

POLICY REGARDING NOTICE OF PRIVACY PRACTICES

Purpose: To set forth the policy and procedures of West Virginia University Physicians of Charleston (“WVUPC”) regarding the preparation and dissemination of its Notice of Privacy Practices.

Standard: Each individual patient has the right to receive adequate notice of the uses or disclosures of his/her protected health information (PHI) that may be made by a health care provider. WVUPC shall, therefore, provide a Notice of Privacy Practices (“Notice”) to each patient who presents to its clinics for medical evaluation and/or treatment, and will attempt to obtain written acknowledgement from the patient of his/her receipt of such Notice. If, despite reasonable efforts, WVUPC is unable to obtain such written acknowledgement from the patient, the attempts which have been made to obtain the patient’s written acknowledgement will be documented in the patient’s record.

Policy: WVUPC will develop and distribute, to each individual who receives care and treatment from its clinics, a Notice of Privacy Practices that includes the information required by §164.520 of the HIPAA privacy regulations and any subsequent amendments thereto.

Procedure: 1. Contents of WVUPC’s Notice of Privacy Practices

WVUPC’s Notice will be written in plain language and will contain the elements listed below.

- a. Header. The Notice will contain the following statement as a header on the first page: “THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.”
- b. Uses and Disclosures. The Notice will contain:
 - i. A description of the types of uses and disclosures of PHI that may be made for treatment, payment, or health care operations, including at least one example of each type of use and disclosure. If WVUPC intends to

POLICY REGARDING NOTICE OF PRIVACY PRACTICES

Procedure:
(continued)

engage in the following activities, it will also provide a separate statement within the Notice that indicates that:

- (a) WVUPC may contact the individual to provide appointment reminders; or
- (b) WVUPC may contact the individual with information about treatment alternatives or other health-related benefits or services that may be of interest to the individual.

ii. A description of the types of uses and disclosures of PHI that may be made without the individual's written consent or authorization, including those uses and disclosures permitted or required by HIPAA or other federal or state law.

iii. A statement that other uses or disclosures of PHI will be made with the individual's written authorization only and that the individual may revoke the authorization at any time upon giving written notice of such revocation.

c. Individual Rights. The Notice will contain a statement of the individual's rights regarding his/her PHI, including a brief description of how the individual may exercise these rights. An individual's rights include:

- i. The right to inspect and copy PHI;
- ii. The right to request an amendment of PHI;
- iii. The right to receive an accounting of PHI disclosures;
- iv. The right to request restrictions on certain uses and disclosures of PHI, including a statement that WVUPC is not required to agree to a requested restriction;
- v. The right to receive confidential communications of PHI;
- vi. The right to obtain a paper copy of the Notice upon request;
- vii. The right to be notified following a breach of their unsecured PHI;
- viii. The right to opt out of communications concerning fundraising activities;
- ix. The right to have uses/disclosures of PHI for marketing

Procedure:

POLICY REGARDING NOTICE OF PRIVACY PRACTICES

(continued)

purposes/sales of PHI to be conditioned upon their individual authorization; and

- x. The right to restrict certain disclosures of PHI to a health plan when the individual (or any person other than the health plan) pays for treatment at issue out of pocket in full.

d. WVUPC's duties. The Notice will contain:

- i. A statement that WVUPC is required by law to maintain the privacy of PHI and to provide individuals with notice of its legal duties and privacy practices regarding such PHI;
- ii. A statement that WVUPC is required to abide by the terms of the Notice currently in effect;
- iii. A statement that WVUPC reserves the right to change the terms of its Notice and to make the new Notice provisions effective for all PHI that it maintains, including a statement describing how WVUPC will provide individuals with the revised Notice; and
- iv. A statement that uses and disclosures not described in the privacy notice will be made only with the authorization from the individual; and
- v. That individuals have the right to restrict certain disclosures of PHI to a health plan with the individual (or any person other than the health plan) pays for the treatment at issue out of pocket in full.

e. Complaints. The Notice will contain:

- i. A statement that individuals may complain to WVUPC and/or to the Secretary of the Department of Health and Human Services ("DHHS") if they believe their privacy rights have been violated;
- ii. A brief description of how individuals may file a complaint with WVUPC; and
- iii. A statement that WVUPC will not retaliate against the individual for filing a complaint.

f. Contact Information. The Notice will contain the name, or title, and telephone number of a person or office to contact for

POLICY REGARDING NOTICE OF PRIVACY PRACTICES

Procedure:
(continued)

further information.

g. Effective Date. The Notice will contain the date on which the Notice is first in effect, which will not be earlier than the date on which the Notice is printed or otherwise published.

