



Medical Advocacy & Outreach

MAO HIPPA POLICY AND PROCEDURE MANUAL

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Preface

MAO has a continuing commitment to protecting the privacy of patient health information (PHI). A part of this commitment involves compliance with the privacy standards contained in the regulations promulgated under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the first comprehensive federal protection of health information. The regulation is known as the Privacy Rule.

The following is a general overview of the requirements of the HIPAA privacy regulations. MAO is referred to as a “Covered Entity” by these regulations and in this statement.

The HIPAA regulations govern the use and disclosure of PHI. In general, a Covered Entity may use PHI for purposes of treatment, payment, and health care operations. It may disclose PHI

1. With the individual’s authorization;
2. To another healthcare provider for treatment and payment purposes with the individual’s authorization; and
3. In certain other circumstances described by the regulations.

In using or disclosing PHI a Covered Entity must restrict the use or disclosure to the minimum amount necessary to accomplish the purpose of the use or disclosure. Employees of a Covered Entity will be assigned classifications that will determine the employees’ access to PHI in order to comply with the minimum necessary requirement.

The HIPAA regulations also give individuals several rights with respect to their PHI. In addition to the rights to have access and to receive confidential communications about PHI, the individual may copy and inspect PHI, restrict its use and disclosure, amend it, and receive an accounting of disclosures made of their PHI.

There are many obligations imposed on a Covered Entity by the privacy regulations. These include:

1. Developing and implementing policies and procedures to assure compliance
2. Training members of its workforce in the HIPAA requirements appropriate to their jobs
3. Documenting its efforts to achieve compliance
4. Developing and implementing safeguards to protect PHI
5. Designating a Privacy Official

A Privacy Official is an individual designated by the Covered Entity who is responsible for the development and implementation of the required policies and procedures for compliance with HIPAA. The Covered Entity must also designate a person, who may be the Privacy Official, to handle complaints and to provide information about the entity's practices with respect to PHI.

The Covered Entity must state its practices with respect to the use and disclosure of PHI, the individual's rights and the Covered Entity's obligations in a "Notice of Privacy Practices". This Notice must be given to individuals at the time the treatment relationship begins.

I. GENERAL RULES

A. DESIGNATED RECORD SET

Purpose

To describe the documents included in the Designated Record Set.

Policy

The HIPAA Privacy Rule requires that patients be permitted to request access and amendment to their Protected Health Information (“PHI”) that is maintained in a Designated Record Set. This policy documents the contents of the Designated Record Set.

Procedure

1. The Designated Record Set is a group of records maintained by or for MAO that consists of the Medical Records and billing records about a patient and is used, in whole or in part, by or for MAO to make decisions about the patient. The term *record* means any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for MAO.
2. MAO maintains the following as the Designated Record Set:
 - a. The patient’s Medical Record,
 - b. The patient’s Business Office File, and
 - c. The patient’s Personal Health Records.
3. The Patient Medical Record includes, at a minimum, the following:
 - a. Activity documentation
 - b. Advance directives
 - c. Assessments, flow sheets
 - d. Care plan
 - e. Informed consent
 - f. Physician and professional consultant progress notes
 - g. Physician’s orders
 - h. Rehabilitative and restorative therapy records
 - i. Reports from lab, x-ray and other diagnostic tests
 - j. Face sheet
 - k. Social service documentation

Excluded from the Medical Record are source data, including photographs, films, monitoring strips, videotapes, slides, worksheets and daily communication sheets, and shadow files or charts, unless such data is used to make decisions related to the patient's care.

If records from other providers are used by MAO to make decisions related to the care and treatment of the patient, then these records are considered part of the Designated Record Set as well as the Medical Record, e.g., history and physical, discharge summary and labs from previous acute care hospitalization.

4. The Patient's Business Office File includes, at a minimum, the following:
 - a. Acknowledgement of receipt of MAO's *Notice of Privacy Practices*
 - b. Correspondence relating to coverage and payment from insurance companies, health plans, Medicare, Medicaid and other payor sources
 - c. Patient claim information, including claim, remittance, eligibility response, and claim status response
 - d. Statements of account balance
 - e. Collection activity documents and correspondence
5. Personal Health Records consist of the patient's personal health information provided to MAO by the patient. If such records are used by MAO to make health care related decisions, provide care services, or document observations, actions or instructions, then the records will be considered part of the Designated Record Set.
6. The following are excluded from the Designated Record Set: Administrative data, such as audit trails, appointment schedules and practice guidelines that do not imbed PHI. Also excluded are incident reports, quality assurance data, vital certificate worksheets, and derived data such as accreditation reports, anonymous patient data for research purposes, public health records and statistical reports.
7. The Designated Record Set is to be retained for six years from the date of creation, or the date in which it was last in effect, whichever is later.

B. MINIMUM NECESSARY USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

Purpose

To ensure MAO's uses and disclosures of Protected Health Information (PHI) are limited to the minimum necessary to accomplish the intended purpose.

Policy

It is the policy of MAO to make a reasonable effort to use or disclose, or to request from another health care provider, the minimum amount of PHI required in achieving the particular use or disclosure unless an exception applies.

MAO will identify people or classes of people in its work force who need access to PHI to carry out their duties, the category or categories of PHI to which access is needed, and any conditions appropriate to such access.

For any non-routine request for disclosure of PHI that does not meet an exception, MAO will review the request for disclosure on an individual basis.

Minimum necessary requirements do not apply to disclosures to health care providers for treatment purposes.

Procedure

MAO will identify role based access to PHI per job description, including:

1. People or classes of people in its workforce who need access to PHI to carry out their duties, and
2. The category or categories of PHI to which access is needed, including any conditions that may be relevant to such access.

See Sample "Role Based Access to PHI" table following this Policy.

3. MAO, for any type of disclosure or request for disclosure that is made on a routine and recurring basis, will limit the disclosed PHI, or the request for disclosure, to that which is reasonably necessary to achieve the purpose of the disclosure or request.

See "Examples of Routine Requests and Disclosures" following this Policy.

4. MAO, for disclosures or requests for that are not made on a routine and recurring basis (non-routine disclosures), will review the request to verify that PHI disclosed or requested is the minimum necessary. All requests for non-routine disclosures or requests that do not meet an exception will be reviewed using standard criteria.

Exceptions to minimum necessary requirements: MAO will release information without concern for the minimum necessary standard as follows:

- a. Disclosures to or requests by a health care provider for treatment.
- b. Uses or disclosures made to the individual who is the subject of the PHI.
- c. Uses or disclosures made pursuant to an authorization signed by the individual.
- d. Disclosures made to the Secretary of the U.S. Department of Health and Human Services (federal government).

- e. Disclosures that are required by law (such as for Department of Health state surveys, federal surveys, public health reportable events, FDA as related to product quality, safety, effectiveness or recalls etc.).
 - f. Uses and disclosures required for compliance with the HIPAA Privacy Rule.
- 5. MAO may use or disclose an individual's entire Medical Record only when such use or disclosure is specifically justified as the amount that is reasonably necessary to accomplish the intended purpose or one of the exceptions noted above applies.
- 6. Requests for entire Medical Records that are not covered by an exception will be reviewed using standard criteria.
- 7. Reasonable Reliance: MAO may rely on a requested disclosure as minimum necessary for the stated purpose(s) when:
 - a. Making disclosures to public officials, if the official represents that the information is the minimum necessary for the stated purpose(s).
 - b. The information is requested by another covered entity (health care provider, clearinghouse or health plan).
 - c. The information is requested by a professional who is a member of MAO's workforce or is a Business Associate of MAO for the purpose of providing professional services to MAO, if the professional represents that the information requested is the minimum necessary for the stated purpose(s).
 - d. The information is requested for research purposes and the person requesting the information has provided documentation or representations to MAO that meet the HIPAA Privacy Rule. Contact the Privacy Officer to assist in the determination of whether such requirements have been met. See Policy "Uses and Disclosures of Protected Health Information for Research" within this manual.
- 8. MAO, upon determination that the use, disclosure or request for PHI is the minimum necessary or one of the above exceptions apply (see Items 4 and 6), will release the PHI to the requestor.
- 9. MAO Requests for PHI from Another Covered Entity: When requesting PHI from another Covered Entity, MAO must limit its request for PHI to the amount reasonably necessary to accomplish the purpose for which the request is made. For requests that are made on a routine and recurring basis, MAO shall take reasonable steps to insure that the request is limited to the amount of PHI reasonably necessary to accomplish the purpose for which the request is made.

For requests that are not on a routine or recurring basis, MAO shall evaluate the request according to the following criteria:

 - a. Is the purpose for the request stated with specificity?
 - b. Is the amount of PHI to be disclosed limited to the intended purpose?

- c. Have the requirements for supporting documentation, statements, or representations been satisfied? See policy “Uses and Disclosures of Protected Health Information” for specific requirements.
- d. Have all applicable requirements of the HIPAA Privacy Rule been satisfied with respect to the request?

MAO

ROLE BASED ACCESS TO PHI

LEVEL 1: None – No Access to Designated Record Set (i.e. Volunteer)

LEVEL 2: May access minimum necessary PHI (not Designated Record Set) to complete assigned tasks and/or to document actions (i.e. PHI discussed)

LEVEL 3: Full access to the Medical Record subset of the Designated Record Set

LEVEL 4: Full access to the Business Office File subset of the Designated Record Set

Position	Access Level				Explanation/Duties Performed Requiring Access
	1	2	3	4	
Activities Aide		x			Treatment
Activities Director		x	x		Treatment
Administrator		x	x	x	Operations/Payment
Admissions/Marketing		x	x	x	Operations/Payment
Clinical Staff		x	x	x	Treatment/Payment/Operations
Financial Staff		x		x	Operations/Payment
Management Staff		x	x	x	Treatment/Payment/Operations
Assistant Administrator		x	x	x	Operations/Payment
Assistant Director of Nursing		x	x	x	Treatment/Payment/Operations
Business Office Manager		x	x	x	Operations/Payment
Business Office Staff		x		x	Operations/Payment
Central Supply Clerk		x	x	x	Operations/Payment
Certified Nursing Assistant		x			Treatment

Dietary Manager/Dietitian		x	x		Treatment/Operations
Dietary Staff		x			Treatment
Director of Nursing		x	x	x	Treatment/Payment/Operations
Financial Reporting		x	x	x	Treatment/Payment/Operations
Housekeeping, Maintenance Staff		x			Operations
Housekeeping, Maintenance Supervisors		x			Operations
LPN		x	x		Treatment/Operations
Medical Records Supervisor		x	x	x	Operations/Payment
Nurse Manager		x	x	x	Treatment/Operations
Privacy Official		x	x	x	Treatment/Payment/Operations
Receptionist	x				
Restorative Nursing Assistant		x			Treatment/Operations
RN		x	x		Treatment/Operations
Social Services Staff		x	x	x	Treatment/Payment/Operations
Staff Development Nurse		x	x		Treatment
Therapy Rehab Aides		x	x		Treatment/Payment
Volunteers	x				

EXAMPLES OF ROUTINE REQUESTS AND DISCLOSURES

Requester	Purpose	Disclosures
Ambulance Co.	Obtain demographic and insurance information for billing	Face sheet with patient demographics, diagnoses and insurance information
Collection Agency	Obtain payment on past due accounts	File of patient names, addresses, dates of service and amount owed.
Coroner	Investigate a suspicious death	Specific information requested
Disability Determination	Evaluate individual's medical condition in support of disability benefits	Specific information requested
Insurance Co	Substantiate care provided for payment	Specific information requested in claims attachment request
Life Insurance	Evaluate individual's medical condition for issuance of a life insurance policy	Discharge summaries for specified period of time
Public Official	Investigate accidents or crimes	Specific information requested
Healthcare oversight agency	Investigate a complaint	Protected health information related to complaint
General Public	Locate patient (if asked for by name)	None
Pharmacy	Obtain demographic and insurance information for billing	Face sheet with patient demographics, diagnoses and insurance information
Physician or other practitioner	Obtain demographic and insurance information for billing	Face sheet with patient demographics, diagnoses and insurance information
State data commission	Support a statewide registry	File of specific data elements requested
Law enforcement	To locate a fugitive, missing person, material witness or suspect of a crime	Per response to criteria and review committee decisions: <i>may include:</i> <ul style="list-style-type: none"> • Name and address • Date and place of birth

		<ul style="list-style-type: none"> • Social security # • ABO blood type • Type of injury • Date and time of treatment • Date and time of death • Description of physical characteristics <p>**DO NOT DISCLOSE ANY DNA analysis, dental records or typing, sample of analysis of body fluids**</p>
Organ/tissue donations	Qualify donation use (academic, transplant, etc.)	Per response to criteria and review committee decision

C. NOTICE OF PRIVACY PRACTICES

Purpose

To ensure that a *Notice of Privacy Practices* is provided to, and acknowledged by, each patient or his/her personal representative upon entering treatment with MAO.

