POLICY TITLE: 516.00 Using and Disclosing Protected Health Information Pursuant to Patient Authorization

Responsible Department: Corporate Privacy Office

Creation Date: 04/07/2003
Review Date: 2021/12/15
Revision Date: 2021/12/15

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PUBLISHED (Released): 2021/12/15

SUMMARY & PURPOSE:

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule provides Federal privacy protections for individually identifiable health information, called protected health information or PHI, held by most health care providers and health plans and their business associates. The HIPAA Privacy Rule protects all *"individually identifiable health information"* held or transmitted by a Baptist Health or its business associate, in any form or media, whether electronic, paper, or oral. The Privacy Rule sets out how and with whom PHI may be shared. Following Privacy Rules' guidelines, an "authorization" is required for uses and disclosures of protected health information not otherwise allowed by the Rule.

POLICY:

It is the policy of Baptist Health South Florida, Inc. ("BHSF" or "Baptist Health") to comply with applicable state and federal laws, including those protecting the confidentiality of patient health information and establishing certain individual privacy rights. It is our policy to implement these laws in a way that supports our primary mission to the community regarding the delivery of quality health care in an efficient manner. This policy governs the use and disclosure of patient information pursuant to a patient authorization.

SCOPE/APPLICABILITY:

This policy applies to Baptist Health, its affiliates, all workforce members, and others as described below who are authorized to disclose individuals' protected health information pursuant to patient authorization. Only those Baptist Health personnel who are authorized to disclose patient information may disclose such information.

- **Workforce members.** Workforce members means employees, volunteers, trainees, temporary staff, and contractors/consultants who are not independent contractors under *Human Resources Policy 1150 - Independent Contractors.*

- **Medical staff members.** Medical staff members are treated as members of an organized health care arrangement with Baptist Health South Florida and must comply with this policy as if they are workforce members pursuant to their applicable medical staff bylaws.

- **Students.** Employed students are treated as workforce members. Non-employed students (fellows, residents, students) must comply with this policy as if they are workforce members pursuant to the terms of their applicable academic agreements.

- **Independent Contractors and Others.** Independent Contractors and others who have agreed to comply with Baptist Health's policies and procedures as a condition of receiving access to Protected Health Information (PHI) must comply with this policy as if they are workforce members.

PROCEDURES TO ENSURE COMPLIANCE:

1. Patient Authorization - Using and Disclosing Patient Information Pursuant to a Patient Authorization
   a. If the disclosure is for purposes other than for treatment, payment, or health care operations, and not required by law, then no disclosure shall be made unless the patient whose information is sought authorizes the disclosure.
   b. Any use or disclosure of patient information must be for a purpose that is permitted under the BHSF Corporate HIPAA privacy policies and procedures and the Privacy Rule.
   c. All other uses and disclosures of patient information may be made only after Baptist Health obtains the patient's written authorization using the standard authorization form, or receives an authorization from the patient or a third party and the authorization meets the authorization content requirements set forth in this policy.
      i. Authorization Content
         1) A use or disclosure of patient information that requires patient authorization may be made pursuant to a valid patient authorization.
         2) An authorization is not valid unless it is complete, accurate and contains all of the required information and statements.
         3) Any questions regarding whether an authorization is valid or contains all the required elements shall be directed to Health Information Management, Risk Management, the Corporate Privacy Office or the Office of General Counsel;
      ii. Use or Disclosure
         1) All uses and disclosures made pursuant to a patient authorization must be limited to the purposes and information specified in the patient's authorization.
      iii. Copy to Patient
         1) Baptist Health must provide the patient with a copy of each authorization the patient signs.
      iv. Revocation of Authorization
         1) A patient may revoke his or her authorization at any time by sending a written request to the Corporate Privacy Office, except to the extent that action has been taken in reliance on the authorization.
         2) The Corporate Privacy Office shall immediately notify Health Information Management and other record custodians for designated record sets that the patient's authorization has been revoked.
         3) No further uses and disclosures of the patient's information pursuant to the authorization may be made unless approved by the Risk Management or the Corporate Privacy Office.
2. Documentation
   a. A copy of each patient authorization obtained by Baptist Health or received by Baptist Health from a patient or third party must be forwarded to Health Information Management of the relevant Baptist Health facility.
   b. BHSF must retain the documentation related to the patient's authorization and subsequent release of information for six years from the later of the date of the authorization and release of Patient Information.
3. Deceased individuals
   a. Baptist Health must comply with the requirements of this policy with respect to the protected health information of a deceased individual for a period of 50 years following the death of the individual.

SUPPORTING/REFERENCE DOCUMENTATION:

- Health Insurance Portability and Accountability Act of 1996 as amended from time to time and including any regulations promulgated thereunder (collectively, "HIPAA")
- Applicable Florida State Laws

RELATED POLICIES, PROCEDURES, AND ASSOCIATED FORMS:

- 10000-74220-001.00 Unified Corporate Privacy Policy on HIPAA Compliance
- 10000-74220-105.00 Access and Amend - Access of Individuals to Protected Health Information
- Attachment - 10000-74220-6001 - Authorization for Release of Health Information
- HIM 400 Use or Disclosure of Medical Record Information

ENFORCEMENT & SANCTIONS:

1. Reference: Corporate HIPAA Privacy Policy 10000-74220-605.20 Sanctions for Privacy Violations
2. Violations of this policy will be determined by the Chief Privacy Officer in consultation with the appropriate levels of department leadership and appropriate Human Resources management level. Reference: HR policies 5250 Employee Conduct and 5300 Corrective Action.
3. Violations of this policy may lead to disciplinary action up to and including termination.
4. Enforcement of this policy will be performed by Baptist Health South Florida's Privacy Office in conjunction with Human Resources, as circumstances may dictate.