

**LOUISIANA STATE UNIVERSITY
HEALTH CARE SERVICES DIVISION
BATON ROUGE, LA**

POLICY NUMBER: 7524-16

CATEGORY: HIPAA Policies

CONTENT: General Policy on Uses and Disclosures of PHI

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January 8, 2008
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INQUIRIES TO: **LSU HCSD**
Compliance Section
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Deputy Chief Executive Officer
LSU Health Care Services Division

3/10/2016
Date


Compliance and Privacy Officer
LSU Health Care Services Division

3/10/16
Date

**LOUISIANA STATE UNIVERSITY
HEALTH CARE SERVICES DIVISION**

General Policy on Uses and Disclosures of PHI

I. SCOPE

This policy is applicable to all workforce members of the LSU Health Care Services Division facilities, including employees, physician/practitioner practices, vendors, agencies, business associates and affiliates.

II. PURPOSE

To provide guidance to the Louisiana State University HCSD facilities and providers to ensure compliance with the Privacy Regulations set forth by the Health Insurance Portability and Accountability Act (HIPAA).

III. DEFINITIONS

Use with respect to individually identifiable health information: The sharing, employment, application, utilization, examination, or analysis of information that identifies, or reasonably can be used to identify, an individual within an entity that maintains such information.

- 1. Disclosure:*** The release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.
- 2. Treatment:*** The provision, coordination, or management of health care related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or for the referral of a patient for health care from one health care provider to another.
- 3. Payment:*** Any activities undertaken either by a health plan or by a health care provider to obtain premiums, determine or fulfill its responsibility for coverage and the provision of benefits or to obtain or provide reimbursement for the provision of health care. These activities include, but are not limited to:
 - Determining eligibility, and adjudication or subrogation of health benefit claims;

- Risk adjusting amounts due based on enrollee health status and demographic characteristics;
- Billing, claims management, collection activities, obtaining payment under a contract for reinsurance, and related health care processing;
- Review of healthcare services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;
- Utilization review activities, including pre -certification and preauthorization services, concurrent and retrospective review of services; and
- Disclosure to consumer reporting agencies of certain PHI relating to collection of premiums or reimbursement.

4. Health care operations: Any one of the following activities to the extent the activities are related to providing health care:

- a. Conducting quality assessment and improvement activities, including outcomes, evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purpose of such activities; population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting patients with information about treatment alternatives, and related functions that do not involve treatment;
- b. Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, health plan performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of non-health care professionals, accreditation, certification, licensing, or credentialing activities;
- c. Underwriting, premium rating, and other activities relating to the creation, renewal or replacement of a contract of health insurance or health benefits, and ceding, securing or placing a contract for reinsurance of risk relating to claims for health care;
- d. Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;
- e. Business planning and development, such as conducting cost management and planning related analyses related to managing and operating the entity, including formulary development and administration, development or improvement of methods of payment or covered policies, and
- f. Business management and general administrative activities:
 - Management activities related to HIPAA compliance,
 - Customer Service,
 - Resolution of internal grievances,
 - Sale, transfer, merger, or consolidation of covered entities,

- Creating de-identified health information or limited data set, and fundraising for the benefit of the LSU System facility.

- 5. *Minimum Necessary:*** When using or disclosing PHI or when requesting PHI from another health care provider or health organization, the LSU HCSD facility personnel must limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure or request. Minimum Necessary does not apply in the following circumstances:
- a. Disclosures by a health care provider for treatment (students and trainees are included as health care providers for this purpose),
 - b. Uses and Disclosures based upon a valid authorization to use and disclose PHI,
 - c. Disclosures made to the Secretary of Health and Human Services,
 - d. Uses and disclosures required by law, and
 - e. Uses and disclosures required by other sections of the HIPAA privacy regulations.
- 6. *Indirect Treatment Relationship:*** A relationship between an individual and a health care provider in which:
- a. The health care provider delivers health care to the individual based on the orders of another health care provider; and
 - b. The health care provider typically provides services or products, or reports the diagnosis or results associated with the health care, directly to another health care provider, who provides the services, products or reports to the individual.
- 7. *Personal Representative, Minors, and Deceased Individuals:*** For information regarding proper uses and disclosures for Personal Representative, Minors, and Deceased Individuals, *LSU Policy for Personal Representative, Minors, and Deceased Individuals.*

