

HIPAA Privacy



What is HIPAA?

Health Insurance Portability and Accountability Act was passed by U.S. Congress in 1996.

It has many subparts, including the HIPAA Privacy Rule, which will be discussed in detail in this presentation.

Purpose of HIPAA Privacy

- The purpose of the Privacy Rule is to protect and enhance the rights of consumers by providing them:
 - access to their health information
 - control of the inappropriate use of that information
- The Rule's goal is to maintain the trust in the health care system and improve the quality, efficiency and effectiveness of health care delivery.

Purpose of HIPAA Privacy

- The Privacy Rule promotes the balance of:
 - use of individual's health care information to advance economically prudent health care
 - while protecting the privacy of the individual seeking medical care and treatment.

HIPAA Mandates:

- Privacy and confidentiality standards for patient information
- Security for electronic data
- Standardized transactions and code sets

HIPAA Provides for the following:

- Implementation of administrative, technical, and physical safeguards to ensure privacy of patient Protected Health Information (PHI)
- Policies and procedures for the protection of health information and individual patient rights
- Mandatory faculty, staff, resident and student education on privacy policies and practices
- Complaint process that accepts, records, and investigates patient complaints about the entity's privacy practices
- Designation of a Privacy Official

Training Methods Offered at LSUHSC-NO

- Online Training
- Presentation/Classroom training
- Informational packets (Self-Study) for users who do not have network accounts

Who is Covered Under HIPAA?

- LSUHSC-N.O., as a healthcare provider, is a “covered entity” under HIPAA.
- This means that LSUHSC-N.O. must abide by the requirements of the Privacy Rule.

Important HIPAA Privacy Terms:

- Protected Health Information (PHI)
- Use
- Disclosure
- “Minimum necessary” standard
- Treatment, payment, and operations (TPO)
- Notice of Privacy Practices (NPP)

Protected Health Information (PHI)

- Protected Health Information (PHI) is comprised of two elements:
 - Information related to the patient and
 - Information related to the patient's health care or payment
- Ex. Patient's name and health diagnosis

Use and Disclosure

- **USE:** means the sharing, utilization, or examination of PHI within or by employees of LSUHSC-N.O.
 - Ex: Two healthcare providers discussing a patient's condition to develop a treatment plan.
- **DISCLOSURE:** means the release, transfer, or provision of access to PHI outside LSUHSC-N.O.
 - Ex: Disclosure of treatment information to a health insurance provider to obtain payment.

Minimum Necessary

- When releasing PHI, only the “minimum necessary” to accomplish the purpose of the request may be released.
- However, minimum necessary does not apply to **treatment** purposes.

Treatment, Payment, and Operations

- PHI may be disclosed for Treatment, Payment and Operations without a patient signing a HIPAA authorization form.
 - Treatment is the provision of health care, including consultation with others involved in a patient's care
 - “Minimum Necessary” **does not** apply
 - Payment includes activities related to obtaining payment for health care
 - “Minimum Necessary” **does** apply
 - Operations means the business operations of health care providers, including clinical education
 - “Minimum Necessary” **does** apply

Initial Patient Encounter

- When a patient first visits an LSUHSC-N.O. clinic, the patient should receive a copy of LSUHSC-N.O.'s **Notice of Privacy Practices (NPP)**.
<http://www.lsuhscc.edu/no/administration/cm/cm-53/pdf/AttachmentA-NoticeofPrivacyPractices.pdf>
- The patient should sign the form acknowledging receipt of the NPP. <http://www.lsuhscc.edu/no/administration/cm/cm-53/pdf/AttachmentB-NoticeofPrivacyPractices.pdf> The NPP must also be posted at the location (e.g. in the patient waiting room) and on the location's website. (Contact the Office of Compliance Programs for NPP posters)

Notice of Privacy Practices

Acknowledgement Form



Notice of Privacy Practices Protected Health Information This Notice Describes How Your Medical/Dental Information May Be Used and Disclosed and How You Can Get Access to this Information. Please Review it CAREFULLY.