Policy

MAO's policy is to provide a *Notice of Privacy Practices (Notice)* to each patient entering treatment with MAO, and make a good faith effort to obtain a signed *Acknowledgement of Receipt of Notice of Privacy Practices ("Acknowledgement")* from the patient.

See sample *Notice* and *Acknowledgement* forms following this Policy.

The *Notice* shall include all elements and statements that are required by law. The *Notice* shall inform the patients of:

- a. Uses and disclosures of Protected Health Information ("PHI") that may be made by MAO;
- b. The patient's rights with respect to his PHI; and
- c. MAO's legal duties with respect to such PHI.

Procedure

1. The *Notice* and *Acknowledgement* forms will be included in the standard new patient package.
2. MAO Clerical Staff will provide the *Notice* to the patient at the time of first appointment.
Note: In the case of an emergency treatment situation, MAO will provide the *Notice* to the patient as soon as reasonably practicable after the emergency treatment situation.
3. The Clerical Staff will make a good faith effort to obtain the patient's signature on the *Acknowledgement* at the time the *Notice* is provided. The *Notice* and signed *Acknowledgement* will be kept in the patient's Business Office File.
4. If the patient refuses or is otherwise unable to sign the *Acknowledgement*, the Clerical Staff will document, on the *Acknowledgement* form, what actions were taken to obtain the patient's signature on the *Acknowledgement* and the reason(s) why a signed *Acknowledgement* was not obtained. This document will then be placed in the patient's Business Office File.
5. MAO will provide a copy of the written *Notice* to patients and to other persons upon request.
6. MAO will post a copy of the *Notice* in a clear and prominent location such as the entrance lobby or similar location.
7. A current version of the *Notice* will be maintained on MAO's website.

8. Whenever the *Notice* is revised, MAO Privacy Official will assure that:
 - a. The revised *Notice* is made available upon request on or after the effective date of the revision; and
 - b. The revised *Notice* is posted in a clear and prominent location.
9. Material changes shall not be implemented prior to the effective date of the revised *Notice*.
10. A copy of each *Notice* issued by MAO will be maintained for at least six years from the date it was last in effect.
11. Any member of the workforce who has knowledge of a violation or potential violation of this Policy must make a report directly to the Privacy Official. See the Policy “Sanctions.”

MAO

NOTICE OF PRIVACY PRACTICES

*

* **THIS NOTICE DESCRIBES HOW YOUR MEDICAL INFORMATION MAY BE USED AND DISCLOSED
AND HOW YOU CAN GET ACCESS TO THIS INFORMATION.**

* **PLEASE REVIEW IT CAREFULLY.**

MAO is required by law to provide you with this Notice so that you will understand how we may use or share your information from your Designated Record Set. The Designated Record Set includes financial and health information referred to in this Notice as "Protected Health Information" (PHI) or simply "health information." We are required to adhere to the terms outlined in this Notice. If you have any questions about this Notice, please contact Robert Wheat, Compliance Advisor, 334-356-0693, rwheat@maoi.org.

UNDERSTANDING YOUR HEALTH RECORD AND INFORMATION

Each time you visit or telephone MAO, a record is made containing health and financial information. Typically, this record contains information about your condition, the treatment we provide and payment for the treatment. We may use and/or disclose this information to:

1. Plan your care and treatment
2. Communicate with other health professionals involved in your care
3. Document the care you receive
4. Educate health professionals
5. Provide information for medical research
6. Provide information to public health officials
7. Evaluate and improve the care we provide
8. Obtain payment for the care we provide

Understanding what is in your record and how your health information is used helps you to:

1. Ensure it is accurate
2. Better understand who may access your health information
3. Make more informed decisions when authorizing disclosure to others

HOW WE MAY USE AND DISCLOSE PROTECTED HEALTH INFORMATION ABOUT YOU

The following categories describe the ways that we use and disclose health information. Not every use or disclosure in a category will be listed. However, all of the ways we are permitted to use and disclose information will fall into one of the categories.

For Treatment. We may use or disclose health information about you to provide you with medical treatment. We may disclose health information about you to doctors, nurses, therapists or other MAO personnel who are involved in taking care of you at a MAO. For example, a doctor treating you for a broken leg may need to know if you have diabetes because diabetes may slow the healing process. In addition, the doctor may need to tell the dietitian if you have diabetes so that we may assist with proper food bank choices. Different departments of MAO also may share health information about you in order to coordinate your care and provide you medication, lab work, and social services. We may also disclose health information about you to people outside MAO who may be involved in your medical care after you leave MAO. This may include family members, or visiting nurses to provide care in your home.

For Payment. We may use and disclose health information about you so that the treatment and services you receive at MAO may be billed to you, an insurance company or a third party. For example, in order to be paid, we may need to share information with your health plan about services provided to you. We may also tell your health plan about a treatment you are going to receive to obtain prior approval or to determine whether your plan will cover the treatment.

For Health Care Operations. We may use and disclose health information about you for our day to day health care operations. This is necessary to ensure that all patients receive quality care. For example, we may use health information for quality assessment and improvement activities and for developing and evaluating clinical protocols. We may also combine health information about many patients to help determine what additional services should be offered, what services should be discontinued, and whether certain new treatments are effective. Health information about you may be used by our corporate office for business development and planning, cost management analyses, insurance claims management, risk management activities, and in developing and testing information systems and programs. We may also use and disclose information for professional review, performance evaluation, and for training programs. Other aspects of health care operations that may require use and disclosure of your health information include accreditation, certification, licensing and credentialing activities, review and auditing, including compliance reviews, medical reviews, legal services and compliance programs. Your health information may be used and disclosed for the business management and general activities of MAO including resolution of internal grievances, customer service and due diligence in connection with a sale or transfer of MAO. In limited circumstances, we may disclose your health information to another entity subject to HIPAA for its own health care operations. We may remove information that identifies you so that the health information may be used to study health care and health care delivery without learning the identities of patients.

OTHER ALLOWABLE USES OF YOUR HEALTH INFORMATION

Business Associates. There are some services provided in MAO through contracts with business associates. Examples include medical directors, outside attorneys and a copy service we use when making copies of your health record. When these services are contracted, we may disclose your health information so that they can perform the job we've asked them to do and bill you or your third-party payer for services rendered. To protect your health information, however, we require the business associate to appropriately safeguard your information.

Providers. Many services provided to you, as part of your care at MAO, are offered by participants in one of our organized healthcare arrangements. These participants include a variety of providers such as physicians (e.g., MD, DO, Podiatrist, Dentist, Optometrist), therapists (e.g., Physical therapist, Occupational therapist, Speech therapist), portable radiology units, clinical labs, hospice caregivers, pharmacies, psychologists, LCSWs, and suppliers (e.g., prosthetic, orthotics).

Treatment Alternatives. We may use and disclose health information to tell you about possible treatment options or alternatives that may be of interest to you.

Health-Related Benefits and Services and Reminders. We may contact you to provide appointment reminders or information about treatment alternatives or other health-related benefits and services that may be of interest to you.

Fundraising Activities. *We may use health information about you to contact you in an effort to raise money as part of a fundraising effort. We may disclose health information to a foundation related to MAO so that the foundation may contact you in raising money for MAO. We will only release contact information, such as your name, address and phone number and the dates you received treatment or services at MAO.—PROBABLY NOT APPLICABLE TO MAO*

Individuals Involved in Your Care or Payment for Your Care. Unless you object, we may disclose health information about you to a friend or family member who is involved in your care. We may also give information to someone who helps pay for your care. In addition, we may disclose health information about you to an entity assisting in a disaster relief effort so that your family can be notified about your condition, status and location.

As Required By Law. We will disclose health information about you when required to do so by federal, state or local law.

To Avert a Serious Threat to Health or Safety. We may use and disclose health information about you to prevent a serious threat to your health and safety or the health and safety of the public or another person. We would do this only to help prevent the threat.

Organ and Tissue Donation. If you are an organ donor, we may disclose health information to organizations that handle organ procurement to facilitate donation and transplantation.

Military and Veterans. If you are a member of the armed forces, we may disclose health information about you as required by military authorities. We may also disclose health information about foreign military personnel to the appropriate foreign military authority.

Research. Under certain circumstances, we may use and disclose health information about you for research purposes. For example, a research project may involve comparing the health and recovery of all patients who received one medication to those who received another, for the same condition. All research projects, however, are subject to a special approval process. This process evaluates a proposed research project and its use of health information, trying to balance the research needs with patients' need for privacy of their health information. Before we use or disclose health information for research, the project will have been approved through this research approval process. We may, however, disclose

health information about you to people preparing to conduct a research project so long as the health information they review does not leave MAO.

Workers' Compensation. We may disclose health information about you for workers' compensation or similar programs. These programs provide benefits for work-related injuries or illness.

Reporting Federal and state laws may require or permit MAO to disclose certain health information related to the following:

Public Health Risks. We may disclose health information about you for public health purposes, including:

1. Prevention or control of disease, injury or disability
2. Reporting births and deaths;
3. Reporting child abuse or neglect;
4. Reporting reactions to medications or problems with products;
5. Notifying people of recalls of products;
6. Notifying a person who may have been exposed to a disease or may be at risk for contracting or spreading a disease;
7. Notifying the appropriate government authority if we believe a patient has been the victim of abuse, neglect or domestic violence. We will only make this disclosure if you agree or when required or authorized by law.

Health Oversight Activities. We may disclose health information to a health oversight agency for activities authorized by law. These oversight activities may include audits, investigations, inspections, and licensure. These activities are necessary for the government to monitor the health care system, government programs, and compliance with civil rights laws.

Judicial and Administrative Proceedings: If you are involved in a lawsuit or a dispute, we may disclose health information about you in response to a court or administrative order. We may also disclose health information about you in response to a subpoena, discovery request, or other lawful process by someone else involved in the dispute, but only if efforts have been made to tell you about the request or to obtain an order protecting the information requested.

Reporting Abuse, Neglect or Domestic Violence: Notifying the appropriate government agency if we believe a patient has been the victim of abuse, neglect or domestic violence.

Law Enforcement. We may disclose health information when requested by a law enforcement official:

1. In response to a court order, subpoena, warrant, summons or similar process;
2. To identify or locate a suspect, fugitive, material witness, or missing person;
3. About you, the victim of a crime if, under certain limited circumstances, we are unable to obtain your agreement;
4. About a death we believe may be the result of criminal conduct;
5. About criminal conduct at MAO; and
6. In emergency circumstances to report a crime; the location of the crime or victims; or the identity, description or location of the person who committed the crime.

Coroners, Medical Examiners and Funeral Directors. We may disclose medical information to a coroner or medical examiner. This may be necessary to identify a deceased person or determine the cause of death. We may also disclose medical information to funeral directors as necessary to carry out their duties.

National Security and Intelligence Activities. We may disclose health information about you to authorized federal officials for intelligence, counterintelligence, and other national security activities authorized by law.

Correctional Institution: Should you be an inmate of a correctional institution, we may disclose to the institution or its agents health information necessary for your health and the health and safety of others.

OTHER USES OF HEALTH INFORMATION

Other uses and disclosures of health information not covered by this Notice or the laws that apply to us will be made only with your written permission. If you provide us permission to use or disclose health information about you, you may revoke that permission, in writing, at any time. If you revoke your permission, we will no longer use or disclose health information about you for the reasons covered by your written authorization. You understand that we are unable to take back any disclosures we have already made with your permission, and that we are required to retain our records of the care that we provided to you.

YOUR RIGHTS REGARDING HEALTH INFORMATION ABOUT YOU

Although your health record is the property of MAO, the information belongs to you. You have the following rights regarding your health information:

Right to Inspect and Copy. With some exceptions, you have the right to review and copy your health information.

You must submit your request in writing to MAO. We may charge a fee for the costs of copying, mailing or other supplies associated with your request.

Right to Amend. If you feel that health information in your record is incorrect or incomplete, you may ask us to amend the information. You have this right for as long as the information is kept by MAO.

You must submit your request in writing to MAO. In addition, you must provide a reason for your request.

We may deny your request for an amendment if it is not in writing or does not include a reason to support the request. In addition, we may deny your request if you ask us to amend information that:

1. Was not created by us, unless the person or entity that created the information is no longer available to make the amendment;
2. Is not part of the health information kept by or for MAO; or
3. Is accurate and complete.

