified copy.

18. Breach Notifications
Unauthorized acquisition, access, use or disclosure of individually identifiable patient or other personal identifiable information shall be immediately reported to the Compliance Office for disposition.
19. 'Break- the-Glass'
A higher degree of controls is necessary to prevent unauthorized access to highly sensitive information within the electronic health record. Highly sensitive data may involve specific diagnoses, test results, records of high-profile patients and minors, current employees and medical staff members. Users are required to re-enter their user ID and password and follow the prompts that require them to select a purpose for their access. All access to break the glass is electronically tracked for auditing.

20. Child Custody
Disclosure of medical records and other protected health information pertaining to a minor child, including but not limited to medical, dental and school records shall not be denied to a parent solely because the parent is not the child’s custodial parent or domicile parent.

21. Electronic Health Records
Electronic health records requested in an electronic format shall be processed and tracked within EPIC’s Release of Information application and provided to the requesting party on a CD. A patient’s request for protected health information in a digital or electronic format shall be processed within a three day window (upon receipt).

22. Minors
Protected health information for minors (patients less than 18 years old) may be released for treatment, payment and hospital operations without the patient’s or parent’s consent. The parent’s signature is required for all other requests for protected health information for minors with the exception of emancipated minors. A legal custodian of a minor shall be required to present documentation to support the legal custody of the child prior to releasing medical information. A non-legal custodian shall be authorized to give consent to receive medical or education services for which parental consent is required by executing an affidavit. The affidavit shall not be valid for more than one year after the date on which it is executed.

23. MyChart/MyProxy
MyChart offers patients personalized and secure on-line access to portions of their medical records. MyChart enables patients to securely use the Internet to help manage and receive information about their health. With MyChart, patients can use the Internet to:
- Request appointments.
- View their health summary.
- View test results.
- Request prescription renewals.
- Access trusted health information resources.
- Communicate electronically and securely with their medical care team.

Patients who wish to participate are issued a letter to request a MyChart activation code during their outpatient visit or via the HIM Department. This code enables the patient or the patient’s proxy to login and create a personal user ID and password. Proxy access allows a parent (or guardian) to log into their personal MyChart account, and then connect to information regarding their family member. Proxy access has been approved for the following categories - Parent-Child, Guardian/Other Court Appointed and Health Care Power of Attorney.

24. News Media
All inquiries for protected information from newspaper reporters, television stations or other news media shall be referred to the Coordinator, Information Services, at extension 55408 for disposition.

25. Patients Currently Hospitalized
Requests for disclosure of information for patients currently hospitalized shall be discouraged when possible. When it is not possible, the nurse station should be contacted to obtain the patient’s medical record along with the authorization to disclose protected health information. The record should be photocopied as quickly as possible and immediately returned to the nurse station.

26. Poison Control Center
LSUHSC healthcare providers may consult with the Poison Control Center without the patient’s consent. Referral to the Poison Control Center is considered part of a patient’s treatment for purposes of HIPAA and sharing a patient’s protected health information can occur without the patient’s authorization. Questions regarding the authenticity of the phone request from the Poison Control Center shall be directed to 1-800-222-122. After disclosure to the Poison Control Center, the disclosure of the patient’s information shall be logged into the PHI disclosure log on LSUHSC, Shreveport Compliance website.

27. Verbal/Telephone Requests
Verbal requests for protected health information by authorized and/or unauthorized persons shall be discouraged and be limited to emergency situations. Emergency requests are usually generated by physicians or other ‘key’ hospital/office staff. Telephone requests should always be handled using a ‘call-back’ procedure to verify the identity of the requesting party.

28. Photocopy Fees
A patient shall have a right to obtain a copy of his/her protected health information upon furnishing a signed authorization and upon payment of a reasonable copying charge, not to exceed one dollar per page for the first twenty-five pages, fifty cents per page for twenty-six to three-hundred fifty pages, and twenty-five cents per page thereafter, a handling charge not to exceed twenty-five dollars for hospitals and actual postage. If treatment records are generated, maintained, or stored in digital format, copies may be requested to be provided in a digital format and charged at the rate provided; however, the charges for providing digital copies shall not exceed one hundred dollars, including all postage and handling charges actually incurred.

If requested, the facility shall provide the requestor, at no extra charge, a certification page setting forth the extent of the completeness of records on file. The facility shall not charge any other fee except for notary fees and fees for expedited requests.

The individuals named herein shall also have the right to obtain copies of patient x-rays, microfilm and electronic and imaging media, upon payment of reasonable reproduction costs and a handling charge of twenty dollars. If the patient’s x-rays and other imaging media are generated, maintained or stored in digital format, copies may be requested to be provided in a digital format and charged at the rate provided by this item; however, the charges for providing digital imaging media copies shall not exceed two hundred dollars, including all postage and handling charges actually incurred. If requested, the facility shall provide the requestor, at no
extra charge, a certification page setting forth the extent of the completeness of records on file. The facility shall not charge any other fee except for notary fees and fees for expedited requests.

In the event a hospital record is not complete, the copy of the records furnished hereunder may indicate, through a stamp, coversheet, or otherwise that the record is incomplete.

NOTE: The Privacy Rule (HIPAA), effective April 14, 2003 overrides the handling charge for patient requests, only. Patients cannot be charged a handling charge for obtaining a photocopy of their medical records, but may be assessed a per page fee.

Administrator

10/18/12
Date

Approved by Clinical Board: 2/19/02, 1/20/04, 2/20/07, 3/16/10, 10/16/12
Written: 12/01
Revised: 10/03, 2/10, 10/12
Reviewed: 12/06, 2/10, 10/12