The law requires us to make sure your medical information is kept private. It also requires us to give you this notice of our legal duties and privacy practices to tell you what we can do with the medical information about you. To better understand this law, you may want to read it. It is at 45 CFR Part 164. We have the right to change this notice and our privacy practices in the future. Any changes made will apply to all of the medical information we have about you at this time. If we make a change, we will post up a notice in our building. We will also give you a copy of the new notice if you ask for it. You can also read about these changes on the computer at this website: www.lsuhscc.edu

HOW YOUR MEDICAL/DENTAL INFORMATION MAY BE USED: In general, we may use your medical information in a number of ways:

To provide patient care to you. Your medical information may be used by the doctors, nurses and other professionals who are treating you. For example, your medical information is used to help them find out your problems and to decide the best way to treat you.

Appointment Reminders. We may use your medical information to contact you to remind you of appointments, and to give you information about other treatment options, or other health-related benefits and services that may be of interest to you.

To obtain payment. Your medical information may also be used by our business office to prepare your bill and process payments from you as well as from any insurance company, government program or other person who is responsible for payment.

For our healthcare operations. Your medical information may be used to review the quality and appropriateness of the care you receive. We may also use your medical information to put together information to see how we are doing and to make improvements in the services and care we give you. In some cases we may have students, trainees, or other health care personnel, as well as some non-health care personnel, who come to our facility to learn under the guidance of faculty to practice or improve their skills.

To create de-identified databases. We may use your medical information for the purpose of removing information that tells anyone who you are, and putting it in a computer program. Your information may be completely de-identified or partially de-identified. This information is often used for research purposes. If your information is partially de-identified, it is called a "limited data set."

Fundraising. We may use your medical information to raise funds for our organization directly or to raise funds for our organization through an institutionally-related foundation or business associate.

HOW YOUR MEDICAL/DENTAL INFORMATION MAY BE DISCLOSED: In addition to using your medical information, we may disclose all or part of it to certain other people. This includes giving your information to:

You. In order to get your medical information, you will need to fill out an authorization form. You may also have to pay for the cost of some or all of the copies.

People You Ask Us To Give It To. If you tell us that you want us to give your medical information to someone, we will do so. You will need to fill out an authorization form. You may stop this authorization at any time. We are not allowed to force you to give us permission to give your medical information to anyone. We cannot refuse to treat you because you stop this authorization.

Payers. We have the right to give your medical information to insurance companies, government programs such as Medicare and Medicaid, and the people who process their claims as well as to others who are responsible for paying all or part of the cost of treatment provided to you. For example, we may tell your health insurance company what is wrong with you and what treatment is recommended or has been given to you.

"Business Associates." Business associates are companies or people we contract with to do certain work for us. Examples include information coders, attorneys and specialized people providing management, analysis, utilization review or other similar services to us. Another example is giving health information to a business associate so that the business associate can create a de-identified data base. Business associates are required to agree to take reasonable steps to protect the privacy of your medical information.

Limited Data Set Recipients. If we use your information to make a "limited data set," we may give the "limited data set" that includes your information to others for the purposes of research, public health action or health care operations. The persons who receive the "limited data set" are required to agree to take reasonable steps to protect the privacy of your medical information.

The Secretary of the U.S. Department of Health and Human Services. The Secretary has the right to see your records in order to make sure we follow the law.

Public Health Authorities. We may disclose your medical information to a public health authority responsible for preventing or controlling disease, maintaining vital statistics or other public health functions. We may also give your medical information to the Food and Drug Administration in connection with FDA-regulated products.

Law Enforcement Officers. We may reveal your medical information to the police. We may also give your medical information to persons whose job it is to receive reports of abuse, neglect or domestic violence. And, if we believe that releasing this information is needed to prevent a serious threat to the health or safety of a person or the public, we are permitted to reveal your medical information.

Health Oversight Agencies. We may give your medical information to agencies responsible for health oversight activities, such as investigations and audits, of the health care system or benefit programs, as allowed by law.

Courts and Administrative Agencies. We may reveal your medical information as required by a judge for a legal issue.

Coroners and Administrative Agencies. If you die, we may reveal medical information about your death to coroners, medical examiners and funeral directors, as allowed by law.