IV. POLICY

1. **LSU HCSD facility** employees may use and disclose PHI for Treatment, Payment and Healthcare Operations (TPO). However, the LSU HCSD facility and its employees must limit PHI use and disclose to the “Minimum Necessary” amount of information required to complete the desired task.
2. **Acknowledgements**
Except in an emergency treatment situation, the LSU HCSD facility must make a good faith effort to obtain a written acknowledgment of receipt of the Notice of Privacy Practice provided in accordance with LSU facility policy 7515, *Use of Notice of Privacy Practices*,

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Policy 7524-16
Page 7524-16.4

and if not obtained, document good faith efforts to obtain such acknowledgment and the reason why the acknowledgment was not obtained.

3. Permitted Uses and Disclosures

The LSU HCSD Facility may use and disclose PHI for:

- a. its own treatment, payment, or healthcare operations.
- b. treatment activities of a health care provider.
- c. the payment activities of another covered entity or healthcare provider.
- d. the healthcare operation activities of another covered entity or health care provider, if each entity has or had a relationship with the individual who is the subject of the PHI being requested, and the disclosure is:
 - i. for a purpose listed in the definition of health care operations; or,
 - ii. for the purpose of health care fraud and abuse detection or compliance.
- e. another covered entity that participates in an organized healthcare arrangement with the LSU HCSD facility for any health care operation activities of the organized health care arrangement.

In order for the LSU HCSD facility to use and disclose PHI for purposes other than those listed above, see LSU HCSD Policy 7501 *Uses and Disclosures of PHI Requiring a Patient's Written Authorization*.

4. Psychotherapy Notes

Psychotherapy notes are not to be included as PHI that may be disclosed, unless authorization is obtained for such use or disclosure. For information regarding proper uses and disclosures for Psychotherapy notes, see the LSU HCSD policy for *Uses and Disclosures of PHI Requiring a Patient's Written Authorization 7501*.

5. Enforcement

All supervisors are responsible for enforcing this policy. Individuals who violate this policy will be subject to the appropriate and applicable disciplinary process, up to and including termination or dismissal.

**LOUISIANA STATE UNIVERSITY
HEALTH CARE SERVICES DIVISION
BATON ROUGE, LA**

POLICY NUMBER: 7527-16

CATEGORY: HIPAA Policies

CONTENT: Mitigation After Improper PHI Use or Disclosure

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**LOUISIANA STATE UNIVERSITY
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Mitigation after Improper PHI Use or Disclosure

I. SCOPE

This policy is applicable to all workforce members of the LSU Health Care Services Division facilities, including employees, physician/practitioner practices, vendors, agencies, business associates and affiliates.

II. PURPOSE

To provide guidance to the Louisiana State University HCSD facilities and providers to the extent practicable, to mitigate (lessen or alleviate) any harmful effect that becomes known to them as a result of an improper use or disclosure of PHI.

III. POLICY

The LSU HCSD Facility has a duty to ensure the proper use and/or disclosure of PHI. To the extent practicable, the LSU facility will mitigate (lessen or alleviate) any harmful effect that becomes known to the LSU HCSD facility as a result of a use or disclosure of PHI in violation of the LSU HCSD facility's policies and procedures or applicable law.

IV. PROCEDURE

The duty to mitigate includes, but not limited to the following:

1. Taking operational and procedural corrective measures to remedy violations.
2. Taking employment actions, reprimand, or discipline employees as necessary, up to and including termination.
3. Addressing problems with business associates, external affiliates, and other entities/persons outside of LSU HCSD's workforce who have access to patient information once LSU HCSD is aware of a breach of privacy.
4. Incorporating mitigation solution into the LSU HCSD facility's operational policies as appropriate.
5. Addressing and investigating LSU HCSD facility workforce violations.

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Policy 7527-16

Page 7527-16.2

6. Re-training and education.

Thirty Day Cure Period

Note that the Facility or Clinic has up to a thirty day cure period due to willful neglect to resolve the issue that lead to a breach. That thirty day period begins on the date that the Facility or Clinic first acquires actual or constructive knowledge of the violation.

V. ENFORCEMENT: Individuals who violate this policy will be subject to the disciplinary process for the LSU HCSD facility.

REFERENCES: 45 C.F.R. 164.530(f)
(Facility) Disciplinary policy

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Policy 7527-16

Page 7527-16.3