Right to an Accounting of Disclosures. You have the right to request an "accounting of disclosures". This is a list of certain disclosures we made of your health information, other than those made for purposes such as treatment, payment, or health care operations.

You must submit your request in writing to MAO. Your request must state a time period which may not be longer than six years prior to the date the request is submitted and may not include dates before April 14, 2003. Your request should indicate in what form you want the list (for example, on paper or electronically). The first list you request within a twelve month period will be free. For additional lists, we may charge you for the costs of providing the list. We will notify you of the cost involved and you may choose to withdraw or modify your request at that time before any costs are incurred.

Right to Request Restrictions. You have the right to request a restriction or limitation on the health information we use or disclose about you. For example, you may request that we limit the health information we disclose to someone who is involved in your care or the payment for your care. You could ask that we not use or disclose information about a surgery you had to a family member or friend.

We are not required to agree to your request. If we do agree, we will comply with your request unless the information is needed to provide you emergency treatment.

You must submit your request in writing to MAO. In your request, you must tell us (1) what information you want to limit; (2) whether you want to limit our use, disclosure or both; and (3) to whom you want the limits to apply, for example, disclosures to your spouse.

Right to Request Alternate Communications. You have the right to request that we communicate with you about medical matters in a confidential manner or at a specific location. For example, you may ask that we only contact you via mail to a post office box.

You must submit your request in writing to MAO. We will not ask you the reason for your request. Your request must specify how or where you wish to be contacted. We will accommodate all reasonable requests.

Right to a Paper Copy of This Notice. You have the right to a paper copy of this Notice of Privacy Practices even if you have agreed to receive the Notice electronically. You may ask us to give you a copy of this Notice at any time.

*You may obtain a copy of this Notice at our **website**,
www._____.*

To obtain a paper copy of this Notice, contact MAO.

CHANGES TO THIS NOTICE

We reserve the right to change this Notice. We reserve the right to make the revised or changed Notice effective for health information we already have about you as well as any information we receive in the future. We will post a copy of the current Notice in MAO and on the **website**. The Notice will specify the effective date on the first page, in the top right-hand corner. In addition, if material changes are made to this Notice, the Notice will contain an effective date for the revisions and copies can be obtained by contacting MAO administrator.

COMPLAINTS

If you believe your privacy rights have been violated, you may file a complaint with MAO or with the Secretary of the Department of Health and Human Services. To file a complaint with MAO, contact:

Robert Wheat

Compliance Advisor

522 Interstate Park Drive

Montgomery, AL 36109

334-356-0693

rwheat@maoi.org.

All complaints must be submitted in writing. **You will not be penalized for filing a complaint.**



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Montgomery, Alabama 36111
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Fax (334) 281-1970

MAO Dothan
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Dothan, Alabama 36305
Phone (334) 673-0494
Fax (334) 678-7225

ACKNOWLEDGEMENT OF RECEIPT OF NOTICE OF PRIVACY PRACTICES

Patient Name: _____ Medical Record No. _____

Address: _____

I have been given a copy of MAO's *Notice of Privacy Practices* ("Notice"), which describes how my health information is used and shared. I understand that MAO has the right to change this *Notice* at any time.

I may obtain a current copy by contacting MAO Privacy Official, or by visiting the MAO **website** at _____.

My signature below acknowledges that I have been provided with a copy of the *Notice of Privacy Practices*:

Signature of Patient or Personal Representative

Date

Print Name

Personal Representative's Title (e.g., Guardian, Executor of Estate, Health Care Power of Attorney)



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For MAO Use Only: Complete this section if you are unable to obtain a signature.

1. If the patient or personal representative is unable or unwilling to sign this *Acknowledgement*, or the *Acknowledgement* is not signed for any other reason, state the reason:

2. Describe the steps taken to obtain the patient's (or personal representative's) signature on the *Acknowledgement*:

Completed by:

Signature of MAO Representative

Date

Print Name

File original in patient's Business Office Record.

D. SAFEGUARDING AND STORING PROTECTED HEALTH INFORMATION

Purpose

The purpose of this policy is to provide guidelines for the safeguarding of Protected Health Information (PHI) at MAO and to limit unauthorized disclosures of PHI that is contained in a patient's Medical Record, while at the same time ensuring that such PHI is easily accessible to those involved in the treatment of the patient.

Policy

The policy of MAO is to ensure that PHI is not intentionally or unintentionally used or disclosed in a manner that would violate the HIPAA Privacy Rule or any other federal or state regulation governing confidentiality and privacy of health information. The following procedure is designed to prevent improper uses and disclosures of PHI and limit incidental uses and disclosures of PHI that is, or will be, contained in a patient's Medical Record. At the same time, MAO recognizes that easy access to all or part of a patient's Medical Record by health care practitioners involved in a patient's care (nurses, physicians, social workers, and others) is essential to ensure the efficient quality delivery of health care.

The Administrator is responsible for the security of all Medical Records. All staff members are responsible for the security of Medical Records.

Procedure

MAO Privacy Official and Administrator shall periodically monitor MAO's compliance regarding its reasonable efforts to safeguard PHI.

Safeguards for Verbal Uses

These procedures shall be followed for any meeting or conversation where PHI is discussed.

Meetings during which PHI is discussed:

1. Specific types of meetings where PHI may be discussed include, but are not limited to:
 - a. Department Head meetings
 - b. Interdisciplinary Plan of Care meeting
 - c. Bill review meetings
 - d. Family Care Conference
2. Meetings will be conducted in an area that is not easily accessible to unauthorized persons.
3. Meetings will be conducted in a room with a door that closes.

4. Voices will be kept to a moderate level to avoid unauthorized persons from overhearing.
5. Only staff members with a “need to know” the information will be present at the meeting. (See the Policy Minimum Necessary Uses and Disclosures.)
6. The PHI that is shared or discussed at the meeting will be limited to the minimum amount necessary to accomplish the purpose of sharing the PHI.

Telephone conversations:

1. Telephones used for discussing PHI are located in as private an area as possible.
2. Staff members will take reasonable measures to assure that unauthorized persons do not overhear telephone conversations involving PHI. Reasonable measures may include:
 - a. Lowering the voice
 - b. Requesting that unauthorized persons step away from the telephone area
 - c. Moving to a telephone in a more private area before continuing the conversation
3. PHI shared over the phone will be limited to the minimum amount necessary to accomplish the purpose of the use or disclosure.

In-Person conversations:

1. In patient rooms
2. With patient/family in public areas
3. With authorized staff in public areas

Reasonable measures will be taken to assure that unauthorized persons do not overhear conversations involving PHI. Such measures may include:

1. Lowering the voice
2. Moving to a private area within MAO

Safeguards for Written PHI

All documents containing PHI should be stored appropriately to reduce the potential for incidental use or disclosure. Documents should not be easily accessible to any unauthorized staff or visitors.

Active Records:

1. Authorized staff shall view the Medical Record at an appropriate computer station, which is not easily observed by other employees or the general public.
2. Active Medical Records shall not be left unattended in areas where patients, visitors and unauthorized individuals could easily view the records.
3. Medication Administration Records, Treatment Administration Records, report sheets and other documents containing PHI shall not be left open and/or unattended.
4. Only authorized staff shall review the Medical Records. All authorized staff reviewing Medical Records shall do so in accordance with the minimum necessary standards.

5. Medical Records shall be protected from loss, damage and destruction.

Active Business Office Files:

Active Business Office Files shall be stored in a secure area that allows authorized staff access as needed.

Inactive Business Office Files:

Inactive Business Office Files shall be stored in a systematic manner in a location that ensures privacy and security of the information.

PHI Not a Part of the Designated Record Set:

1. Use of “shadow” charts or files is discouraged.
2. Any documentation of PHI shall be stored in a location that ensures, to the extent possible, that such PHI is accessible only to authorized individuals.

Office Equipment Safeguards

Computer access:

1. Only staff members who need to use computers to accomplish work-related tasks shall have access to computer workstations or terminals.
2. All users of computer equipment must have unique login and passwords.
3. Passwords shall be changed every 90 days.
4. Posting, sharing and any other disclosure of passwords and/or access codes is strongly discouraged.
5. Access to computer-based PHI shall be limited to staff members who need the information for treatment, payment or health care operations.
6. MAO staff members shall log off their workstation when leaving the work area.
7. Computer monitors shall be positioned so that unauthorized persons cannot easily view information on the screen.
8. Employee access privileges will be removed promptly following their departure from employment.
9. Employees will immediately report any violations of this Policy to their supervisor, Administrator or MAO Privacy Official.

Printers, copiers and fax machines:

1. Printers will be located in areas not easily accessible to unauthorized persons.
2. If equipment cannot be relocated to a secure location, a sign will be posted near the equipment indicating that unauthorized persons are prohibited from viewing documents from the equipment. Sample language: “Only authorized staff may view documents generated by this (indicate printer, copier, fax, etc). Access to such documents by unauthorized persons is prohibited by federal law.”

3. Documents containing PHI will be promptly removed from the printer, copier or fax machine and placed in an appropriate and secure location.
4. Documents containing PHI that must be disposed of due to error in printing will be destroyed by shredding or by placing the document in a secure recycling or shredding bin until destroyed.

Destruction

Written:

Documentation that is not part of the Medical Record and will not become part of the Medical Record (e.g., report sheets, shadow charts or files, notes, lists of vital signs, weights, etc.) shall be destroyed promptly when it is no longer needed by shredding or placing the information in a secure recycling or shredding bin until the time that it is destroyed.

Electronic:

Prior to the disposal of any computer equipment, including donation, sale or destruction, MAO must determine if PHI has been stored in this equipment and will delete all PHI prior to the disposal of the equipment.

(See the Policy “Destruction of Protected Health Information” for additional guidelines.

E. EMAILING PROTECTED HEALTH INFORMATION

Purpose

To ensure the appropriate use of the email system when transmitting Protected Health Information (PHI).

Policy

It is the policy of MAO to protect the electronic transmission of PHI as well as to fulfill our duty to protect the confidentiality and integrity of patient PHI as required by law, professional ethics and accreditation requirements. The information released will be limited to the minimum necessary to meet the requestor’s needs. Whenever possible, de-identified information will be used.

Procedure

1. E-mail users will be set up with a unique identity complete with unique password and file access controls.
2. E-mail users may not intercept, disclose or assist in intercepting and disclosing e-mail communications.

3. Patient specific information regarding highly sensitive health information must not be sent via e-mail, even within the internal email system (i.e. information relating to AIDS/HIV, drug and alcohol abuse and psychotherapy notes).
4. Users will restrict their use of email for communicating normal business information such as information about general care and treatment of patients, operational and administrative matters, such as billing.
5. Users should verify the accuracy of the email address before sending any PHI and, if possible, use email addresses loaded in the system address book.
6. PHI may be sent unprotected via e-mail within a properly secured, internal network of the organization. When sending PHI outside of this network, such as over the Internet, every effort should be made to secure the confidentiality and privacy of the information. Sample security measures include password protecting the document(s) being sent or encrypting the message.
7. All e-mail containing PHI will contain a confidentiality statement (see sample below).
8. Users should exercise extreme caution when forwarding messages. Sensitive information, including patient information, must not be forwarded to any party outside the organization without using the same security safeguards as specified above.
9. Users should periodically purge e-mail messages that are no longer needed for business purposes, per the organization's records retention policy.
10. Employee e-mail access privileges will be removed promptly following their departure from the organization.
11. Email messages, regardless of content, should not be considered secure and private. The amount of information in any email will be limited to the minimum necessary to meet the needs of the recipient.
12. Employees should immediately report any violations of this guideline to their supervisor, Administrator or MAO Privacy Official.

Sample Confidentiality Statement

The information contained in this e-mail is legally privileged and confidential information intended only for the use of the individual or entity to whom it is addressed. If the reader of this message is not the intended recipient, you are hereby notified that any viewing, dissemination, distribution, or copy of this e-mail message is strictly prohibited. If you have received and/or are viewing this e-mail in error, please immediately notify the sender by reply e-mail, and delete this e-mail from your system. Thank you.

F. FAXING PROTECTED HEALTH INFORMATION

Purpose

To ensure that Protected Health Information (“PHI”) is appropriately safeguarded when it is sent or received via facsimile (fax) machine or software.

Policy

It is the policy of MAO to allow the use of facsimile machines to transmit and receive PHI. The information released will be limited to the minimum necessary to meet the requestor’s needs.