Tissue Donation and Organ Transplant Services. We may reveal your medical information to agencies that are responsible for obtaining tissue donations and obtaining and transplanting organs.

Research. We may reveal your medical information in connection with certain research activities. With your authorization, we may disclose permanent information such as your name, social security number, study name, and date of participation to our Accession Payable department to issue human subjects research incentive payments.

Specialized Governmental Functions. We may disclose your medical information for certain specialized governmental functions, as allowed by law. Such functions include:

- Military and veteran activities
- National security and intelligence activities
- Protective services to the President and others
- Medical suitability determinations; and
- Correctional institutions and other law enforcement custodial situations.

Required by law. We may also reveal your medical information in any other circumstances where the law requires us to do so.

OBJECTIONS TO USES AND DISCLOSURES:

In certain situations, you have the right to object before your medical information can be used or revealed. This does not apply if you are being treated for certain mental or behavioral problems. If you do not object after you are given the chance to do so, your medical information may be used:

Patient Directory. In most cases, this means your name, room number and general information about your condition may be given to people who ask for you by name. Also, information about your religion may be given to members of the clergy, even if they do not ask for you by name.

Family and Friends. We may disclose to your family members, other relatives and close personal friends, any medical information that they need to know if they are involved in caring for you. For example, we can tell someone who is assisting with your care that you need to take your medication or get a prescription refilled or give them information about how to care for you. We can use your medical information to find a family member, a personal representative or another person responsible for your care and to notify them where you are, about your condition or of your death. If it is an emergency or you are not able to communicate, we may still give certain information to persons who can help with your care.

Disaster Relief. We may reveal your medical information to a public or private disaster relief organization assisting with an emergency.

YOUR RIGHTS REGARDING YOUR MEDICAL/DENTAL INFORMATION: You may also have the following right regarding your medical information:

You have the right to ask us to treat your medical information in a special way, different from what we normally do. Unless you have the right to object to the use of the information, we do not have to agree with you. If we do agree to your wishes, we have to follow your wishes until we tell you that we will no longer do so.

You have the right to tell us how you would like us to send your information to you. For example, you might want us to call you only at work or only at home. Or you may not want us to call you at all. If your request is reasonable, we must follow your request.

You have the right to look at your medical information and, if you want, to get a copy of it. We can charge you for a copy, but only a reasonable amount. Your right to look at and copy your medical records is based upon certain rules. For example, we can ask you to make your request in writing, or, if you come in person, that you do so at certain times of the day.

You have the right to ask us to change your medical information. For example, if you think we made a mistake in writing down what you said about when you began to feel bad, you can tell us. If we do not agree to change your record, we will tell you why, in writing, and give you information about your rights.

You have the right to be told to whom we have given your medical information in the six years before you ask. This does not apply to all disclosures. For example, if we gave someone your medical information so that they could treat you or pay for your care, we do not have to keep a record of that.

You have the right to get a copy of this notice at no charge.

You have the right to complain to us or to the United States Department of Health and Human Services if you believe that we have violated your privacy rights.

If you have a complaint or concern, please call our

24 hour Hotline: (504) 568-2347

Your call will be handled by our Privacy Officer.

You may remain anonymous and all calls are kept confidential.

For further information about your rights or about the uses and disclosures of your medical information, please call
The Office of Compliance Programs at: (504) 568-2350
to speak with either our Compliance or Privacy Officer or OCP team member.

Or write to:
LSUHSC New Orleans
Office of Compliance Programs
433 Bellvue Street, Room 507
New Orleans, LA 70112

Or email:
nocompliance@lsuhsc.edu

This notice is effective as of 4/13/2009
Date Last Revised 10/15/07

ATTACHMENT B

ACKNOWLEDGEMENT OF RECEIPT OF NOTICE OF PRIVACY PRACTICES

I, _____, acknowledge that I have received a copy of the
(Patient's name – please print)

Notice of Privacy Practices of LSUHSC-NO on this date.

