



POLICY TITLE: Patient Rights – Receiving and Responding to Patient Privacy Complaints

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 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.

The HIPAA Privacy Rule grants patients important rights with respect to health information obtained and maintained by Baptist Health. The Corporate Privacy Office is responsible for ensuring the confidentiality of Baptist Health patient medical information and responding to such requests. Individuals have the right to file a complaint with the Corporate Privacy Office, if they believe that their privacy rights have been violated.

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.

Individuals who believe that their privacy rights have been violated may file a complaint with the Corporate Privacy Office. This policy governs the process for receiving and responding to patient privacy complaints and outlines the process for individuals to submit privacy complaints.

SCOPE/APPLICABILITY:

This policy applies to Baptist Health, its affiliates, all workforce members, and others as described below.

- **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*.

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.

- **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:

Individuals who believe that their privacy rights have been violated may file a complaint with the Chief Privacy Officer or the Secretary of the U.S. Department of Health and Human Services.

1. The Chief Privacy Officer shall establish a process for patients, their families and members of the general public to ask questions and to submit complaints about Baptist Health privacy practices, or the actions of Baptist Health employees, volunteers, workforce members, licensed health care professionals and medical staff members.
2. Baptist Health must provide a process for individuals to make complaints concerning our Privacy Policies and Procedures. This process is discussed in the Notice of Privacy Practices:
 - a. Baptist Health must provide a process for individuals to make complaints concerning our privacy policies and procedures.
 - b. There are a variety of methods and/or channels for reporting and receiving privacy complaints.
 - c. BHSF will maintain a host of methods to allow for the reporting of privacy complaints. Key channels to report privacy complaints include, but are not limited to:
 - i. Corporate HIPAA Privacy Office: HIPAA Hotline
 - ii. Any BHSF leader
 - iii. Corporate compliance hotline or online (on BHSF intranet)
 - iv. risk management incident reporting system
 - v. Patient Experience
 - vi. Human Resources.
3. An existing patient complaint process may be used for privacy complaints, provided that all complaints regarding patient privacy compliance are immediately forwarded to the Corporate Privacy Office.
4. The Corporate Privacy Office shall ensure that Patient Experience implements a procedure for documenting patient complaints in writing, including offering to write the complaint form for the patient, if specifically requested and appropriate. Whether or not the patient indicates a desire to file a complaint, the Patient and Guest Services representative shall prepare and submit a complaint report with respect to all aggressive questions that are critical of Baptist Health or its employees' privacy behavior.
5. Baptist Health shall promptly and affirmatively respond to patient questions and complaints to assure that patients do not feel a need to complain to enforcement authorities.
6. Receipt of Patient Privacy Complaints
 - a. Anyone covered by this policy that receives a request from any individual to file a complaint about BHSF Privacy Policies or its compliance the Privacy Rule shall inform the individual that such requests must be made to the Corporate Privacy Office, the Patient Experience representative of a BHSF facility; or must forward the completed request to the Corporate Privacy Office through the key channels listed above.
 - b. Only the Corporate Privacy Office or the BHSF facility's Patient Experience department may respond to privacy complaints. No other person is authorized to respond to a privacy complaint, other than as set forth in the applicable HIPAA Privacy Policies.
 - c. When the Corporate Privacy Office or Patient and Experience representative of a BHSF facility receives a privacy complaint from an individual, the Corporate Privacy Officer or Patient Experience representative

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- shall ensure that the individual has fully completed the standard form for each BHSF facility from which information is being requested. In lieu of receipt of the Privacy Complaint form, a written complaint or verbal complaint may be taken at the discretion of the Corporate Privacy Office. Anonymous complaints are accepted through the hotline or by patient request when filling out the form.
- d. Upon receipt of a fully completed form(s) for a privacy complaint, the Corporate Privacy Office or Patient and Experience representative of a BHSF facility shall stamp each form with the date received.
 - e. A copy of the date stamped forms received by the Patient Experience representative of a BHSF facility shall be promptly forwarded to the Chief Privacy Officer for processing.
 - f. The Corporate Privacy Office has the responsibility and authority to oversee any investigation arising from the complaint.
 - g. No other department is authorized to investigate a complaint alleging misuse of protected health information, regardless of electronic, written or oral form, or violations of Baptist Health privacy policies or alleged non compliance with federal or state laws governing privacy of protected health information.
7. Responding to Privacy Complaints
 - a. The Chief Privacy Officer shall review all privacy complaints and, in consultation with the Human Resources department, determine the appropriate action to be taken. Such action may include:
 - i. Investigating the complaint;
 - ii. Mitigating any harmful effects as discussed in applicable HIPAA Privacy Policies; and/or
 - iii. Taking remedial action which may include recommendations and sanctioning with respect to violations of the applicable HIPAA Privacy Policies.
 - b. The Chief Privacy Officer shall ensure that each complainant that has provided contact information is provided follow up the handling of the complaint.
 - i. Such report may include, as appropriate, additional educational information regarding the Privacy Rule and Baptist Health procedures for implementing the Privacy Rule, notice that appropriate remedial action has been taken and/or notice that new procedures have been implemented.
 - c. Any Baptist Health employee, volunteer, workforce members, licensed health care professional or medical staff member that have knowledge of any privacy complaint must keep this information confidential and only use and disclose this information as necessary to assist Baptist Health in resolving the issue.
 8. Documentation of Patient Privacy Complaints
 - a. The Chief Privacy Officer must document all complaints received and their disposition and the sanctions that are applied, if any and retain such information in accord with the applicable HIPAA Privacy Policy.
 9. Sanctions
 - a. Baptist Health must have and apply appropriate sanctions against members of its workforce who fail to comply with the privacy policies and procedures.
 10. Mitigation
 - a. Baptist Health must mitigate, to the extent practicable, any harmful effect that is known of a use or disclosure of protected health information in violation of its policies and procedures or the requirements the Privacy Rule.
 11. Refraining from intimidating or retaliatory acts
 - a. No person shall engage in retaliatory or intimidating actions with respect to a person filing the complaint, or against a person who is alleged to have violated privacy policies.
 - b. Baptist Health may not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against any individual for the exercise by the individual of any right established, or for participation in any process provided for, by the Privacy Rule, including the filing of a complaint.
 12. Prohibition on conditioning services and benefits on waiver of patient rights.
 - a. Baptist Health may not require patients to waive their right to file a complaint with the Secretary of Health and Human Services, as discussed in the Notice of Privacy Practices, as a condition of the provision of treatment, payment, enrollment in a health plan, or eligibility for benefits, and
 - b. Baptist Health may not require patients to waive any other rights under the HIPAA privacy rule as a condition of the provision of treatment, payment, enrollment in a health plan, or eligibility for benefits.

SUPPORTING/REFERENCE DOCUMENTATION:

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.

- 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:

- Corporate HIPAA Privacy Policies (600 Series – Compliance and Implementation)
- 10000-74220-001.00 Unified Corporate Privacy Policy on HIPAA Compliance
- Attachment - 10000-74220-6021 Privacy Complaint Form
- Attachment - 10000-74220-6021s Privacy Complaint Form - Spanish
- Administrative Corporate Privacy Office Policies
- Human Resources Protocol
- Human Resources 5250 – Employee Conduct
- Human Resources 5225 – Unauthorized release of confidential 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.