Procedure

1. The fax machine should be located in an area that is not easily accessible to unauthorized persons. Examples include the business office, medical record office or nurse’s station. If possible, the fax machine should not be located in a public area where confidentiality of PHI might be compromised. If this is not possible, a sign should be posted regarding access to the documents. (See sample sign following this Policy.)
2. Received documents will be removed promptly from the fax machine. To promote secure delivery, instructions on the cover page will be followed.
3. Unless otherwise prohibited by state law, information transmitted via facsimile is acceptable and may be included in the patient’s Medical Record.
4. Steps should be taken to ensure that the fax transmission is sent to the appropriate destination. These include:
 - a. Pre-programming and testing destination numbers whenever possible to eliminate errors in transmission due to misdialing.
 - b. Asking frequent recipients to notify MAO of a fax number change.
 - c. Confirming the accuracy of the recipient’s fax number before pressing the send/start key.
 - d. If possible, printing a confirmation of each fax transmission.
5. A cover page should be attached to any facsimile document that includes PHI. (See a sample cover page following this Policy.) The cover page should include:
 - a. Destination of the fax, including name, fax number and phone number;
 - b. Name, fax number and phone number of the sender;
 - c. Date;
 - d. Number of pages transmitted; and
 - e. Confidentiality Statement (See sample below).
6. If a fax transmission fails to reach a recipient or if the sender becomes aware that a fax was misdirected, the internal logging system should be checked to obtain incorrect recipient’s fax number. Fax a letter to the receiver and ask that the material be returned or destroyed.

7. A written *Authorization* for any use or disclosure of PHI will be obtained when the use or disclosure is not for treatment, payment or healthcare operations or required by federal or state law or regulation.
8. The PHI disclosed will be the minimum necessary to meet the requestor's needs.
9. Highly sensitive health information should not be sent by fax (e.g., information relating to AIDS/HIV, drug and alcohol abuse and psychotherapy notes).

Sample Confidentiality Statement:

The documents accompanying this transmission contain confidential protected health information that is legally privileged. This information is intended only for the use of the individual or entity named above. The authorized recipient of this information is prohibited from disclosing this information to any other party unless required to do so by law or regulation and is required to destroy the information after its stated need has been fulfilled.

If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or action taken in reliance on the contents of these documents is strictly prohibited. If you have received this information in error, please notify the sender immediately and arrange for the return or destruction of these documents.



Medical Advocacy & Outreach

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Montgomery, Alabama 36111
Phone (334) 280-3349
Fax (334) 281-1970

MAO Dothan
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Dothan, Alabama 36305
Phone (334) 673-0494
Fax (334) 678-7225

FAX COVER PAGE

Name: _____

Address: _____

Phone Number: _____

Fax Number: _____

Confidential and Protected Communication

FAX COVER SHEET

DATE & TIME _____

NUMBER OF PAGES _____

TO: _____

FAX NUMBER

PHONE NUMBER

FROM: _____

COMMENTS:



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VERIFICATION OF RECEIPT OF FAX:

This communication may contain confidential Protected Health Information. This information is intended only for the use of the individual or entity to which it is addressed. The authorized recipient of this information is prohibited from disclosing this information to any other party unless required to do so by law or regulation and is required to destroy the information after its stated need has been fulfilled.

*If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or action taken in reliance on the contents of these documents is **STRICTLY PROHIBITED** by Federal law. **If you have received this information in error, please notify the sender immediately and arrange for the return or destruction of these documents.***

SAMPLE

SIGN FOR FAX MACHINE



**Only authorized staff may
view faxed documents sent or
received by this fax machine.**

Access to such documents by unauthorized persons is prohibited by federal law.

II. USES AND DISCLOSURES

A. USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

Purpose

To ensure that disclosure of Protected Health Information (PHI) is made consistent with applicable laws, regulations and health information standards, and to ensure that any disclosures of a patient's PHI to a patient's family members, other relatives, close friends or other persons designated by the patient are appropriate.

Policy

Disclosure of PHI will only be allowed with a properly completed and signed authorization except:

1. When required or allowed by law (see "Request and Disclosure Table" following this Policy).
2. As defined in the *Notice of Privacy Practices*:
 - a. For continuing care (treatment)
 - b. To obtain payment for services (payment)
 - c. For the day-to-day operations of MAO and the care given to the patients (health care operations)

Disclosure of PHI will be centralized through MAO Privacy Official. In some instances, MAO Privacy Official will need to track information that is disclosed. All disclosures designated as trackable on the "Request and Disclosure Table" must be approved by the Privacy Official to enable MAO to provide an accounting of disclosures when requested.

Disclosure of PHI will be carried out in accordance with all applicable legal requirements and in accordance with MAO policy. MAO will be responsible for researching and abiding by applicable state laws and regulations.

Original Medical Records will not be removed from the premises, except when ordered by subpoena or by other court order.

Procedure

Receiving a Request for Medical Records:

1. Requests for Medical Records shall be managed by MAO Privacy Official.
 - a. Other staff members will not release PHI without approval of MAO Privacy Official.
 - b. Only emergency release of information will be done after hours or on weekends.
 - c. After hours and on weekends, release of information for continuing care (i.e., transfer to a hospital or emergency clinic) is allowed.
2. Responding to Specific Types of Disclosures:

See the “Request and Disclosure Table” following this Policy for applicable requirements in responding to requests by specific entities/individuals.

- a. Media: No PHI shall be released to the news media or commercial organizations without the authorization of the patient or his personal representative.
- b. Telephone Requests: Staff members receiving requests for PHI via the telephone will make reasonable efforts to identify and verify that the requesting party is entitled to receive such information.

3. Disclosures to Persons Involved with a Patient’s Care:

MAO may disclose to a family member, other relative, close friend, or any other person identified by the patient, PHI:

- a. That is directly relevant to that person’s involvement with the patient’s care or payment for care; or
- b. To notify such person of the patient’s location, general condition, or death.

4. Conditions if the Patient is Present. If the patient is present for, or otherwise available, prior to a permitted disclosure, then MAO may use or disclose the PHI only if MAO:

- a. Obtains the patient’s agreement;
- b. Provides the patient with an opportunity to object to the disclosure, and the patient does not express an objection (this opportunity to object and the patient’s response may be done orally); or
- c. May reasonably infer from the circumstances, based on the exercise of professional judgment that the patient does not object to the disclosure.

5. Conditions if the Patient is Not Present or is incapacitated. MAO may, in the exercise of professional judgment, determine whether the disclosure is in the best interest of the patient, and, if so, disclose only that PHI which is directly relevant to the person’s involvement with the patient’s care if:

- a. The patient is not present,
- b. The opportunity to agree/object to the use or disclosure cannot practicably be provided because of the patient’s incapacity, or
- c. In an emergency.

6. Confirming Identity. MAO shall take reasonable steps to confirm the identity of a patient’s family member or friend. MAO is permitted to rely on the circumstances as confirmation of involvement in care.

REQUEST AND DISCLOSURE TABLE

<i>Requestor</i>	<i>Authorization Required?</i>	<i>Copy Fee Charged?</i>	<i>Track on Accounting of Disclosure?</i>	<i>Notes:</i>
Accrediting Agencies (JCAHO, CARF)	No	No	No	See policy on Business Associates
Attorney for Patient	Yes	Yes	No	See policy on Authorizations
Attorney for MAO/Corporation	No	No	No	See policy on Business Associates
Contractors/ Business Associates	No, unless their purpose falls outside of TPO	No	No	See policy on Business Associates
For Deceased Persons <input type="checkbox"/> Coroner or Medical Examiner, Funeral Directors <input type="checkbox"/> Organ Procurement	No	No	Yes	See policy on Accounting of Disclosures
Employer <input type="checkbox"/> PHI specific to work related illness or injury, and <input type="checkbox"/> Required for employer's compliance with occupational safety and health laws	No, for the purpose listed. Yes for all others.	No	No	
Family Members	No for oral disclosures to family members involved in	Yes	No	See policy on Authorizations

<i>Requestor</i>	<i>Authorization Required?</i>	<i>Copy Fee Charged?</i>	<i>Track on Accounting of Disclosure?</i>	<i>Notes:</i>
	care; Yes for others			
Entity Subject to the Food and Drug Administration <input type="checkbox"/> Adverse events, product defects or biological product deviations <input type="checkbox"/> Track products <input type="checkbox"/> Enable product recalls, repairs, or replacements <input type="checkbox"/> Conduct post marketing surveillance	No	No	Yes	See policy on Accounting of Disclosures
Health Oversight <input type="checkbox"/> Government benefits program <input type="checkbox"/> Fraud and abuse compliance <input type="checkbox"/> Civil rights laws <input type="checkbox"/> Trauma/tumor registries <input type="checkbox"/> Vital statistics <input type="checkbox"/> Reporting of abuse or neglect	No	No	Yes	See policy on Accounting of Disclosures
Health Care Practitioners and Providers for Continuity of Treatment and Payment	No	No	No	Part of treatment
Health Care Practitioners and Providers if <u>not</u> Involved in Care or Treatment (i.e., consultants)	No	No	No	Part of operations

<i>Requestor</i>	<i>Authorization Required?</i>	<i>Copy Fee Charged?</i>	<i>Track on Accounting of Disclosure?</i>	<i>Notes:</i>
Insurance Companies/Third Party Payors Related to Claims Processing	No	No	No	Part of payment
Judicial and Administrative Proceedings <input type="checkbox"/> Court order, or warrant <input type="checkbox"/> Subpoena	No No - See policy on Responding to a Subpoena	No Yes	Yes Yes	See policy on Accounting of Disclosures
Law Enforcement <input type="checkbox"/> Administrative request <input type="checkbox"/> Locating a suspect, fugitive, material witness or missing person <input type="checkbox"/> Victims of crime <input type="checkbox"/> Crimes on premises <input type="checkbox"/> Suspicious deaths <input type="checkbox"/> Avert a serious threat to health or safety	No	No	Yes, except for disclosures to correctional institutions.	See policy on Accounting of Disclosures
Public Health Authorities <input type="checkbox"/> Surveillance <input type="checkbox"/> Investigations <input type="checkbox"/> Interventions <input type="checkbox"/> Foreign governments collaborating with US public	No	No	Yes	See policy on Accounting of Disclosures

Requestor	Authorization Required?	Copy Fee Charged?	Track on Accounting of Disclosure?	Notes:
health authorities <input type="checkbox"/> Recording births/deaths <input type="checkbox"/> Child/elder abuse <input type="checkbox"/> Prevent serious harm <input type="checkbox"/> Communicable disease				
Research (w/o Authorization)	No, if IRB or Privacy Board approves the research study and waives authorization.	No	Yes	See policy on Uses and Disclosures for Research and policy on Accounting of Disclosures
Patient/Patient's Personal Representative	No	Yes	No	See policy on Authorizations
Specialized Government Functions <input type="checkbox"/> Military and Veterans' activities <input type="checkbox"/> Protective services for the patient <input type="checkbox"/> Foreign military personnel <input type="checkbox"/> National security and intelligence activities	No	No	Yes, except for disclosures for national security and intelligence activities.	See policy on Accounting of Disclosures
Workers' Compensation <input type="checkbox"/> Comply w/existing laws (see state law)	No	See applicable state law	Yes	See policy on Accounting of Disclosures

This does not apply to PHI created or maintained prior to April 14, 2003.

B. AUTHORIZATION FOR RELEASE OF PROTECTED HEALTH INFORMATION

Purpose

The purpose of this Policy is to set forth MAO's process for the use and disclosure of Protected Health Information (PHI) pursuant to a written authorization.

Policy

In accordance with the HIPAA Privacy Rule, when PHI is to be used or disclosed for purposes other than treatment, payment, or health care operations, MAO will use and disclose it only pursuant to a valid, written authorization, unless such use or disclosure is otherwise permitted or required by law. Use or disclosure pursuant to an authorization will be consistent with the terms of such authorization.

Procedure

Exceptions to Authorization Requirements

PHI may be disclosed without an authorization if the disclosure is:

1. Requested by the patient or his personal representative (authorization is never required);
2. For the purpose of treatment;
3. For the purpose of MAO's payment activities, or the payment activities of the entity receiving the PHI;
4. For the purpose of MAO's health care operations;
5. In limited circumstances, for the health care operations of another Covered Entity, if the other Covered Entity has or had a relationship with the patient;
6. To the Secretary of the U.S. Department of Health and Human Services for the purpose of determining compliance with the HIPAA Privacy Rule; or
7. Required by other state or federal law. (See "Request and Disclosure Table" in the "Uses and Disclosures of Protected Health Information" Policy for other exceptions.)