Patient's Signature _____ Date: _____

Health Care Provider's Documentation of Good Faith Effort to Obtain Acknowledgement of Receipt

If the Acknowledgement could not be obtained prior to the date of first service to the patient, or, in an emergency situation, as soon as reasonably practicable after the emergency has resolved, describe below the efforts made to obtain the written Acknowledgement and the reasons why the written Acknowledgement could not be obtained. If the patient refused to provide the written Acknowledgement, please so state.

Efforts to obtain written Acknowledgement:

Reasons written Acknowledgement could not be obtained:

(Signature of health care provider) Date

(Printed name of health care provider)

Notice of Privacy Practices

Describes:

- the institution's policies and practices regarding patient protected health care information distribution and
- the rights patients have with regard to their protected health care information.

Patient's Rights

- To inspect and copy their PHI
- To request an amendment to their PHI
- To receive confidential communications at an alternative address or phone
- To request restrictions on certain uses and disclosures
- To request an accounting of disclosures of their PHI
- To opt-out of a facility directory
- To make a complaint about suspected privacy breach

Requesting a Copy of PHI: Individual's Use

- When a patient requests a copy of his or her PHI for him or herself, a patient should fill out:
 - Patient's Request to Access and Obtain Copies of their Protected Health Information Form.

Where can I find the Patient's Request to Access or Obtain Copies of PHI?

Go to:

<http://www.lsuhscc.edu/no/administration/cm/cm-53/>

Select letter “J” ([Patient's Right of Access to Obtain a Copy of their Protected Health Information](#) and Select Attachment A)

ATTACHMENT A

Patient's Request for Access to and to Obtain a Copy
of Their Protected Health

(Please read carefully)

Patient:

I _____ request access to my protected health information contained in the medical records or billing records maintained by LSUHSC-NO to review the contents and obtain copies.

Or:

Patient's Personal Representative:

I _____ request access to the protected health information of _____ contained in the medical records or billing records maintained by LSUHSC-NO to review the contents and obtain copies.

I have the right to inspect and request copies of whatever portions or the entirety of the health records as well as to request a summary explanation of these records. I understand this request will require the collection of these records and that LSUHSC-NO will arrange a convenient time and place for me to conduct my review of this protected health information. I request access and/or copies/summaries of the following information:

From: (date) _____

To: (date) _____

Please check type of information to be accessed/copied:

Complete health record Diagnosis & treatment codes Discharge summary
 History and physical exam Consultation reports Progress notes
 Laboratory test results X-ray reports X-ray films / images
 Photographs, videotapes Complete billing record Itemized bill
 Other, (specify) _____

I would like this information provided to me by the following method (check one):

Personal pick-up

US Postal Service to:

(Address) _____

Other (specify) _____

Signature _____

Date: _____

Requesting a Copy of PHI— Disclosure to Third Party

- When a patient requests a copy of his or her PHI to be disclosed to a third party, a HIPAA authorization form must be used except in certain circumstances.
 - A HIPAA Authorization is a form, signed by patient, which is required for disclosure of PHI to entities outside LSUHSC-N.O.

Disclosures without an Authorization

- Common disclosures of PHI allowed without a HIPAA authorization form are:
 - to the individual and
 - for Treatment, Payment, and Operations
 - Quality, safety, or effectiveness of a product or activity regulated by the FDA
 - Examples of purposes or activities for which such disclosures may be made include, but are not limited to:
 - Collecting and reporting adverse events (or similar activities regarding food or dietary supplements), product defects or problems (including problems with the use or labeling of a product) or biological product deviations
 - Tracking FDA-regulated products
 - Enabling product recalls, repairs, or replacement or for lookback (including locating and notifying persons who have received products that have been withdrawn, recalled, or are subject of lookback.)
 - Conducting post-marketing surveillance In almost all other cases, a HIPAA compliant authorization form must be used.

Authorizations

- Unless there is an HIPAA exception to the authorization requirement, a HIPAA compliant authorization form must be obtained from the patient to disclose patient information.

Where can I find a HIPAA compliant authorization form?

