



POLICY TITLE: Enhanced Privacy Requests – Receiving and Responding to Requests for Restrictions on the Use and Disclosure of Patient Health Information

Responsible Department: Corporate Privacy Office

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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 covered entity 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. In addition, it provides individuals with certain rights regarding their health information.

The HIPAA Privacy Rule grants patients important rights with respect to health information obtained and maintained by Baptist Health. The Baptist Health Privacy Office is responsible for ensuring the confidentiality of Baptist Health patient medical information and responding to such requests. All requests for restriction from a patient/family member should be directed to the Patient Experience representative of a BHSF facility or the Privacy Office.

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. BHSF patients have the right to request restrictions on the use and disclosure of their health information. This policy governs receiving and responding to requests for restrictions by the Privacy Office.

SCOPE/APPLICABILITY:

This policy applies to Baptist Health, its affiliates, all workforce members, and others as described below who receive requests for restrictions from BHSF patients, and to the BHSF Privacy Office, who responds to requests for restrictions from BHSF patients.

- **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. General Rule: Request restrictions on the use and disclosure of health information
 - a. BHSF patients have a right to request a restriction or limitation on the Health Information used or disclosed for treatment, payment or healthcare operations by BHSF.
 - b. The Privacy Office is not required to grant requests for restrictions that will affect the ability to provide treatment.
 - c. Patients have the right to request a limit on the Health Information BHSF discloses to someone who is involved in their care or the payment for their care, such as a family member or friend. For example, patients may ask that we not share information about their surgery with their spouse or that we not share information with their insurance company if they choose to pay for their service.
 - d. Patients have a right to request that a healthcare provider comply with the patient's request for restriction of disclosure to a health plan for purposes of payment or healthcare operations when the health care services that are the subject of the restriction have been paid for in full "out of pocket" by the patient or on the patient's behalf, and the disclosure is not required by law.
 - e. If we agree, we will comply with the patient's request unless BHSF needs to use the information in certain emergency treatment situations or are required by law to make a disclosure.
2. Receiving Requests for Restrictions
 - a. Anyone covered by this policy that receives a request from a patient to restrict how a BHSF facility uses or discloses the patient's medical, billing or other information shall inform the patient that such requests must be made to the BHSF Privacy Office or the Patient Experience representative of any BHSF facility.
 - b. Only the Privacy Office or a BHSF facility's Patient Experience representative may process requests for restrictions. No other person, including an employee, physician, nurse, or clergy member is authorized to agree to a request to restrict uses and disclosures of health information or respond to such a request.
 - c. When the Privacy Office or the Patient Experience representative of a BHSF facility receives a request for restriction form from a patient, they shall ensure the patient has fully completed the standard form for each BHSF facility from which the restriction is requested.
 - d. Upon receipt of a fully completed form(s) for the requested restriction, the Privacy Office or the Patient Experience representative of a BHSF facility shall stamp each form with the date received.
 - e. If the form is received by the Patient Experience representative of a BHSF facility, the department must promptly forward a completed request form to the Privacy Office.
3. Responding to Requests for Restrictions
 - a. General Rule: The Privacy Office shall grant or deny the request for restrictions without unreasonable delay.
 - i. The Privacy Office must either:

All references to Policies must go to the BHSF Master Copy on the BHSF Intranet; do not rely on other versions / copies of the Policy.

- 1) Grant the patient's request for a restriction, in accord with Section 3c of this policy;
or
 - 2) Deny the patient's request for a restriction, in accord with Section 3b of this policy.
- b. Denying Patient's Request
- i. The Privacy Office shall deny a request if the requested restriction is a restriction on use and disclosure for Baptist Health treatment and administrative activities or on use and disclosure for Baptist Health payment, except as may be agreed to under Section 3c.
 - ii. The Privacy Office has discretion to deny a request for any other reason.
 - iii. If the Privacy Office denies the request, the Privacy Office must send the patient a denial letter.
- c. Granting Patient's Request
- i. If the Privacy Office elects to grant the request to restrict, the Privacy Office must:
 - 1) Notify the patient that his or her request has been granted;
 - 2) Send the patient's request for restriction, along with the Privacy Office's letter granting the request to the HIM department for inclusion in the correspondence section of the medical record;
 - 3) Take all necessary steps to ensure that no use or disclosure is made that would violate the agreement; and
 - 4) Notify each affected records custodian of the patient's designated record set that the request has been granted and ensure that the patient's records are not available pursuant to the restriction.
4. Termination of the Agreement
- a. If the Privacy Office receives a request to terminate the agreement to a restriction and agrees with such request, or if the Privacy Office decides to terminate such agreement, the Privacy Office must contact the patient and ask the patient whether he or she agrees to the termination of the agreement.
 - i. If the patient agrees to terminate the restriction on health information already in the possession of Baptist Health, the Privacy Office must:
 - 1) Document the oral agreement on the request for restriction form;
 - 2) Send the patient a confirmation that the agreement has been terminated; and
 - 3) Notify the records custodian of the patient's designated record set (including any business associate) that agreement has been terminated and ask that the records custodian remove the standard statement describing the restriction from the patient's affected designated record set.
 - ii. If the patient does not agree, the Privacy Office must:
 - 1) Inform the patient that the agreement is being terminated as to health information collected or created in the future; and
 - 2) After informing the patient, notify the records custodian of the patient's designated record set (including any business associates) that the agreement has been terminated and request that the records custodian replace the statement notifying users of the record about the restriction with a revised version notifying users that the restriction still is binding on all information collected prior to the termination of the agreement.
5. Documentation
- a. The Privacy Office must maintain any letter generated under this policy for six years from the later of the date of creation or the effective date of the letter.

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:

BHSF HIPAA Privacy Policies

Form 6720 – Notice of Privacy Practices Brochure

Form 6028 – Request for Restrictions on Uses and Disclosures of Health Information

Administrative Policies - Registration Management:

- Patient Access 352.02 HIPAA Privacy Procedures - Patient Request for Restriction on Uses and Disclosures of Health Information

ENFORCEMENT & SANCTIONS:

1. Reference: BHSF 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.
3. Reference: HR policies 5250 - Employee Conduct and 5300 - Corrective Action.
4. Violations of this policy may lead to disciplinary action up to and including termination.
5. Enforcement of this policy will be performed by Baptist Health South Florida's Privacy Office in conjunction with Human Resources, as circumstances may dictate.