Use or Disclosure Pursuant to an Authorization

1. When MAO receives a request for disclosure of PHI, MAO Privacy Official shall determine whether an authorization is required prior to disclosing the PHI.
2. PHI may never be used or disclosed in the absence of a valid written authorization if the use or disclosure is:
 - a. Of psychotherapy notes as defined by the HIPAA Privacy Rule;
 - b. For the purpose of marketing; or
 - c. For the purpose of fundraising.

3. If the use or disclosure requires a written authorization, MAO shall not use or disclose the PHI unless the request for disclosure is accompanied by a valid authorization.
4. If the request for disclosure is not accompanied by a written authorization, MAO Privacy Official shall notify the requestor that it is unable to provide the PHI requested. The Privacy Official will supply the requestor with an *Authorization to Use or Disclose PHI (Authorization)* form. (See sample *Authorization* form following this Policy.)
5. If the request for disclosure is accompanied by a written authorization, the Privacy Official will review the authorization to assure that it is valid (see the “Checklist for Valid Authorization” following this Policy).
6. If the authorization is lacking a required element or does not otherwise satisfy the HIPAA requirements, the Privacy Official will notify the requestor, in writing, of the deficiencies in the authorization. No PHI will be disclosed unless and until a valid authorization is received.
7. If the authorization is valid, the Privacy Official will disclose the requested PHI to the requester. Only the PHI specified in the authorization will be disclosed.
8. Each authorization shall be filed in the patient's Medical Record.

Preparing an Authorization for Use or Disclosure

1. When MAO is using or disclosing PHI and an authorization is required for the use or disclosure, MAO will not use or disclose the PHI without a valid written authorization from the patient or the patient’s personal representative.
2. The *Authorization* form must be fully completed, signed and dated by the patient or the patient’s personal representative before the PHI is used or disclosed.
3. MAO may not condition the provision of treatment on the receipt of an authorization except in the following limited circumstances:
 - a. The provision of research-related treatment; or
 - b. The provision of health care that is solely for the purpose of creating PHI for disclosure to a third party (i.e., performing an independent medical examination at the request of an insurer or other third party).
4. An authorization may not be combined with any other document unless one of the following exceptions applies:
 - a. Authorizations to use or disclose PHI for a research study may be combined with any other type of written permission for the same research study, including a consent to participate in such research;
 - b. Authorizations to use or disclose psychotherapy notes may only be combined with another authorization related to psychotherapy notes; or
 - c. Authorizations to use or disclose PHI other than psychotherapy notes may be combined, but only if MAO has not conditioned the provision of treatment or payment upon obtaining the authorization.

Revocation of Authorization

1. The patient may revoke his authorization at any time.
2. The authorization may ONLY be revoked in writing. If the patient or the patient's personal representative informs MAO that he/she wants to revoke the authorization, MAO will assist him/her to revoke in writing.
3. Upon receipt of a written revocation, the Privacy Official will write the effective date of the revocation on the *Authorization* form.
4. Upon receipt of a written revocation, MAO may no longer use or disclose a patient's PHI pursuant to the authorization.
5. Each revocation will be filed in the patient's Medical Record.



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AUTHORIZATION TO USE AND/OR DISCLOSE HEALTH INFORMATION

Revocation

Date Revoked: _____

Patient Name: _____

Medical Record No. _____

Address:

I authorize MAO to use or disclose my health information as described below.

1. **Type of information:** The type of information to be used or disclosed is as follows (check the appropriate spaces and include other information where indicated):

<input type="checkbox"/> The entire medical record (all information)	
<input type="checkbox"/> Minimum Data Set	
<input type="checkbox"/> Activity documentation	<input type="checkbox"/> Nursing documentation/progress notes
<input type="checkbox"/> Assessments, flow sheets	<input type="checkbox"/> Nutritional services documentation
<input type="checkbox"/> Business Office File	<input type="checkbox"/> Physician and professional consult progress notes
<input type="checkbox"/> Care Plan	<input type="checkbox"/> Physician's orders
<input type="checkbox"/> Diagnostic reports (lab, x-ray, etc.)	<input type="checkbox"/> Rehabilitative and restorative therapy documentation
<input type="checkbox"/> History and physical, other hospital records	<input type="checkbox"/> Social Services documentation



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2. **Recipient of information** - The information identified above may be used by, or disclosed to, the following individual(s) or organization(s):

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

AUTHORIZATION TO USE AND/OR DISCLOSE HEALTH INFORMATION -page 2

3. **Purpose of use/disclosure** - This information described on the previous page will be used for the following purpose(s):

_____ Initiated at the request of the patient.

_____ My personal records

_____ Sharing with other health care providers as needed

_____ Other (please describe): _____

Authorization Statements/Signatures:

4. I understand that once the above information is disclosed, it may be re-disclosed by the recipient and the HIPAA Privacy Rule may no longer protect the information.
5. **For Marketing disclosures only: (Check if applicable)** _____ I understand that MAO will receive compensation related to the use or disclosure of the requested information.
6. I understand that I have a right to revoke this authorization at any time. I understand that if I revoke this authorization, I must do so in writing and present my written revocation to an MAO staff member. I understand that the revocation will not apply to information that has already been released in response to this authorization.
7. Unless I specify differently, this authorization will expire (insert date or event):

8. I understand that MAO will not condition the provision of treatment or payment on the provision of this authorization.

Signature of Patient or Personal Representative

Date

Print Name

Personal Representative's Title/Relationship

(e.g., Guardian, Executor of Estate, Health Care Power of Attorney)

Distribution of copies: Original to patient's Medical Record, copy to patient.

CHECKLIST FOR VALID AUTHORIZATION

When you receive a request for release of Medical Records containing PHI from any entity other than the patient or the patient's personal representative, and the disclosure is not for purposes of treatment, payment or health care operations or another disclosure required or permitted by the HIPAA Privacy Rule, you may not release those records unless the requestor has provided a valid authorization. Use this checklist to assure that the authorization is valid. **If any one element is missing, the Privacy Rule prohibits you from disclosing the information.** You should contact the requestor and explain why you cannot disclose the information.

_____ The authorization must be written in plain language.

All of the following elements must be included in the authorization:

- _____ A specific and meaningful description of the information to be disclosed.
- _____ The name or other specific identification of the person (or organization or class of persons) authorized to make the requested disclosure.
- _____ The name or other specific identification of the person (or organization or class of persons) to whom the information will be disclosed.
- _____ The purpose of the requested disclosure. (If the patient initiates the authorization, the statement "at the request of the patient" is a sufficient description of the purpose).
- _____ An expiration date or an expiration event that relates to the patient or the purpose of the disclosure.
- _____ Signature of the patient or personal representative and date.
- _____ If signed by personal representative, a description of the representative's authority to act for the patient.

Required Statements:

- _____ A statement that information disclosed pursuant to the authorization may be subject to redisclosure and may no longer be protected by the Privacy Rule.
- _____ A statement of the patient's right to revoke the authorization in writing and either,
- _____ A reference to the revocation right and procedures described in the Notice of Privacy Practices;

OR

_____ A statement about the exceptions to the right to revoke and a description of how the patient may revoke.

_____ One of the following statements, or a substantially similar statement:

- If the Covered Entity is not permitted to condition treatment or payment on the provision of an authorization: I understand that MAO will not condition the provision of treatment or payment on the provision of this authorization.

OR

- If the Covered Entity is permitted to condition the provision of research-related treatment on the provision of an authorization: I understand that MAO will not provide research-related treatment to me unless I provide this authorization.

OR

- If the Covered Entity is permitted to condition the provision of health care that is solely for the purpose of creating PHI for disclosure to a third party on the provision of an authorization: I understand that MAO will not provide health care that is solely for the purpose of creating PHI for disclosure to a third party to me unless I provide this authorization.

Defective Authorizations

If an authorization has any one of the following defects, it is invalid and any use or disclosure made pursuant to the authorization will be in violation of the Privacy Rule:

_____ The authorization has expired.

_____ One of the required elements or statements is missing.

_____ MAO has knowledge that the authorization has been revoked.

_____ The authorization violates the regulations governing conditioning treatment or payment upon signing the authorization, or combining authorizations.

_____ MAO has knowledge that information in the authorization is false.

C. USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION FOR RESEARCH

Purpose

To provide guidance on the use and/or disclosure of Protected Health Information (PHI) for research purposes.

Policy

MAO must obtain a patient's authorization before releasing his/her PHI for research purposes.

MAO will ensure that an appropriately instituted and formally designated Institutional Review Board is utilized for the protection of human subjects in any research activity involving access to PHI under MAO's control, as required by §45 CFR 46.

The patient has the right to refuse to participate in research.

MAO shall abide by the experimental subject's (patient's) privacy rights.

Procedure

1. Federal regulations and state laws regulate the use of human subjects (patients) in any investigation designed to develop or contribute to specific knowledge. Such laws require that specific information be disclosed so that a subject (patient) may give informed authorization and that authorization must be documented.
 - a. At the beginning of any research project, MAO and the entity involved in the research must determine and agree on who will be responsible for obtaining an authorization to use or disclose PHI.
 - b. If an outside authorization is utilized, MAO Privacy Designee will review the patient's authorization to assure that it is valid in accordance with the HIPAA Privacy Rules and those special provisions related to research. (See Policy "Authorization for Release of Protected Health Information.")
 - c. Special Authorization Provisions Related to Research
 - i. Expiration Date: The *Authorization* form will state the expiration date or that the expiration event is "end of research study," "none," or similar language.
 - ii. Combining Authorization: The *Authorization* form may be combined with any other type of written permission for the same research study, including another authorization for the use or disclosure of PHI for such research or a consent to participate in such research.

- iii. Condition Treatment on Authorization: The provision of research-related treatment may be conditioned on the provision of an authorization for the use or disclosure of PHI for such research.
2. Federal law requires the establishment of an Institutional Review Board (IRB) to review and approve proposed research and the process by which the investigator intends to secure the informed authorization of participants.
 - a. Institutions engaged in research involving human subjects (e.g., medical schools, universities, large hospitals) will usually have their own IRB to oversee research conducted within the institution or by staff of the institution.
 - b. It is the responsibility of the organization or institution conducting the research to establish or contract with an IRB; it is MAO's responsibility to ensure that an IRB is utilized.
3. If the research study is approved by the IRB and de-identified health information can be used or disclosed, then no further privacy implications exist. (See the Policy "De-Identification of Protected Health Information" for details of how to de-identify the health information for disclosure.)
4. If the research study is approved by the IRB and de-identified health information cannot be used or disclosed, then an *Authorization* form is required and must be obtained from each patient included in the research study.
5. Appropriate MAO staff will manage requests to participate in research studies and coordinate the review process by the IRB.
 - a. Contact/communications with the IRB and related findings must be documented and communicated to MAO Privacy Designee.
 - b. If MAO participates in research projects, MAO Privacy Designee must have a method of tracking the correspondence, decisions and other communications regarding the research project.
6. MAO will inform every patient of any research or economic interest (for example, any direct or indirect remuneration that may come to MAO as a result of the research) that may result from his or her treatment.
7. MAO or the entity conducting the research will obtain the patient's *Authorization* form when required. (See Item 1.)
8. MAO Privacy Designee will file the original copy of the request and the associated response in the participant's Medical Record.

III. Rights of Patients

A. FORMER PATIENTS' ACCESS TO PROTECTED HEALTH INFORMATION

Purpose

To define former patients' right to access their Medical Records and explain requirements imposed by the Health Insurance Portability and Accountability Act (HIPAA) Final Privacy Rule. The Privacy Rule explains the rights of patients, including access to their Medical Records, and specifies required time frames for responding to patient requests for access.

Policy

Every patient has the right to access his or her Protected Health Information (PHI). The right of access is not absolute and there may be situations where access is not allowed; however, MAO will respond to all requests to access a patient's health information. The Privacy Rule specifies the time for responding to requests for access. These time lines must be adhered to unless state laws require MAO to respond in a shorter time frame.

Procedure

1. A patient will be notified of the right to access PHI in MAO's *Notice of Privacy Practices*. The *Notice of Privacy Practices* is given to the patient at their first visit to MAO.
2. A patient has the right to inspect and obtain a copy of PHI in his or her Designated Record Set, except for information compiled in reasonable anticipation of, or for use in a civil, criminal, or administrative action or proceeding.
3. Requests for access to PHI and release of information will be managed by MAO Privacy Official or the Medical Record Coordinator/Health Information Manager.
4. The patient or representative will be provided with a copy of an *Access to Protected Health Information* ("Access") form upon receiving an inquiry from a patient to obtain copies of his or her PHI. The request will not be evaluated until the form is completed. (See sample Access form following this Policy.)
5. If a former patient or patient's personal representative requests to view or review PHI, MAO must respond to the request within 30 days.
6. A reasonable cost-based fee may be charged for the copies provided. The cost per page may not exceed the state statute for copying costs.