Go to:

<http://www.lsuhscc.edu/no/administration/cm/cm-53/>

Select letter “T” (Patient Information Policy: Use or Disclosure of Protected Health Information That Require an Individual's Written Authorization and Select Attachment B)

**Authorization for Release of Protected Health
Information Patient Identification**

Patient Name: _____ Date of Birth: ___/___/___
Address Street _____
City/State/Zip _____
Social Security #: _____ Telephone: _____

Authority to Release Protected Health Information

I hereby authorize _____ to release the information identified in this authorization form from the medical records of _____ and provide such information to _____

Information To Be Released – Covering the Periods of Health Care

From (date) ___/___/___ to (date) ___/___/___

Please check type of information to be released:

- | | | |
|--|--|---|
| <input type="checkbox"/> Complete health record | <input type="checkbox"/> Diagnosis & treatment codes | <input type="checkbox"/> Discharge summary |
| <input type="checkbox"/> History and physical exam | <input type="checkbox"/> Consultation reports | <input type="checkbox"/> Progress notes |
| <input type="checkbox"/> Laboratory test results | <input type="checkbox"/> X-ray reports | <input type="checkbox"/> X-ray films / images |
| <input type="checkbox"/> Photographs, videotapes | <input type="checkbox"/> Complete billing record | <input type="checkbox"/> Itemized bill |
| <input type="checkbox"/> Other, (specify) _____ | | |

Purpose of the Requested Disclosure of Protected Health Information

I am authorizing the release of my Protected Health Information for the following purposes (e.g. a purpose may be that the request of the individual): _____

Drug and/or Alcohol Abuse, and/or Psychiatric, and/or HIV/AIDS Records Release

I understand if my medical or billing record contains information in reference to drug and/or alcohol abuse, psychiatric care, sexually transmitted disease, hepatitis B or C testing, and/or other sensitive information, I agree to its release.

Check One: Yes No

I understand if my medical or billing record contains information in reference to HIV/AIDS (Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome) testing and/or treatment, I agree to its release.

Check One: Yes No

Right to Revoke Authorization

Except to the extent that action has already been taken in reliance on this authorization, the authorization may be revoked at any time by submitting a written notice to _____ at _____

_____. Unless revoked, this authorization will expire on the following date, or after the following time period or event _____.

Re-disclosure

I understand the information disclosed by this authorization may be subject to re-disclosure by the recipient and no longer be protected by the Health Insurance Portability and Accountability Act of 1996.

Signature of Patient or Personal Representative Who May Request Disclosure

I understand that I do not have to sign this authorization, and my treatment or payment for services will not be denied if I do not sign this form. However, if health care services are being provided to me for the purpose of providing information to a third-party (e.g. fitness-for-work test), I understand that services may be denied if I do not authorize the release of information related to such health care services to the third-party. I can inspect or copy the protected health information to be used or disclosed. I hereby release and discharge _____ of any liability and the undersigned will hold _____ harmless for complying with this Authorization.

Signature: _____ Date: ___/___/___

Description of relationship if not patient: _____

ATTACHMENT B

MAKE TWO COPIES. PROVIDE ONE TO PATIENT. MAINTAIN OTHER IN L6UHSC-NO FILES.

Where can I find information on whether an authorization is required?

- Go to:
<http://www.lsuhscc.edu/no/administration/cm/cm-53/>,
- Select letter “T” (Patient Information Policy: Use or Disclosure of Protected Health Information That Require an Individual's Written Authorization and Select Attachment A.

Accounting for Disclosures

- A patient has the right to receive an accounting of the certain types of disclosures of Protected Health Information made by LSUHSC-N.O. for up to six (6) years prior to the date on which the accounting is requested.
- Please see the LSUHSC-N.O. CM-53: Accounting of Disclosures Policy for those disclosures that do not have to be accounted for.

Amending or Restricting PHI

- If a patient requests an amendment or restriction of the PHI contained in the medical record, the healthcare provider must reference the corresponding HIPAA policy contained in CM-53 and contact the LSUHSC-N.O. Privacy Officer.

Where Can I find The Privacy Policies and Procedures?

- The HIPAA Privacy Policies and Procedures are contained in Chancellor's Memorandum 53 available at:

<http://www.lsuhs.edu/no/administration/cm/cm-53/>

How Does HIPAA Privacy Affect Providers?



