

Office of Compliance Programs

PRIVACY POLICY AND PROCEDURES

LSU Health Sciences Center New Orleans

Date Effective: April 14, 2003

Policy #: 2100.22

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Patient Information Policy

Use and Disclosure of Protected Health Information to Business Associates

SCOPE:

All Louisiana State University (LSU) System health care facilities and providers including, but not limited to hospitals, physician practices, clinics, schools, etc. on the LSU Health Sciences Center New Orleans Academic Campus.

Note Bene: All LSU System health care facilities and providers including, but not limited to hospitals, physician clinics, schools, etc. on the LSU Health Sciences Center New Orleans Academic Campus, are referred to in this policy as LSUHSC-NO.

PURPOSE:

To provide guidance to the health care facilities and providers affiliated with LSUHSC-NO on the requirements of the Health Insurance Portability and Accountability Act (HIPAA), Standards for Privacy of Individually Identifiable Health Information (HIPAA Privacy Regulations) that relate to the disclosure of a patient's Protected Health Information to a Business Associate (BA) of LSUHSC-NO.

POLICY:

All LSUHSC-NO health care facilities and providers must enter into a business associate contract with any Business Associates as provided in this policy.

DEFINITIONS:

Business Associate – For purposes of this policy, a Business Associate is a person or entity that performs certain functions, or activities on behalf of LSUHSC-NO or provides certain services to LSUHSC-NO that involve the use or disclosure of Protected Health Information from LSUHSC-NO.

Examples of Business Associate functions and activities include but are not limited to:

- claims processing or administration;
- data analysis;
- processing or administration;
- utilization review;
- quality assurance;
- billing;
- benefit management;
- practice management; and
- re-pricing.

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Examples of Business Associate services include but are not limited to:

- legal services (e.g. malpractice case);
- actuarial services;
- accounting services (e.g. if PHI is disclosed to CPA);
- consulting services;
- data aggregation;
- management services;
- administrative services;
- accreditation; and
- financial services.

The following are NOT Business Associates for purposes of this policy:

- A member of LSUHSC-NO's work force;
- A third-party payer (e.g. HMO, Medicare) that LSUHSC-NO discloses PHI to obtain payment for services to its insured; or
- An independent contractor that performs services on-site at LSUHSC-NO (e.g. independent contractor transcriptionist that works at the Facility or Clinic).

Protected Health Information (sometime referred to as "PHI") – for the purpose of this policy means individually identifiable health information that relates to past, present or future health care services provided to an individual. Examples of Protected Health Information include medical and billing records of a patient.

PROCEDURE:

- 1.0 General. LSUHSC-NO may disclose PHI to a Business Associate and may allow a Business Associate to create or receive PHI on its behalf, if LSUHSC-NO enters into a business associate contract regarding the use and disclosure of PHI. The business associate contract must provide that the business associate will appropriately safeguard the information. The following are examples of when a business associate contract may be needed:
 - 1.1 A third party administrator (TPA) assists LSUHSC-NO with claims processing.
 - 1.2 Certified Public Accountant (CPA) whose accounting services to LSUHSC-NO involve access to PHI.
 - 1.3 A consultant who performs utilization reviews for LSUHSC-NO.
 - 1.4 A health care clearinghouse that translates a claim from a non-standard format into a standard transaction on behalf of LSUHSC-NO and forwards the processed transaction to a payer.
 - 1.5 An independent medical transcriptionist who provides transcription services to LSUHSC-NO and does not perform the work on the premises of LSUHSC-NO.

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- 2.0 LSUHSC-NO may share PHI with a health care provider for treatment purposes without a business associate contract. However, LSUHSC-NO should enter into a business associate contract for some other purposes, for example, if you enlist the services of another health care provider to assist in the training of medical students.
- 3.0 Attorneys are not exempted from the business associate agreement requirement and where feasible or permitted by law the attorney must also return or destroy all PHI at termination of the contract.
- 4.0 LSUHSC-NO does not need a business associate contract in the following situations:
 - 4.1 Disclosures to a health care provider concerning the treatment of the individual. For example:
 - 4.1.1 A hospital is not required to have a business associate contract with the specialist to whom it refers a patient and transmits the patient's medical chart for treatment purposes.
 - 4.1.2 A physician is not required to have a business associate contract with a laboratory as a condition of disclosing PHI for the treatment of an individual.
 - 4.1.3 A hospital laboratory is not required to have a business associate contract to disclose PHI to a reference laboratory for treatment of the individual.
 - 4.2 Disclosures to a researcher for research purposes. This is true even when LSUHSC-NO has hired the researcher to perform research on LSUHSC-NO own behalf because research is not a covered function or activity. However, LSUHSC-NO must enter into a data use agreement prior to disclosing a limited data set for research purposes to a researcher.
 - 4.3 With a janitorial service because the performance of such service does not involve the use or disclosure of PHI.

REFERENCES:

45 C.F.R. § 164.502

45 C.F.R. § 164.504