Alabama Code Section 12-21-6.1:

“One dollar (\$1) for each page of the first 25 pages

Not more than 50 cents (\$0.50) for each page in excess of 25 pages

A search fee of five dollars (\$5)

If the medical records are mailed to the person making the request, reasonable costs shall include the actual costs of mailing the medical records

A person may charge in addition to the above fees, the actual cost of reproducing X-rays and other special medical records”

7. Processing the Request and Providing Access to the PHI:

- a. MAO must respond to a request from former patients within 30 days of the receipt of the request if the PHI is available on-site. If the PHI is stored off-site, MAO must take action within 60 days of the receipt of the request.
- b. MAO may have a one time extension of 30 days to the time frames noted in Item 7.a., provided that:
 - i. A written statement of the reasons for the delay are provided, and
 - ii. The date by which MAO will complete its action on the request is stated.

(See *Notification of Time Extension* form following this Policy.)

- c. MAO Privacy Official shall provide the patient with permitted access to the PHI in the form or format requested. If the PHI is not accessible in the format requested, a readable hard copy or a format to which MAO and the patient agree is acceptable will be provided.
- d. MAO may provide a summary of the PHI requested if the patient agrees, in advance, to this summary and to any fees imposed. (A summary is a recapitulation of the patient’s Medical Record done by a physician or health care professional.)

8. Guidelines for Denying the Request for Access to PHI:

- a. MAO must provide a timely, written denial to the individual, which includes the basis for the denial, and, if applicable, a statement of the individual’s review rights. In addition, it must provide a description of how the individual may complain to MAO or to the Secretary of the Office of Civil Rights.
- b. MAO may deny the request if the PHI is not contained in its Designated Record Set.
- c. MAO may deny the request for access to a patient’s PHI without a right to review if:
 - i. The request is for information compiled in anticipation of a legal proceeding; or

- ii. The request is for PHI created or obtained during the course of research which includes treatment for as long as the research continues, provided that the patient has agreed to the denial of access and MAO has informed the patient that this right will be reinstated upon completion of the research; or
 - iii. The request is for PHI obtained from someone other than a provider under the promise of confidentiality and disclosure would likely reveal the source.
 - d. MAO may deny the request for access to a patient's PHI provided that the patient has been given a right to review the denial if:
 - i. A licensed health care professional has determined, in the exercise of professional judgment, that the access of requested PHI is reasonably likely to endanger the life or physical safety of the individual or another person; or
 - ii. The PHI refers to another person (unless such other person is a health care provider (for example, a doctor) and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person; or
 - iii. The individual's personal representative makes a request for access and a licensed health care professional has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the individual or another person.
- 9. Providing a Review Process for Denied Requests for Access to PHI:

Patients have the right to request a review of the denial. If a request is received, the following steps must be taken:

 - a. MAO Privacy Official will promptly refer the request to review the denial to the Privacy Officer.
 - b. The Privacy Officer shall refer the case to a licensed health professional who was not directly involved in the denial.
 - c. MAO shall promptly provide written notice of the results of the review and based on the review, take any necessary steps outlined in this Policy.

(See *Review Determination Letter* following this Policy.)



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ACCESS TO PROTECTED HEALTH INFORMATION

Date Received: _____

Initials of Privacy Official: _____

SECTION A: Patient to complete the following information

Date: _____ Requestor

Name: _____

Patient Name: _____ Medical Record Number _____

Address: _____

REQUEST:

I hereby request that MAO provide me with access to my Protected Health Information as checked below. **(Check all that apply):**



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____ The entire Medical Record (all information) to the above-named requestor

____ Activity documentation

____ Medication and treatment records

____ Advance directives

____ Nursing documentation/progress notes

____ Assessments, flow-sheets

____ Nutritional services documentation

____ Care plan

____ Physician and professional consult progress notes

____ Informed consent

____ Rehabilitative and restorative therapy records

____ History and physical exams and other related
hospital records

____ Reports from lab, x-ray, and other diagnostic tests

____ Face sheet

____ Minimum Data Set

____ Social Services documentation

____ Other (Describe as specifically as possible:

I request access to my health information as indicated above covering the dates

_____ through _____. **(Please fill in dates).**



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Type of Access Requested

_____ Inspection of requested information at MAO.

_____ Copies of requested information maintained by MAO.

Signature of Patient or Personal Representative

Date

Print Name

Personal Representative's Title/Relationship

(e.g., Guardian, Executor of Estate, Health Care Power of Attorney)



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SECTION B: FOR FORMER PATIENTS ONLY

MAO to complete this section

Request for access or copy is _____ Accepted _____ Denied

If denied, check the reasons for denial:

- _____ PHI is not part of the patient's Designated Record Set
- _____ Federal law forbids making the requested information available to the patient for inspection (e.g., CLIA or Privacy Act of 1974)
- _____ The requested information is psychotherapy notes
- _____ The requested information has been compiled for legal proceeding
- _____ The requested information was obtained under promise of confidentiality and access would be reasonably likely to reveal the source of the information
- _____ The requested information is temporarily unavailable because the individual is a research participant
- _____ Licensed health care provider has determined that access to the requested information would result in physical harm to the individual or others
- _____ Licensed health care provider has determined that the requested information identifies a third person who may be physically, emotionally, or psychologically harmed if access to the information is granted
- _____ Licensed health care provider has determined that access to the requested information by the patient's personal representative could result in harm to the individual
- _____ We are acting under the direction of a correctional institution and letting the inmate access or obtain a copy of the requested information would jeopardize the health, safety, security, custody, or rehabilitation of another person at the correctional institution
- _____ The requested information is not maintained by MAO



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RIGHT TO REVIEW:

_____ Yes

_____ No – Contact MAO Privacy Official with any questions.

You have a right to file a complaint with MAO and may do so by contacting MAO Privacy Official at: _____ (MAO phone number). You also have the right to file a complaint with the Secretary of the U.S. Department of Health and Human Services. Contact MAO Privacy Official for additional information.

_____	_____
Signature of Privacy Official	Date

Print name

If your request to copy the requested information has been granted, you will be charged a reasonable fee for photocopying and mailing.

Distribution of copies: Original to patient's Medical Record, copy to patient.



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NOTIFICATION OF TIME EXTENSION

Patient Name: _____

Medical Record No: _____

TYPE OF REQUEST:

_____ Request for Access to PHI of former patient

_____ Request to Amend PHI

_____ Request for an Accounting of Disclosures

Date of original request: _____

Original Due Date: _____

Request to Access: **30 days** from receipt of request.

Request for Amendment or Accounting: No more than **60 days** from receipt of request.

Revised Due Date (may not be more than 30 days from original due date):



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Reason that extension of time to respond is needed:

A copy of this *Notice of Time Extension* has been provided to the patient or the patient's personal representative.

Signature of Privacy Official

Date

Print Name

Distribution of copies: Original to patient's Medical Record, copy to patient.



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SAMPLE REVIEW DETERMINATION LETTER

[DATE]

[PATIENT NAME]

[ADDRESS]

Dear [PATIENT]:

Your request for review of the denial of access to your health information (see attached form) continues to be denied for the following reason(s):



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You may file a complaint with MAO by contacting the Privacy Official at _____
(MAO phone number). You also may file a complaint with the Secretary of the U. S. Department of
Health and Human Services. Please contact the Privacy Official for further information.

Very truly yours,

[SIGNATURE]

[PRINTED NAME AND TITLE]

B. CURRENT PATIENTS' ACCESS TO PROTECTED HEALTH INFORMATION

Purpose

To define *current* patients' right to access their medical records. Access to medical records is a patient right. MAO must meet the HIPPA time frames and other requirements when a current patient requests access. MAO may not deny access to a current patient, and cannot require the request for access to be in writing.

Policy

Every patient has the right to access his or her protected health information (PHI). MAO will respond to all requests to access a patient's health information. For current patients, HIPPA time lines must be adhered to in response to patient record access requests.

Procedure

Request to View Medical Records:

1. Refer the patient or legal* representative to MAO designated Health Information Manager/Medical Records Coordinator.
2. Confirm the requestor has the legal authority to view the record by determining who is considered a legal representative based on state law (e.g., guardian, conservator, durable power of attorney).
3. Set up a meeting within 24 hours as required by law. If the requestor cannot accommodate a meeting within the 24 hour time frame, the review should be set up at a mutually agreed upon time.
4. Assure a staff member is in attendance at all times during the meeting, to:
 - a. Answer questions,
 - b. Assure the record is not altered in any way, and
 - c. Assure documents are not removed/destroyed.
5. Allow the patient or legal representative to review and read the record without intervention from the staff member present.
6. Although HIPPA does not require the access request to be in writing, the preferred procedure is to complete an *Access to Protected Health Information* form. (See a sample form in the Policy "Former Patients' Access to Protected Health Information.")

* "Legal representative" is the same as "personal representative" as defined under HIPAA rules.

Request for a Copy of Medical Records:

1. Refer the patient or legal representative to MAO designated Health Information Manager/Medical Records Coordinator.
2. Confirm the requestor has the legal authority to view the record by determining who is considered a legal representative based on state law (e.g., guardian, conservator, durable power of attorney).
3. Although HIPPA does not require the access request to be in writing, the preferred procedure is to complete an *Access to Protected Health Information* form. (See a sample form in the Policy “Former Patients’ Access to Protected Health Information.”)
4. Disclose MAO’s charge for copying to the patient or legal representative at the time of the request.
5. Provide the patient or legal representative with the copies within two working days.
 - A. Accounting for Disclosures of Protected Health Information

C. ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION

Purpose

Patients have the right to receive an accounting of the disclosures of their Protected Health Information (“PHI”) maintained in their Designated Record Set. The following is the process for responding to a patient’s request for an accounting of disclosures of their PHI made by MAO.

Policy

Each patient may request and receive an accounting of trackable disclosures of PHI made by MAO. The potential areas where accounting of disclosures applies are listed in the *Notice of Privacy Practices*. MAO will provide such an accounting, in accordance with the HIPAA Privacy Rule, when requested by a patient or a patient’s personal representative. The requested information will not include PHI released or disclosed on or prior to April 13, 2003.

Records of disclosures are retained for a six-year period.

Procedure

1. Upon receiving an inquiry from a patient, MAO Privacy Official provides the patient or personal representative with a copy of a *Request for an Accounting of Disclosures of PHI* (“Request”) form. (See sample *Request* form following this Policy.) Requests are not evaluated until the *Request* form is completed and signed by the patient or personal representative.
2. MAO Privacy Official reviews and processes the request.

3. MAO provides a written accounting no later than 30 days after receipt. If MAO is unable to meet the 30-day time frame, MAO may extend the time once by no more than 30 days as long as the individual is provided with a written statement of the reasons for the delay and the date by which MAO will provide the accounting. (See the *Notification of Time Extension* form in the Policy “Former Patient’s Access to Protected Health Information.”)
4. A written accounting is provided to the requestor using an *Accounting of Disclosures* log. (See sample log following this Policy.)
- a. The accounting will include disclosures during the period specified by the patient or personal representative in the request. The specified period may be up to six years prior to the date of the request. Disclosures made on or before April 13, 2003 will not be included in the accounting.
 - b. MAO will include known disclosures made by its Business Associates, if aware of any such disclosures required to be included in an accounting.
 - c. For each disclosure, the accounting will include:
 - i. Date the request for disclosure was received;
 - ii. Name of entity requesting disclosure and, if known, the address of such person or entity;
 - iii. A brief description of the PHI that was disclosed; and
 - iv. A brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure.
 - d. If there are multiple disclosures for health oversight or law enforcement officials for a single purpose, MAO may provide:
 - i. The first disclosure during the accounting period;
 - ii. The frequency, or number of disclosures made during the accounting period;
 - iii. The date of the last such disclosure during the accounting period.
5. For disclosures of PHI for research purposes in a project consisting of fifty or more individuals, the accounting may provide:
- a. Name of protocol or other research activity;
 - b. Description and purpose of research, criteria for selecting particular records;
 - c. Brief description of the type of PHI disclosed;
 - d. Date or period of time during which disclosure(s) occurred, including date of last disclosure during accounting period;
 - e. Name, address, telephone number of entity that sponsored the research and of the researcher to whom the information was disclosed;

- f. Statement that PHI of the patient may or may not have been disclosed for a particular protocol or the research activity.
- 6. MAO will provide the first accounting to a patient or personal representative within a 12-month period without charge. However, MAO may impose a reasonable, cost-based fee for each subsequent request for an accounting by the same party within the 12-month period, provided MAO has informed the requesting party of the charges in advance, giving the party the opportunity to withdraw or modify the request.
- 7. MAO may exclude those disclosures that qualify as an exception.
- 8. MAO must document and retain for six years from the date of the accounting:
 - a. The information required to be included in the accounting, and
 - b. The written accounting provided to the requesting party.

