

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

POLICY NUMBER: 7514-20

CATEGORY: HIPAA Policies

CONTENT: Use and Disclosure of Protected Health Information to Persons Involved in the Patient's Care and for Notification Purposes

EFFECTIVE DATE April 14, 2003
REVIEW DATE December 28, 2007
REVISED December 28, 2007
January 27, 2009
July 24, 2013

REVIEWED: August 13, 2010
March 23, 2012
February 23, 2015
February 29, 2016
August 23, 2019
January 8, 2020

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LOUISIANA STATE UNIVERSITY HEALTH CARE SERVICES DIVISION

Use and Disclosure of Protected Health Information to Persons Involved in the Patient's Care and for Notification Purposes

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 health care facilities and providers affiliated with the LSU HCSD on the requirements of the Health Insurance Portability and Accountability Act, Standards for Privacy of Protected Health Information (HIPAA Privacy Regulations), and any other applicable state or Federal laws or regulations for disclosing a patient's Protected Health Information to a family member, friend or other person identified by the patient.

III. POLICY

All LSU HCSD facilities and providers should provide a patient with an opportunity to agree to or object to the disclosure of their Protected Health Information to family members or other persons identified by the patient, or for notification purposes.

IV. DEFINITIONS:

1. **Disclosure** – For purposes of this policy, means the release, transfer, or provision of access to PHI outside of the Facility. A disclosure of Protected Health Information may occur orally or in writing.
2. **Protected Health Information (sometime referred to as “PHI”)** – for purposes of this policy means 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. Includes demographic data that relates to
 - a. The individual's past, present or future physical or mental health or condition;

- b. The provision of health care to the individual, or;
 - c. The past, present, or future payment for the provision of health care to the individual, and that identified the individual or for which there is a reasonable basis to believe it can be used to identify the individual. PHI includes many common identifiers such as name, address, birth date, social security number, etc.
3. **Use** – For purposes of this policy, means with respect to Protected Health Information, the sharing, utilization, or examination of Protected Health Information within and by employees or agents of the Facility.

V. PROCEDURE:

Uses and Disclosures of Protected Health Information With the Patient Present

1. If the individual is present and has the capacity to make his or her own decisions, the Facility may disclose the PHI to a family member, other relative, or a close personal friend of the patient, or for notification purposes, only if the Facility does one of the following:
 - (1) Obtains the individual's agreement in each encounter, orally or in writing, to disclose the patient's Protected Health Information to the individual (e.g., family member, friend, other person) that is present with the patient; or
 - (2) Provides the individual with the opportunity to object to such disclosure, and the individual does not express an objection; or
 - (3) Reasonably infers from the circumstances, based on the exercise of professional judgment that the individual does not object to the disclosure.
 2. Examples of when the Facility may infer an individual's agreement to disclose Protected Health Information pursuant to option (3) above, include, but are not limited to: (1) when a patient brings a spouse into our office when treatment is being discussed; or (2) when a colleague or friend has brought the individual to the emergency room for treatment.
 3. The Facility is not required to verify the identity of relatives or other individuals involved in the individual's care. The individual's act of involving the other persons in his or her care is sufficient verification of their identity.
 4. The Facility must obtain the individual's agreement on every visit to the office as to whether the Facility may disclose the individual's Protected Health Information to a relative or to another person assisting in the individual's care. The Facility should not
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assume that an individual's agreement at one point in time to disclose Protected Health Information to a relative or friend applies to every visit to the Facility.

Uses and Disclosures of Protected Health Information When the Patient is Not Present

1. The Facility may only make limited disclosures of a patient's Protected Health Information when the patient is not present to be provided with an opportunity to agree or object to a particular use or disclosure of their Protected Health Information.
2. If the individual is not present, or the opportunity to agree or object to the use or disclosure cannot practicably be provided because of the individual's incapacity or an emergency circumstance, the Facility may, in the exercise of professional judgment, determine whether the disclosure is in the best interest of the individual and, if so, disclose only the Protected Health Information that is directly relevant to the person's involvement with the individual's health care.

Examples of when employees of the Facility may use their professional judgment and experience with common practice to make reasonable inferences of the individual's best interest in allowing a person to act on behalf of the individual include, but are not limited to pick up filled prescriptions, medical supplies, X-rays, or other similar forms of PHI.

Use of Protected Health Information for Notification Purposes

1. The Facility may use or disclose Protected Health Information to notify, or assist in the notification of (including identifying or locating), a family member, a personal representative of the individual, or another person responsible for the care of the individual of the individual's location, general condition, or death. Any such use or disclosure of Protected Health Information for such notification purposes must be in accordance with this policy.
2. Note that LSU HCSD Policy 7505 outlines procedures for allowing for general disclosure of information on patients admitted to the hospital, who agree to their information being listed in the Facility Directory.

Disclosures About a Decedent to Family Members and Others Involved in Decedent's Care

1. The Facility may disclose a decedent's information to family members and others who were involved in the care of the decedent, or payment for the care of the decedent prior to the
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decedent's death. However, such disclosure would not be permissible if the disclosure would be inconsistent with any prior expressed preference by the patient that is known to the Facility.

2. The purpose of such disclosure would be to allow family members and other significant caregivers of the decedent to learn about the circumstances surrounding the death of their loved one, unless the patient prior to his/her death objected to such disclosure.
3. This disclosure is limited to the PHI relevant to the family member or significant other's involvement in the patient's health care or payment for that health care. The Facility should generally not share information about the patient's past, unrelated medical problems.
4. This disclosure is permitted, but not required by the HIPAA regulations. Therefore, the Facility may chose to withhold such information if it questions the relationship of the person to the decedent or otherwise believes that the disclosure of the decedent's PHI would not be appropriate.

REFERENCES:

45 C.F.R. § 164.510(b)

Document Metadata

Document Name: 7514 - 20 Use and Disclosure of Protected Health Information to Persons Involved in the Patient's Care and for Notification Purposes.doc

Policy Number: 7514

Original Location: /LSU Health/HCSO/7500 - HIPAA

Created on: 01/23/2020

Published on: 01/23/2020

Last Review on: 01/23/2020

Next Review on: 01/23/2021

Effective on: 04/14/2003

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01/23/2020