2. Revision, Dissemination, and Publication of the Notice

a. Revision. WVUPC will revise its Notice whenever there is a material change to the uses and disclosures of PHI, the individual's rights, WVUPC's duties, or other privacy practices stated in the Notice, and will make the amended notice available on request on or after the effective date of the amendment.

b. Dissemination and Publication.

i. For those individuals with whom WVUPC has a direct treatment relationship, WVUPC will:

(a) Provide the Notice to the individual no later than the date of the first service delivery (including services delivered electronically) after HIPAA's initial compliance deadline date of April 14, 2003, and or the deadline date of any subsequent amendment thereto;

(b) Make the Notice available at WVUPC's physical location for individuals to take with them, and post the Notice in a clear and prominent location where there is a reasonable expectation that individuals will be able to read the Notice; and

(c) Upon any material revision, make the Notice available upon request on or after the effective date of the revision.

ii. For those individuals with whom WVUPC has an indirect treatment relationship (if any), WVUPC will make its Notice available to individuals upon request only. WVUPC may also distribute its Notice through other health care

POLICY REGARDING NOTICE OF PRIVACY PRACTICES

Procedure:
(continued)

providers who have direct treatment relationships or through participation in an organized health care arrangement that produces a joint Notice.

iii. WVUPC will prominently post its Notice (and any revisions) on the WVUPC website site and make it available electronically through the site.

iv. If WVUPC is verbally requested to do so by the individual, its Notice may be provided to an individual by email or other electronic form of transmission. If, after sending the Notice by electronic transmission, WVUPC becomes aware that the electronic transmission failed, WVUPC will provide the individual with a hard paper copy of the Notice. Any individual who receives the Notice electronically retains the right to obtain, upon request, a paper copy of the Notice from WVUPC.

v. If WVUPC is a recipient of federal financial assistance, Title VI of the Civil Rights Act of 1964 generally requires it to provide material ordinarily distributed to the public in the primary languages of persons with limited English proficiency in its service areas.

vi. WVUPC may distribute its Notice in a newsletter or other communication as long as the Notice is sufficiently separate from other documents contained in the newsletter or other communication.

3. Written Acknowledgement from Patient of Receipt of Notice

- a. Except in an emergency situation, WVUPC shall make a good faith effort to obtain an individual's written acknowledgement of receipt of the Notice on the form prescribed by WVUPC. Such written acknowledgement shall be maintained in the individual's medical file for the minimum period described in this Policy.
- b. In the event WVUPC is unable to obtain an individual's written acknowledgement, then WVUPC shall document in the individual's medical record the good faith attempts made by

POLICY REGARDING NOTICE OF PRIVACY PRACTICES

WVUPC to obtain such written acknowledgement.

4. Joint Notice of Entities Participating in an Organized Health Care Arrangement

If WVUPC participates in an organized health care arrangement (“OHCA”), then it may submit a Joint Notice to the individual, prepared by the OHCA, if:

- a. Both parties to the OHCA agree to abide by the terms of the Joint Notice as part of their respective participation in the OHCA;
- b. The Joint Notice meets the above-stated requirements and reflects that it covers more than one entity;
- c. The Joint Notice describes, with reasonable specificity, the covered entities and the service delivery sites to which the Notice applies; and
- d. States, if applicable, that the covered entities participating in the OHCA will share information with each other as necessary to carry out treatment, payment, and health care operations relating to the OHCA.

5. Documentation

WVUPC will document its compliance with the Notice requirements as set forth in this policy and procedure by retaining copies of its Notice, including any revisions thereto, and any individually signed written acknowledgements for a period of at least six (6) years from the date that the Notice or acknowledgement was created or was last in effect, whichever is later.

References:

HIPAA Privacy Regulations, 65 Fed. Reg. 82347-52, 82720-26 (12/28/00) and 67 Fed. Reg. 53238-53243 (8/14/02);
45 C.F.R. §164.520; 2013 HITECH amendments, 78 Fed. Reg. 5,566 (1/25/2013)