Potential Areas Where Accounting of Disclosures is Applied:

- 1. For the purpose of preventing or controlling disease, injury or disability
 - a. To conduct public health surveillance
 - b. For public health investigations and interventions
 - c. For reporting vital events such as births and deaths
 - d. To a foreign government agency at the request of a public health authority
 - e. To report child/elder abuse
- 2. If necessary, to prevent or lessen a serious and imminent threat to the health or safety of an patient or the public
- 3. Disclosures to an Entity Subject to the Food and Drug Administration
 - a. To report adverse events, product defects or biological product deviations
 - b. To track products
 - c. To enable product recalls, repairs or replacements
 - d. To conduct post marketing surveillance
- 4. Disclosures to an Employer
 - a. Only PHI specific to a work-related illness or injury, and
 - b. Required for the employer to comply with its obligations under federal or state occupational safety and health laws
- 5. Disclosures to Health Oversight Agencies
 - a. For government benefit program eligibility
 - b. To determine compliance with civil rights laws
 - c. For civil, administrative or criminal investigations, proceedings or actions
- 6. Disclosures in Judicial and Administrative Proceedings
 - a. In response to a court order or court ordered warrant
 - b. In response to a subpoena, only if approved by MAO's Legal Department

7. Disclosures to Law Enforcement Officials
 - a. For the purpose of locating a suspect, fugitive, material witness or missing person
 - b. About a patient who is or is suspected to be a victim of a crime
 - c. Regarding crimes on MAO premises
 - d. Regarding suspicious deaths
 - e. In response to an administrative request, civil investigative demand or grand jury subpoena, after review by MAO's Legal Department
 - f. For the purpose of averting a serious threat to health or safety
8. Disclosures about victims of abuse, neglect or domestic violence to a government authority authorized by law to receive reports of abuse, neglect or domestic violence
9. Disclosure of Deceased Persons' PHI
 - a. To the Coroner, Medical Examiner or Funeral Directors
 - b. To organ procurement organizations
10. Disclosures for research; only if disclosure was made without an authorization as permitted by the Privacy rule
11. Disclosures for Specialized Government Functions
 - a. To Armed Forces personnel for military purposes
 - b. To authorized federal officials for the protection of the patient and other Federal officials
 - c. To other government agencies, if approved by MAO's Legal Department
12. Disclosures for Worker's Compensation: As authorized by and to the extent necessary to comply with the law

Exceptions To Accounting For Disclosures:

Accounting of disclosure does not include disclosures:

1. Necessary to carry out treatment, payment, and health care operations
2. To the patient for whom the PHI was created or obtained
3. Pursuant to a signed authorization by the patient or personal representative
4. For persons involved in the patient's care or other notification purposes
5. For national security or intelligence purposes
6. To a correctional institution
7. Temporarily suspended by a law enforcement official or health oversight agency (exception applies only during the period of suspension)
8. That are incidental
9. As part of a Limited Data Set
10. That occurred on or prior to April 13, 2003



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MAO

REQUEST FOR AN ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION

Patient's Name: _____ Medical Record Number: _____

Date Range to be Included

I would like an accounting of disclosures of my Protected Health Information (PHI) for the following time frames.

(Please note the maximum time frame that can be requested is six years prior to the date of this request.)

From Date	_____	To Date	_____
From Date	_____	To Date	_____
From Date	_____	To Date	_____

Fees

First request in a 12-month period: Free

Subsequent Requests:

Alabama Code Section 12-21-6.1:

“One dollar (\$1) for each page of the first 25 pages

Not more than 50 cents (\$0.50) for each page in excess of 25 pages

A search fee of five dollars (\$5)

If the medical records are mailed to the person making the request, reasonable costs shall include the actual costs of mailing the medical records



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A person may charge in addition to the above fees, the actual cost of reproducing X-rays and other special medical records”

I understand that there may be a fee for this accounting and wish to proceed. I also understand that the accounting will be provided to me within 30 days unless I am notified in writing that an extension of up to 30 days is needed.

Qualified Exceptions to the Accounting

I understand that, by law, MAO is not required to account for disclosures that meet the following criteria:

1. The disclosure was necessary to carry out treatment, payment, and health care operations.
2. The disclosure was to the patient for which the PHI was created or obtained.
3. The disclosure was pursuant to a signed authorization by the patient or personal representative.
4. The disclosure was to persons involved in the patient’s care or other notification purposes.
5. The disclosure was for national security or intelligence purposes.
6. The disclosure was to a correctional institution or law enforcement official.
7. The disclosure occurred prior to April 13, 2003.

Signature of Patient or Personal representative

Date

Distribution of copies: Original to patient’s Medical Record, copy to patient



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MAO

ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION

In Response to Request for Accounting

Patient's Name:

Medical Record Number:

MAO's Name:

MAO Number:

Date Provided:

Date Requested:

Fee for Service:



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Name of Entity Requesting Disclosure	Address of Entity Requesting Disclosure	Brief Description of PHI Disclosed	Purpose of Disclosure	Date Disclosed

Signature of MAO Privacy Official: _____

Distribution of copies: Original to patient's Medical Record, copy to patient

D. AMENDMENT OF PROTECTED HEALTH INFORMATION

Purpose

This Policy is to provide a process for responding to a patient's request for an amendment to Protected Health Information ("PHI").

Policy

A patient has the right to request that MAO amend his PHI maintained in the Designated Record Set for as long as the PHI is maintained. The policy of MAO is to respond to a patient's request for amendment of PHI in accordance with the HIPAA Privacy Rule. This policy contains the procedures for approving an amendment, denying an amendment and making an amendment at the request of another covered entity.

Note: The *Notice of Privacy Practices* states that an amendment is not necessary to correct clerical errors.

Procedure

1. The patient will be notified of the right to amend his PHI in the *Notice of Privacy Practices*.
2. MAO Privacy Official ("Privacy Official") will process all requests for amendment.
3. Upon receiving an inquiry from a patient regarding the right to amend his/her PHI, the Privacy Official will provide the patient with a copy of an *Amendment of Protected Health Information* ("Amendment of PHI") form. A request for amendment will not be evaluated until the request form is completed and signed by the patient or personal representative.

(See *Amendment of PHI* form following this Policy.)

Evaluating and Responding to the Request for Amendment

1. The Privacy Official will date stamp or write the date received and initial the *Amendment of PHI* form.
2. The Privacy Official will make a determination to accept or deny the amendment after consultation with the appropriate staff, if needed.
3. The Privacy Official shall act on the request for amendment no later than 60 days after receipt of the request.
 - a. If the amendment is accepted, MAO staff shall make the amendment and inform the patient within 60 days of the written request.
 - b. If the amendment is denied, MAO shall notify the patient in writing of the denial within 60 days of the written request.
4. If MAO is unable to act on the request for amendment within 60 days of receipt of the request, it may have one extension of no more than 30 days. The Privacy Official will notify the patient in

writing of the extension, the reason for the extension and the date by which action will be taken. (See the sample *Notification of Time Extension* in the Policy “Former Patient’s Access to Protected Health Information.”)

Denial of Request for Amendment

1. MAO may deny the request for amendment in whole or in part if:
 - a. The PHI was not created by MAO (i.e., an Advance Directive). An exception may be granted if the patient provides a reasonable basis to believe that the creator of the PHI is no longer available to act on the requested amendment and it is apparent that the amendment is warranted. For example, a hospital or clinic, which has given MAO information on a patient, has since closed its doors and left no means of obtaining its past information or records that were destroyed by fire or flood with no backup copies available.

Note: This should rarely be the case. Every other avenue will be explored before an amendment is made to information that was not created by MAO.

- b. The PHI is not part of the Designated Record Set (i.e., information gathered on worksheets or daily communication sheets that do not become a part of the Medical Record and are not retained).
 - c. The PHI would not be available for inspection under the HIPAA Privacy Rule.
 - d. The PHI that is subject to the request is accurate and complete.
2. If the Privacy Official, in consultation with the appropriate staff, determines that the request for amendment is denied in whole or in part, the Privacy Official will provide the patient with a timely amendment denial letter. The denial shall be written in plain language and shall contain:
 - a. The basis for the denial;
 - b. A statement that the patient has a right to submit a written statement disagreeing with the denial and an explanation of how the patient may file such statement;
 - c. A statement that, if the patient does not submit a statement of disagreement, the patient may request that MAO include the patient’s request for amendment and the denial with any future disclosures of the PHI that is the subject of the amendment;
 - d. A description of how the patient may file a complaint with MAO or to the Secretary of the U.S. Department of Health and Human Services. The description must include the name or title and telephone number of the contact person for complaints. (See the Policy “Complaints.”)
3. The patient may submit a written statement of disagreement.
4. If the patient submits a written statement of disagreement, MAO may prepare a written rebuttal to the statement. MAO shall provide a copy of the written rebuttal to the patient who submitted the statement.

5. The following documentation must be appended (or otherwise linked) to the PHI that is the subject of the disputed amendment:
 - a. The patient's *Amendment of PHI* form;
 - b. MAO's amendment denial letter;
 - c. The patient's statement of disagreement, if any; and
 - d. MAO's written rebuttal, if any.

Future Disclosures of PHI that is the Subject of the Disputed Amendment

1. If the patient submitted a statement of disagreement, MAO will disclose all information listed in Item 5 above or an accurate summary of such information with all future disclosures of the PHI to which the disagreement relates.
2. If the patient did not submit a statement of disagreement, and if the patient has requested that MAO provide the *Amendment of PHI* form and the amendment denial letter with any future disclosures, MAO shall include these documents (or an accurate summary of that information) with all future disclosures of the PHI to which the disagreement relates.

Acceptance of the Request for Amendment

If MAO accepts the requested amendment, in whole or in part, MAO will take the following steps:

1. MAO Privacy Official shall place a copy of the amendment in the patient's Medical Record or provide a reference to the location of the amendment within the body of the Medical Record.
2. The Privacy Official shall notify the relevant persons with whom the amendment needs to be shared, as identified by the patient on the original *Amendment of PHI* form.
3. The Privacy Official shall identify other persons, including Business Associates that it knows have the PHI and that may have relied on, or could foreseeably rely on, such information to the detriment of the patient. The Privacy Official will inform the patient of, and obtain the patient's agreement to notify such other persons or organizations of the amendment.
4. The Privacy Official shall make reasonable efforts to inform and provide the amendment within a reasonable time to:
 - a. Persons identified by the patient as having received the PHI and needing the amendment;
 - b. Persons, including Business Associates, that MAO knows have the PHI and may have relied, or could foreseeably rely, on such information to the detriment of the patient.
5. If no additional persons needing notification of the amendment are identified, the Privacy Official shall inform the patient in writing that the amendment has been accepted.

Actions on Notices of Amendment

If another Covered Entity notifies MAO of an amendment to PHI it maintains, the Privacy Official shall make the amendment to the patient's Designated Record Set.

1. Amendments to the Designated Record Set shall be filed with that portion of the PHI to be amended.
2. Amendments that cannot be physically placed near the original PHI will be filed in an appropriate location.
3. If it is not possible to file the amendment(s) with that portion of the PHI to be amended, a reference to the amendment and its location will be added near the original information location.
4. If the actual amendment is not in an easily recognized location near the original information, the reference should indicate where it could be found.
5. General information regarding requests for amendment, forms relating to amendments and correspondence relating to denial or acceptance of requests to amend will be filed in the patient's Medical Record. (See sample Acceptance, Denial, and Notification letters following this Policy.)



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MAO

AMENDMENT OF PROTECTED HEALTH INFORMATION

Date Received: _____

Initials of Privacy Official: _____

SECTION A: Patient to complete the following information

Date: _____

Patient Name: _____ Medical Record Number _____

Address: _____

REQUEST:

I hereby request that MAO amend the following in my Designated Record Set **(check all that apply)**:

_____ My Medical Records _____ My Business Office Files

Date(s) of information to be amended (i.e., date of visit, treatment, or other health care services)



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The information is incorrect or incomplete in the following manner:

I request this amendment for the following reason(s):

The information should be amended as follows:

I understand that MAO may or may not supplement my record with an addendum based on my request.
I also understand that MAO is not able to alter the original documentation in a record under any



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circumstances. Regardless whether my request is granted or denied, I understand that this request will be made a part of my permanent Medical Record and will be sent as part of the Medical Record in response to any authorized requests for release of my Protected Health Information.

