

**Office of Compliance Programs**

**PRIVACY POLICY AND PROCEDURES**

LSU Health Sciences Center New Orleans

Date Effective: April 14, 2003

Policy #: 2100.21

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**Patient Information Policy**

Use or Disclosure of Protected Health Information to Persons Involved in the Patient's Care and for Notification Purposes

**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.

**Nota 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, Standards for Privacy of Individually Identifiable Health Information (HIPAA Privacy Regulations), and any other applicable state or Federal laws or regulations for disclosing a patient's Protected Health Information to a family member, friend or other person identified by the patient.

**POLICY:**

All LSUHSC-NO-affiliated health care facilities and providers should provide a patient with an opportunity to agree to or object to the disclosure of their Protected Health Information to family members or other persons identified by the patient, or for notification purposes.

**DEFINITIONS:**

**Disclosure** – For purposes of this policy, means the release, transfer, or provision of access to PHI outside of LSUHSC-NO. A disclosure of Protected Health Information may occur orally or in writing.

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

**Use** - For purposes of this policy, means with respect to Protected Health Information, the sharing, utilization, or examination of Protected Health Information within and by employees or agents of LSUHSC-NO.

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### **PROCEDURE:**

#### 1.0 Uses and Disclosures of Protected Health Information With the Patient Present

1.1 If the individual is present and has the capacity to make his or her own decisions, LSUHSC-NO may disclose the PHI to a family member, other relative, or a close personal friend of the patient, or for notification purposes only if LSUHSC-NO does one of the following:

- Obtains the individual's agreement in each encounter, orally or in writing, to disclose the patient's Protected Health Information to the individual (e.g., family member, friend, other person) that is present with the patient;
- Provides the individual with the opportunity to object to such disclosure, and the individual does not express an objection; or
- Reasonably infers from the circumstances, based on the exercise of professional judgment that the individual does not object to the disclosure. Examples of when our LSUHSC-NO may infer an individual's agreement to disclose Protected Health Information pursuant to this option include, but are not limited to:
  - when a patient brings a spouse into our office when treatment is being discussed; or
  - when a colleague or friend has brought the individual to the emergency room for treatment.

1.2 LSUHSC-NO is not required to verify the identity of relatives or other individuals involved in the individual's care. The individual's act of involving the other persons in his or her care is sufficient verification of their identity.

1.3 LSUHSC-NO must obtain the individual's agreement on every visit to our office as to whether the Facility or Clinic may disclose the individual's Protected Health Information to a relative or to another person assisting in the individual's care.

1.4 LSUHSC-NO should not assume that an individual's agreement at one point in time to disclose Protected Health Information to a relative or friend applies to every visit to our office.

#### 2.0 Uses and Disclosures of Protected Health Information When the Patient is Not Present Or Emergency Circumstances

2.1 LSUHSC-NO may only make limited disclosures of a patient's Protected Health Information when the patient is not present to be provided with an opportunity to agree or object to a particular use or disclosure of their Protected Health Information.

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2.2 If the individual is not present, or the opportunity to agree or object to the use or disclosure cannot practicably be provided because of the individual's incapacity or an emergency circumstance, LSUHSC-NO may, in the exercise of professional judgment, determine whether the disclosure is in the best interests of the individual and, if so, disclose only the Protected Health Information that is directly relevant to the person's involvement with the individual's health care. Examples of when employees of LSUHSC-NO may use their professional judgment and experience with common practice to make reasonable inferences of the individual's best interest in allowing a person to act on behalf of the individual include, but are not limited to:

- pick up filled prescriptions,
- medical supplies,
- X-rays, or
- other similar forms of PHI.

### 3.0 Use of Protected Health Information for Notification Purposes

3.1 LSUHSC-NO may use or disclose Protected Health Information to notify, or assist in the notification of (including identifying or locating), a family member, a personal representative of the individual, or another person responsible for the care of the individual of the individual's location, general condition, or death. Any such use or disclosure of Protected Health Information for such notification purposes must be in accordance with this policy.

4.0 LSUHSC-NO may use or disclose Protected Health Information to a public or private entity authorized by law or by its charter to assist in disaster relief efforts, for the purposes of coordinating relief efforts, assistance in notification, or notification of (including identifying or locating) a family member, a personal representative of the individual, or another person responsible for the care of the individual, or the individual's location, general condition, or death.

### **REFERENCES:**

45 C.F.R. § 164.510(b)