**PURPOSE**

To ensure that [COVERED ENTITY] complies with HIPAA Privacy Rule requirements when using or disclosing Protected Health Information (“PHI”) after an opportunity to agree or object.

**POLICY**

The HIPAA Privacy Rule requires that patients be provided with an opportunity to agree or object to certain uses or disclosures of their protected health information and, if the patient objects, that the use or disclosure not be made. [COVERED ENTITY] follows HIPAA regulations regarding when patients must be provided with an opportunity to agree or object to certain uses or disclosures of their protected health information.

“Disclosure” means the sharing of PHI by an individual within [COVERED ENTITY] with a person or entity outside [COVERED ENTITY].

“Protected Health Information (“PHI”)” means health information or health care payment information, including demographic information collected from an individual, which identifies the individual or can be used to identify the individual. PHI does not include student records held by educational institutions or employment records held by employers.

**PROCEDURE**

Under HIPAA, certain uses and/or disclosures require that the patient be given the opportunity to agree or to object in advance of the use or disclosure and, if the patient objects, the use or disclosure may not be made. [COVERED ENTITY] staff may orally inform the patient of the intended use or disclosure and obtain the patient’s oral agreement or objection, as follows:

1. Disclosures of PHI to Those Involved in the Care of the Patient and For Notification Purposes.
   1. [COVERED ENTITY] staff may disclose a patient’s PHI to:
      1. A family member, other relative, or a close personal friend of the patient or any other person identified by the patient, the PHI directly relevant to such person’s involvement with the patient’s care or payment related to the patient’s health care.
      2. Notify, or assist in the notification of (including identifying or locating), a family member, a personal representative of the patient, or another person responsible for the care of the patient of the patient’s location, general condition, or death.
      3. The disclosure described above may be made only in accordance with the following procedures:
         1. If the patient is present for, or otherwise available prior to, such disclosure and has the capacity to make health care decisions, [COVERED ENTITY] staff may disclose the PHI if they:
            1. Obtain the patient’s agreement;
            2. Provide the patient with the opportunity to object to the disclosure and the individual does not express an objection; or
            3. Reasonably infer from the circumstances, based on the exercise of professional judgment, that the patient does not object to the disclosure.

It is expected that in most circumstances, [COVERED ENTITY] staff will be able to disclose PHI to those involved in the care of the patient and/or for notification purposes based on options a. or b. above. If the patient allows a family member or friend to be present during treatment, it is reasonable to infer that the patient would not object to disclosures of most types of PHI to the family member or friend. However, if [COVERED ENTITY] staff is aware of circumstances (e.g., “sensitive” diagnoses, dysfunctional family dynamics, etc.) that might result in the patient objecting to such disclosure, staff should obtain the patient’s agreement and document such agreement in the medical record before proceeding with the disclosure.

* + - 1. If the patient is not present, or the opportunity to agree or object to the disclosure cannot practicably be provided because of the patient’s incapacity or an emergency circumstance, [COVERED ENTITY] staff, in the exercise of professional judgment, may determine whether the disclosure is in the best interests of the patient. If so, [COVERED ENTITY] staff may disclose only the PHI that is directly relevant to the person’s involvement with the individual’s health care. Unless circumstances dictate otherwise, the disclosure of relevant PHI to those present, accompanying the patient, or otherwise involved in the patient’s care is generally in the patient’s best interest

1. Use and Disclosure of PHI for Notification in Disaster Relief Situations.
   1. [COVERED ENTITY] staff may use or disclose PHI to a public or private organization authorized by law or its charter to assist in disaster relief efforts, for the purpose of coordinating with such entities for the notification of, or to assist in the notification of (including identifying or locating), a family member, a personal representative of the patient, or another person responsible for the care of the patient of the patient’s location, general condition, or death, as follows:
      1. If the patient is present for, or otherwise available prior to, such use or disclosure and has the capacity to make health care decisions, [COVERED ENTITY] staff may use or disclose the PHI as described above if they:
         1. Obtain the patient’s agreement;
         2. Provide the patient with the opportunity to object to the use or disclosure and the individual does not express an objection; or
         3. Reasonably infer from the circumstances, based on the exercise of professional judgment, that the patient does not object to the use or disclosure.

It is expected that in most circumstances, when the patient is present, [COVERED ENTITY] staff will be able to disclose PHI to disaster relief agencies for notification purposes, based on options 1. or 2. above. However, if [COVERED ENTITY] staff is aware of circumstances that might result in the patient objecting to such disclosure, staff should obtain the patient’s agreement and document such agreement in the medical record before proceeding with the disclosure.

* 1. If the patient is not present, or the opportunity to agree or object to the use or disclosure cannot practicably be provided because of the patient’s incapacity or an emergency circumstance, [COVERED ENTITY] staff, in the exercise of professional judgment, may determine whether the use or disclosure is in the best interests of the patient. If so, [COVERED ENTITY] staff may disclose only the PHI that is directly relevant to the person’s involvement with the patient’s health care. Unless circumstances suggest otherwise, the disclosure of relevant PHI to disaster relief agencies for notification purposes is generally in the patient’s best interest.

1. The minimum necessary standard applies to disclosures made under this Policy.
2. Disclosures made under this Policy are not required to be included in the accounting of disclosures to the patient.
3. [COVERED ENTITY] staff should document, by a note in the patient record, instances where the provider receives a clearly stated agreement or refusal to share information with individuals referred to in this section.