

PRIVACY POLICY AND PROCEDURES

LSU Health Sciences Center New Orleans

Date Effective: April 14, 2003

Date Revised: September 23, 2013

Patient Information Policy

Use or Disclosure of Protected Health Information that Requires an Individual's Written Authorization

Policy #: 2100.20

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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, 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 shall obtain a patient's authorization for any use or disclosure of their PHI which is not permitted or required by HIPAA. (See Attachment A) This includes but is not limited to uses and disclosures of psychotherapy notes, uses and disclosures for marketing purposes, or uses and disclosures related to the sale of a patient's PHI. LSUHSC-NO may not make the authorization a condition of treatment except where the provision of such services requires the authorization.

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. An individual's written authorization must be obtained prior to using or disclosing the individual's Protected Health Information unless the particular Use or Disclosure is listed in Attachment A of this policy as a "Permitted" or a "Required" Use or Disclosure.
2. If a signed authorization is required for a particular Use or Disclosure, then Attachment B "Authorization" form shall be used when obtaining an individual's authorization. Except for purposes of research, no other form may be used to obtain an individual's authorization for the Use or Disclosure of their PHI.

Examples of disclosures that require an authorization include but are not limited to:

- Release of psychotherapy notes
- Marketing
- Sale of PHI
- To release PHI to an employer as part of a background check
- To release PHI to an insurance company at the patient's request for underwriting or eligibility for benefits (e.g. life or disability insurance)
- To release the results of a fitness test to a prospective employer

3. A valid authorization shall include the following elements:

- (i) A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion.
- (ii) The name or other specific identification of the person(s), or class of persons, authorized to make the requested use or disclosure.
- (iii) The name or other specific identification of the person(s), or class of persons, to whom LSUHSC-NO may make the requested use or disclosure.
- (iv) A description of each purpose of the requested use or disclosure. The statement "at the request of the individual" is a sufficient description of the purpose when an individual initiates the authorization and does not, or elects not to, provide a statement of the purpose.
- (v) An expiration date or an expiration 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 of protected health information for research, including for the creation and maintenance of a research database or research repository.
- (vi) Signature of the individual and date. If the authorization is signed by a personal representative of the individual, a description of such representative's authority to act for the individual must also be provided.

4. In addition to the elements in 3 above, the authorization must contain statements adequate to place the individual on notice of all of the following:

- (i) The individual's right to revoke the authorization in writing, and either:
 - (A) The exceptions to the right to revoke and a description of how the individual may revoke the authorization; or
 - (B) To the extent that the information in (A) above of this section is included in LSUHSC-NO's notice of privacy practices (NPP), a reference to LSUHSC-NO's NPP.
- (ii) The ability or inability to condition treatment, payment, enrollment or eligibility for benefits on the authorization, by stating either:

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(A) LSUHSC-NO may not condition treatment, payment, enrollment or eligibility for benefits on whether the individual signs the authorization when the prohibition on conditioning of authorizations in 45 CFR §164.508(b)(4); or

(B) The consequences to the individual of a refusal to sign the authorization when, in accordance with 45 CFR §164.508(b)(4)(i)-(iii), LSUHSC-NO can condition treatment, enrollment in the health plan, or eligibility for benefits on failure to obtain such authorization.

(iii) The potential for information disclosed pursuant to the authorization to be subject to re-disclosure by the recipient and no longer be protected by HIPAA regulations.

5. The authorization must be written in plain language.

6. The individual must be provided with a copy of the signed authorization.

REFERENCES:

45 C.F.R. § 164.508