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Approved:	Revised:	

POLICY:

1.1 Privacy Notice Requirement

All patients must be given a Privacy Notice, which will provide information on:

- The ways in which the facility will use and disclose the patient's personal health information
- The patient's rights under HIPAA
- The facility's duties under HIPAA

1.2 Provision of Privacy Notice

The Privacy Notice must be provided on or before the first encounter with the patient (e.g., the day of the procedure). If the patient returns to the facility for another procedure, the Privacy Notice does not have to be provided again unless the Privacy Notice has been revised since the patient's last visit. Copies must always be available and provided to patients upon request.

The Privacy Notice may be delivered electronically (e.g., by e-mail) but the patient must first agree to receive the Privacy Notice in this manner. If the facility receives information that the electronic Privacy Notice was not deliverable, a paper copy must be provided.

1.3 Posting of Privacy Notice

The Privacy Notice must be posted in a clear and prominent location in the facility (in such a place where the patient would reasonably be expected to look), e.g., the waiting area. If the Privacy Notice is revised, the posted version must promptly be replaced with the new version.

If the facility has a web site, a copy of the Privacy Notice must be displayed on the web site. If the Privacy Notice is revised, the web site must also be updated with the revised version.

1.4 Acknowledgment of Privacy Notice

At the time the patient is provided with the Privacy Notice, the facility must make a good faith effort to obtain a signed or initialed acknowledgment from the patient or the patient's personal representative (see Personal Representative Policy).

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The acknowledgment is a statement that the patient has received the Privacy Notice. If a signed or initialed acknowledgment cannot be obtained, the facility must document the good faith efforts that were made to obtain the acknowledgment and the reason why the acknowledgment could not be obtained. If the acknowledgment cannot be obtained because of an emergency, the facility must make good faith efforts to obtain the signed or initialed acknowledgment as soon as practical after the emergency situation has ended.

1.5 Revisions to Privacy Notice

The Privacy Notice must be revised if there are material changes affecting any of the following:

- The facility's uses and disclosures of the patient's information
- The individual's rights
- The facility's duties
- Any other change to the facility's privacy practices

If revisions are made to the Privacy Notice because of a material change discussed above, the revised Privacy Notice must be redistributed to patients who return for another surgery or procedure. The revised Privacy Notice must also be made available and provided to patients or other persons. The revised Privacy Notice must also be posted in the waiting area and, if applicable, on the web site to replace the existing Privacy Notice.

It is the policy of this facility that the Privacy Officer will assure that revised versions of the Privacy Notice are promptly displayed and distributed.

1.6 Retention of Privacy Notice

The Privacy Officer must keep copies of all versions of the Privacy Notice for at least six years. Signed acknowledgments and "Good Faith Effort" forms must also be kept for at least six years.

Reporting of Breaches

The facility will notify individuals about a breach involving their "unsecured" protected health information. Protected health information is unsecure unless it is encrypted or destroyed. A breach is defined as the unauthorized access, use or disclosure of protected health information that compromises privacy or security. The access, use or disclosure must pose a significant risk of financial, reputational or other harm to the affected individual.

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Certain exceptions to the notification requirement apply when:

1. Access is inadvertent or unintentional, by a workforce member of a covered entity or business associate, in good faith, and the information is not further used or disclosed.
2. The disclosure of protected health information occurs and a covered entity or business associate has a good faith belief that an unauthorized person to whom the disclosure was made would not have reasonably been able to retain the protected health information.

In order for a breach to require notification, there must be:

1. A breach. The acquisition, access, use, or disclosure of protected health information in a manner not permitted by the HIPAA privacy rules that compromises the security and privacy of the protected health information.
2. A significant Risk. The security or privacy of protected health information poses “a significant risk of financial, reputational or other harm to the individual.”
3. Unsecured information. Unsecured protected health information must be involved.
4. Neither exception applies.

The notification to affected individuals must occur as soon as possible, but no later than 60 days after discovery of the breach. The notification must be:

- In writing
- Mailed to the affected individual’s last known address (or email if the individual has consented), via certified mail with return receipt.
- Accomplished using another means if address not known

The notice must include:

- A description of the incident, including the date of the breach and the date of the discovery of the breach
- A description of the type of the protected health information involved.
- Suggested ways an affected individual should protect himself or herself from possible harm resulting from the breach.
- A description of what the facility is doing to investigate the breach and mitigate the loss.
- A description of what the facility is doing to prevent similar breaches in the future.
- Ways an individual potentially affected by the breach can contact the facility, including a toll-free phone number, an email address, a web site or a postal address.

Special rules apply to breaches involving more than 500 individuals within a state. In this case, the facility must also inform prominent media outlets in the region.

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The facility will maintain a log and file an annual report with the Department of Health and Human Services (HHS) of all breaches, except those involving greater than 500 individuals. In cases involving more than 500 individuals, the facility must notify HHS at the time the individuals are notified.

PROCEDURE:

- The Privacy Officer will be responsible for posting the Privacy Notice in the waiting area, or other location where patients will see it, as well as on the facility’s web site, if applicable.
- When a patient signs in for a procedure, the reception area staff is responsible for determining whether the patient has visited the facility in the past and checking to see if the patient has a signed or initialed acknowledgment on file.
- If the patient does not have a signed or initialed acknowledgment on file, employees are responsible for giving the patient a copy of the current Privacy Notice and obtaining a signed or initialed acknowledgment.
- Employees will place a copy of the signed or initialed acknowledgment in the front of the patient’s chart.
- If an employee is unable to get a signed or initialed acknowledgment, he or she is responsible for completing a “Good Faith Effort” Form and placing a copy in the front of the patient’s chart (with copy to Privacy Officer).
- If the acknowledgment cannot be obtained because of an emergency, employees will obtain the signed acknowledgment as soon as practical after the emergency situation has ended. If the acknowledgment cannot be obtained on that date of service, a “Good Faith Effort” Form will be completed and an attempt will be made to get the acknowledgment signed on the next date of service.
- If the Privacy Notice is revised because of a material change in the facility’s privacy practices, the Privacy Officer will coordinate the in person distribution of the revised Privacy Notice to all patients and will replace the existing Privacy Notice form posted in the facility and on the web site.
- The Privacy Officer is responsible for retaining copies of the Privacy Notice and all revisions in a file for at least six years.
- The Privacy Officer is responsible for ensuring that the facility retains a copy of the acknowledgment or “Good Faith Effort” forms for at least six years.