



POLICY TITLE: 312.00 Alcohol and Drug Abuse Records – Using and Disclosing Information on Patients Receiving Care from the Addiction Treatment & Recovery Center

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.

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 on patients receiving care from the Addiction Treatment & Recovery Center.

SCOPE/APPLICABILITY:

This policy applies to Baptist Health, its affiliates, all workforce members, and others as described below that use or disclose information on patients receiving care from any unit operating an alcohol and drug abuse program, or from the Addiction Treatment & Recovery Center.

- **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.

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.

- **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:

Baptist Health may use and disclose health information for treatment, payment, and health care operations purposes. These uses and disclosures are necessary to make sure that all of our patients receive quality care, while ensuring that all operational and management needs are efficiently handled. For example, we may use health information to review the treatment and services we provide to ensure that the care our patients receive is of the highest quality, or we may thank-you notes or pictures that patients send us in employee areas.

1. Privacy and confidentiality at Baptist Health is one of our service excellence standards. As Individuals involved in the delivery of health care, anyone covered by this policy must:
 - a. Safeguard protected health information as part of their role at Baptist Health.
 - b. Be responsible for maintaining PHI confidential, and only using it for treatment, payment and health care operations as set forth in the Privacy Rule.
2. The use and disclosure of records of any patient receiving care from any unit operating an alcohol and drug abuse program are subject to very restrictive requirements of federal law and state laws.
 - a. The permissible and required uses and disclosures of this information are governed by the policies for each unit operating an alcohol and drug abuse program.
 - b. Those unit policies are supplemented by this system wide policy.
3. Authorization for use or disclosure of substance abuse records must specifically state that drug and alcohol records may be used or disclosed.
 - a. The patient must fill out a release of information form specifically for Addiction Treatment & Recovery Center records.
 - b. Any such disclosure with patients' authorization must be accompanied by the statement prohibiting re-disclosure which is found in section 4.f.i of this policy.
 - c. Disclosure pursuant to a court order (not a subpoena) is permitted by law for substance abuse records.
 - i. Risk Management should be notified of subpoenas requesting substance abuse records to quash the subpoena.
 - d. Anyone covered by this policy may not confirm or deny telephone inquiries of patient admission or diagnosis concerning substance abuse.
 - i. Such disclosure requires written consent from the patient or a court order.
 - e. The Assistant Vice President shall determine the appropriate leader of the Addiction Treatment & Recovery Center to be notified when current patients request to review their substance abuse records.
 - f. Each disclosure made with the patient's written consent must be accompanied by the following written statement:
 - i. This information has been disclosed to you from records protected by Confidentiality Federal Regulations (42 CFR Part 2). This Regulation prohibits you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.
4. 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
- Federal Confidentiality Regulations 42 CFR Part 2- Confidentiality of Substance Use Disorder Patient Record

RELATED POLICIES, PROCEDURES AND ASSOCIATED FORMS:

- Corporate HIPAA Privacy Policies
- BHSF-74220-001.00 Unified Corporate Privacy Policy on HIPAA Compliance
- BHSF-74220-105.00 Access and Amend - Access of Individuals to Protected Health Information
- HIM 400 Use or Disclosure of Medical Record Information
- Attachment - SMH ATP 1775 - Release of Confidential Information
- Addiction Treatment and Recovery Center Policies
 1. SMH 4950-PRE-01 Confidentiality
 2. SMH 4950-PRE-02 Emergency Release of Information
 3. SMH 4950-PRI-05 Confidentiality – Telephone Calls
 4. SMH 4950-OPM-05 Outpatient and Residential Records

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.