LSUHSC-NO providers and HIPAA

- LSUHSC-N.O. has a commitment to the privacy of the patient's health information, in both medical and billing records.
- The privacy policies and procedures affect the tasks a provider performs, including aspects of physical security of PHI and the minimum necessary standard.

Protecting a Patient's Privacy

- Treat all information as if it were about you or your family
- Do not discuss confidential patient information in elevators, hallways, cafeteria, restrooms, or other public places, etc.
- Shred documents and disks with PHI before discarding

Protecting a Patient's Privacy (cont.)

- Do not discuss patient information with your family, friends, or people in your facility who are not directly involved in the patient's treatment, payment, or operations
- Do not leave charts, schedules, or open documents on computer screens that may contain patient information in plain view

Protecting a Patient's Privacy (cont.)

- Access only the information you are officially authorized to access
- Do not share your passwords with anyone
- Set an idle time out or log off on your computer

Protecting a Patient's Privacy (cont.)

- Do not allow unauthorized visitors or patients in staff areas, dictating rooms, chart storage areas, etc.
- Conduct telephone conversations or dictation regarding confidential patient information in a discreet manner
- To view the privacy policy on Patient Safeguards, go to CM 53, Policy F:
<http://www.lsuhscc.edu/no/administration/cm/cm-53/AdministrativeSafeguards1.aspx>

Use of Social Media

- LSUHSC-NO recognizes that social networking websites and applications (e.g. Facebook, Twitter, and YouTube) are an important and timely means of communication.
- However, LSUHSC-NO faculty, staff, residents, and students, who use these websites and applications, must be aware of the critical importance of protecting patient information.

Use of Social Media (cont.)

- Posting information regarding individual patients is strictly prohibited.
 - Care must be exercised when posting information for educational purposes to ensure that any information posted combined with other readily available information (e.g. address, telephone number, etc.) will not result in the identification of the patient.

Use of Social Media (cont.)

- Removal of the individual's name DOES NOT by itself constitute proper de-identification of protected health information.
- Inclusion of data, such as age, gender, race, diagnosis, date of evaluation, type of treatment, use of highly specific medical photograph (including before and after photographs and/or tattoos) may still allow the identification of the individual.

Privacy Complaints

- If anyone suspects or knows of mishandling or misuse of patient PHI, a complaint can be made to:
 - The LSUHSC-N.O. Privacy Officer
 - The Office of Compliance Programs
 - The Office of Civil Rights of Department Health and Human Services

Role of the Privacy Officer

- Responds to HIPAA privacy complaints
- Implements privacy policies and procedures
- Conducts educational programs
- Reviews LSUHSC-N.O.'s privacy program
- Is available to answer any privacy questions or concerns.

Reporting a HIPAA violation

- Contact the LSUHSC-N.O. Privacy Officer or the Office of Compliance Programs by:
 - Telephone at:
 - Office: (504) 568-2350
 - Confidential reporting hotline:
 - (504) 568-2347, or
 - E-mail at:
 - nocompliancehotline@lsuhsc.edu

Penalties for HIPAA violations

- There is a tiered system for assessing the level and penalty of each violation:
 - Tier A-violations that are accidental not intentional-fines of **\$100** per violation up to **\$25,000** for violations of an identical type per calendar year.
 - Tier B-violations due to reasonable cause and not willful neglect- fines of **\$1000** per violation up to **\$50,000** for violations of an identical type per calendar year.

Penalties for HIPAA violations (cont.)

- **Tier C**- violations that the hospital corrected, but were due to willful neglect of the policies/procedures-fines **\$10,000** per violation up to **\$250,000** for violations of an identical type per calendar year.
- **Tier D**- violations due to willful neglect that the hospital did not correct-fines \$50,000 per violation up to **\$1.5 million** for violations of an identical type per calendar year.

Additional Penalties

- Individuals and health care providers (hospitals, etc.) can also face civil and criminal prosecution, depending on the facts of the case.

Questions?

We Are Here to Help!

Office of Compliance Programs

433 Bolivar St.

Suite 807

New Orleans, LA. 70112

568-2350