



POLICY TITLE: 306.00 Pastoral Care – Disclosures of Patient Information to Members of the Clergy

Responsible Department: Corporate Privacy Office

Creation Date: 04/07/2003

Review Date: 2021/12/16

Revision Date: 2021/12/16

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PUBLISHED (Released): 2021/12/20

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.

Baptist Health is a faith-based organization guided by the spirit of Jesus Christ and the Judeo-Christian ethic. This policy is in alignment with the mission of Baptist Health which is to improve the health and well-being of individuals and to promote the sanctity and preservation of life, in the communities we serve and the BHSF Guiding Principle, through our compassionate healthcare services, we seek to reveal the healing presence of God.

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 how Baptist Health is allowed to share a patient's health information with members of the clergy under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule.

SCOPE/APPLICABILITY:

This policy applies to Baptist Health, its affiliates, all workforce members, and others as described below members that may be responsible to provide information to members of the Pastoral Care department, or to Community Clergy, and to the Pastoral Care department of Baptist Health South Florida and any members of the Community Clergy who provide services to patients of Baptist Health South Florida.¹

¹ This policy does not apply to patients receiving care or services from the addiction treatment & recovery center.

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.

- **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. Facility Directory
 - a. Baptist Health must inform an individual of the protected health information that we include in our directory and the persons to whom it may disclose such information (including disclosures to clergy of information regarding religious affiliation) and provide individuals with the opportunity to opt out.
 - i. The Baptist Health Notice of Privacy Practices ("NPP" or "the Notice") informs patients that we may include PHI in our facility directory provided that we inform patients in advance, and individuals have the opportunity to agree or object.
 - ii. Baptist Health may disclose the information in our facility directory and information that patients provide us regarding their religious affiliation to members of the clergy for use and disclosure in their religious activities.
 - iii. In addition, where patients elect to receive individualized spiritual services from a member of our Pastoral Care department, the clergy member may use PHI to provide such services.
2. Creation and Use of Facility Directories
 - a. Upon admission or registration, all patients shall be asked if they wish to opt-out of the facility directory.
 - b. The facility directory may include the patient's name, location in the BHSF facility, and religious affiliation (NOT place of worship such as Bet Shira Congregation, Trinity Cathedral).
 - c. Directory information (except religious affiliation) may only be disclosed to persons who ask for the patient by name. Directory information, including religious affiliation, may be disclosed to members of the clergy.
 - d. The patient will be included in the facility directory unless the patient specifically requests otherwise.
 - e. If the patient opts-out of the directory, they shall fill out a facility directory opt-out form (Attachment - BHSF-74220-6022 Facility Directory Form) which will be included in the patient's medical record.
3. Disclosure of Information.
 - a. The Pastoral Care department may disclose a patient's name, location, and religious affiliation to an external clergy member unless the patient has requested that his or her information be withheld from the Baptist Health facility directories.
 - b. For example, the Pastoral Care department may provide to a clergy member a list of all patients listed in the directory with a certain religious affiliation (e.g., all Catholic patients).
 - c. Before this disclosure of directory information can be made by the Pastoral Care department, it will ascertain and verify the identity of the clergy member and the fact that the patient has not opted out of directory information, including religious affiliation; and
 - d. No information about a patient other than what appears in the facility directory may be provided to any external member of the clergy. However, a member of the clergy, who is physically present and involved in the patient's care, may, in the judgment of the licensed health care professionals or medical staff

members treating the patient, have access to information in accord with the applicable HIPAA Privacy Policy regarding disclosures to family members and friends involved in the patient's care.

4. Internal Baptist Health Clergy Visits
 - a. Members of the Baptist Health clergy may visit inpatients whether or not the patient has indicated a denominational preference, provided that the patient's wishes with respect to such visits are respected.
5. 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:

- Corporate HIPAA Privacy Policies
- BHSF-74220-001.00 Unified Corporate Privacy Policy on HIPAA Compliance
- BHSF-74220-100.00 Patient Rights Privacy
- BHSF-74220-104.00 Enhanced Privacy Requests - Facility Directories
- Attachment – BHSF-74220-0027 Notice of Privacy Practices
- Attachment – BHSF-74220-0027s Notice of Privacy Practices Spanish
- Attachment - BHSF-74220-6022 Facility Directory Form
- Attachment - BHSF-74220-6022s Facility Directory Form - Spanish
- Corporate Patient Access –352.01 HIPAA Privacy Procedures – Exclusions from the Facility Directory

ENFORCEMENT & SANCTIONS:

1. Reference: Corporate HIPAA Privacy Policy BHSF-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.