Signature of Patient or Personal Representative

Date

Print Name

Personal Representative's Title/Relationship

(e.g., Guardian, Executor of Estate, Health Care Power of Attorney)



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AMENDMENT OF PROTECTED HEALTH INFORMATION

SECTION B: MAO to complete the following

Date of Receipt of Request _____

Request for correction / amendment has been: _____ Accepted _____ Denied

If denied, check reason for denial:

_____ The PHI was not created by this MAO.

_____ The PHI is not part of patient's Designated Record Set.

_____ The PHI is not available to the patient for inspection as required by federal law (i.e., psychotherapy notes)

_____ The PHI is accurate and complete.



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NOTICE TO PATIENT/OTHERS

Patient and/or others notified of determination via one or more of the following **(check all that apply)**:

_____ *Amendment Acceptance Letter* sent to patient on _____ (date).

_____ *Amendment Acceptance with Consent to Notify* sent to patient on _____
(date).

_____ *Notification of Amendment* sent to identified persons pursuant to patient authorization on
_____ (date).

Signature of Privacy Official

Date

Print Name

Distribution of copies: Original to patient's Medical Record, copy to patient



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SAMPLE AMENDMENT ACCEPTANCE LETTER

[DATE]

[PATIENT NAME]

[ADDRESS]

Dear [PATIENT]:

Your request to amend your Protected Health Information (see attached form) has been approved. We will notify the individuals and/or organizations that you identified in the original amendment request.

Very truly yours,

[AUTHOR SIGNATURE]

[PRINTED NAME AND TITLE]



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SAMPLE MAO

AMENDMENT ACCEPTANCE WITH CONSENT TO NOTIFY LETTER

[DATE]

[PATIENT NAME]

[ADDRESS]

Dear [PATIENT]:

Your request to amend your Protected Health Information (see attached form) has been approved. We will notify the individuals and/or organizations that you identified in the original amendment request.

In addition, we have identified the following individuals and/or organizations that received your Protected Health Information. We are not permitted to notify these individuals and/or organizations without your written agreement. If you would like us to notify the individuals and/or organizations listed below, you must sign, date, and return this statement to us.

Very truly yours,

[AUTHOR SIGNATURE]

[PRINTED NAME AND TITLE]



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I hereby request and consent to the notification of the above-identified persons and/or organizations who have previously received my Protected Health Information regarding the approval of my request for amendment.

Signature of Patient or Personal Representative

Date

Print Name

Personal Representative's Title/Relationship

(e.g., Guardian, Executor of Estate, Health Care Power of Attorney)



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SAMPLE MAO

NOTIFICATION OF AMENDMENT LETTER

[DATE]

[Name of Individual/Organization to Receive *Notification of Amendment*

[ADDRESS]

Re: [PATIENT]

Approval of Amendment of Protected Health Information

Dear [RECIPIENT]

We have agreed to a request from the above-referenced patient to amend his/her Protected Health Information as outlined on the attached form entitled "*Amendment of Protected Health Information.*"

In compliance with the HIPAA Privacy Rule (45 CFR §164.526—Amendment of Protected Health Information), we are providing you with proper notification of this approved amendment.

Thank you.

Very truly yours,

[AUTHOR SIGNATURE]

[PRINTED NAME AND TITLE]



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SAMPLE MAO

AMENDMENT DENIAL LETTER

[DATE]

[PATIENT NAME]

[ADDRESS]

Dear [PATIENT]:

Your request to amend your Protected Health Information (see attached form) has been denied for the following reason(s):

You have the right to submit a written statement disagreeing with the denial. If you choose to do so, submit your statement to MAO Privacy Official.

If you do not submit a statement of disagreement, you may request that MAO include your request for amendment and the denial in any future disclosures of your Protected Health Information.

You may file a complaint with our MAO by contacting MAO Privacy Official at _____ (MAO phone number). You also may file a complaint with the Secretary of the U.S. Department of Health and Human Services. Please contact MAO Privacy Official for contact information.

Very truly yours,

[SIGNATURE]

[PRINTED NAME AND TITLE]

E. ALTERNATE COMMUNICATION OF PROTECTED HEALTH INFORMATION

Purpose

To ensure the patient's right to request that communications of Protected Health Information ("PHI") be delivered by alternative means or at alternate locations.

Policy

A patient will be allowed to request that MAO communicate PHI to him by alternative means or at alternative locations. MAO shall accommodate reasonable requests.

Procedure

1. The patient will be notified of the right to request communication by alternative means or at alternative locations in MAO's *Notice of Privacy Practices*.
2. MAO Privacy Official will manage requests to receive communications by alternative means.
3. When an inquiry is received from a patient regarding the right to request that MAO communicate with him or his personal representative by some alternate means, MAO will provide the patient with a copy of *A Request for Communications by Alternative Means* ("*Request for Communications*") form. A request will not be evaluated until this request form is completed and signed by the patient or personal representative.

(See sample *Request for Communications* form following this Policy.)

4. The Privacy Official will review the completed *Request for Communications* form to determine if it is a reasonable request. MAO may not require an explanation for the request. MAO's decision will not be based on the perceived merits of the request. MAO will accommodate a request determined to be reasonable.
5. The Privacy Official will complete the Response section of the *Request for Communications* form to inform the patient of MAO's decision.
6. The Privacy Official shall maintain all requests and responses in the appropriate location in the patient's Medical Record. (See the Policy "Retention of Protected Health Information.")



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MAO

REQUEST FOR COMMUNICATION BY ALTERNATIVE MEANS/LOCATION

Patient Name: _____

Medical Record Number _____

Patient Address:

I wish to receive communication of my Protected Health Information from MAO by the following means:

Signature of Patient or Personal Representative

Date

Print Name

Personal Representative's Title/Relationship

(e.g., Guardian, Executor of Estate, Health Care Power of Attorney)



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Response to Request

Date Request Received: _____

Alternative communication has been:

_____Accepted

_____Declined: The request is not reasonable because:

Signature of Privacy Official

Date

Print Name

DISTRIBUTION OF COPIES: ORIGINAL TO PATIENT'S MEDICAL RECORD, COPY TO PATIENT

F. COMPLAINTS

Purpose

To ensure that an effective complaint process is in place to deal with privacy violations. The process is to include:

1. Identification of a privacy designee who is responsible for receiving complaints.
2. A method for documenting receipt of complaints and their resolution.
3. Assurance that no individual will be required to waive their rights to file a complaint with the Department of Health and Human Services.

Policy

It is the policy of MAO to ensure the privacy of Protected Health Information (“PHI”) as well as to ensure that such information is used and disclosed in accordance with all applicable laws and regulations. Any concerned individual has the right to file a formal complaint concerning privacy issues without fear of reprisal. Such issues could include, but are not limited to, allegations that:

1. PHI that was used/disclosed improperly;
2. Access or amendment rights were wrongfully denied; or
3. MAO’s *Notice of Privacy Practices* does not reflect current practices accurately.

Procedure

1. All patients or their personal representatives will be notified of their right to complain to MAO or the Department of Health and Human Services in MAO’s *Notice of Privacy Practices*.
2. All concerns may be registered by telephone, mail, or in person.
3. Upon receipt of a complaint about a MAO’s privacy policies or its compliance with those policies or the law, the complaint will be recorded on a *Complaint Log* or *Complaint Regarding Use or Disclosure of Protected Health Information* (“*Complaint*”) form. (See sample *Complaint* form and *Complaint Log* following this Policy.)
4. MAO Privacy Official will review the *Complaint* form/log to ensure that the information is complete, and take the necessary steps to get complete information:
 - a. Document the date, time, and name of the person making the complaint in the *Complaint Log*.
 - b. Investigate the complaint.
 - c. Document the resolution of the complaint.
5. Once the *Complaint* form/log is completed correctly, MAO Privacy Official will review and investigate the complaint to determine if a violation of the law or MAO policies has occurred.

6. Following this review, MAO Privacy Official shall submit his or her findings to the Privacy Officer for final review. (See sample *Resolution of Complaint Regarding Uses/Disclosures of PHI* form following this Policy.)
7. The Privacy Officer shall determine the substance of the findings and will direct MAO Privacy Official as to the content and method of response:
 - a. Document the resolution of the complaint.
 - b. Communicate the outcome of the complaint with the individual filing the complaint within 30 days from receipt of complaint.
8. MAO Privacy Official shall maintain documentation of all complaints received and their disposition for a period of at least six years (from the date of creation) in accordance with federal regulations.



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MAO

COMPLAINT REGARDING USES/DISCLOSURES

OF PROTECTED HEALTH INFORMATION

Tracking Number _____

This form is to be used to file a complaint with MAO regarding its privacy policies and procedures, and its compliance with those policies and procedures or the federal Privacy Rule.

When this form is complete, please return it to:

Patient Information	Requester's information (if not the patient)
<hr/> <p>Name</p>	<hr/> <p>Name</p>
<hr/> <p>Location</p>	<hr/> <p>Relationship to the Customer</p>
<hr/> <p>Date of Birth</p> <hr/> <p>SSN</p>	<hr/> <p>Source of Legal Authority</p>

Date of incident: _____/or ☐ The practice is ongoing

Time of incident: _____/or ☐ Not applicable

Please describe the practice or incident about which you wish to complain:

Name & title of person(s) involved, if known: _____

Please describe why you believe that this practice or incident was improper:

Please attach any documentation that supports your complaint to this form.

I certify that the information recorded above is true to the best of my knowledge, and that I have a good faith belief that such practice or incident is a violation of federal laws regarding the handling of a patient's health information or of MAO's privacy policies and procedures.

Signature:

Date:

MAO
RESOLUTION OF COMPLAINT REGARDING USES/DISCLOSURES
OF PROTECTED HEALTH INFORMATION

Person investigating the complaint:

Name_____

Location_____

Tracking Number: _____

Date_____

Resolution or Conclusion of investigation:

Comments:

Date and Time Resolution Communicated to Individual:

Approval of Privacy Officer

Name _____

Date_____

Comments/Instructions:

MAO

LOG OF INTERNAL COMPLAINTS REGARDING PRIVACY ISSUES

DATE RECEIVED	IDENTITY OF INDIVIDUAL MAKING COMPLAINT (IF KNOWN)	PERSON RECEIVING COMPLAINT	NATURE OF COMPLAINT	STEPS TAKEN TO RESOLVE COMPLAINT	DATE OF RESOLUTION	Method Filed	Tracking Number
Example: 04/20/18	Hotline – anonymous	Pam Peters – privacy officer	Computer screens at nursing station not shielded from visitor view	Computer terminals moved to area at nursing station where they cannot be seen by passerby; monitor screen shields installed	05/02/18		

DATE RECEIVED	IDENTITY OF INDIVIDUAL MAKING COMPLAINT (IF KNOWN)	PERSON RECEIVING COMPLAINT	NATURE OF COMPLAINT	STEPS TAKEN TO RESOLVE COMPLAINT	DATE OF RESOLUTION	Method Filed	Tracking Number

G. RESTRICTIONS TO PERMITTED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

Purpose

To provide a process for a patient to request a restriction to an otherwise permitted use or disclosure of the patient's Protected Health Information ("PHI"), and for MAO to respond to such request.

Policy

A patient has the right to request that otherwise permitted uses and disclosures of PHI be restricted. Specifically, the patient may request restrictions on:

1. The use and disclosure of PHI for treatment, payment or health care operations, or
2. The disclosures to family, friends or others for involvement in care and notification purposes.

MAO is not required to comply with such requests for restriction, but will consider and may agree to a restriction. MAO will consider the need for access to PHI for treatment purposes when considering a request for a restriction. A request for restriction must be made in writing. MAO Privacy Official ("Privacy Official") will notify the patient of its determination with respect to the request.

Procedure

1. The patient will be notified of the right to request restrictions on the use and disclosure of PHI in MAO's *Notice of Privacy Practices* and that the request must be in writing.
2. The Privacy Official shall manage requests for restrictions. All documentation associated with this request will be placed in the patient's Medical Record.
3. The Privacy Official will provide the patient a *Request to Restrict Use and Disclosure of Protected Health Information* ("*Request to Restrict*") form if the patient asks to make a restriction. (See sample *Request to Restrict* form following this Policy.)
4. A request for restriction will not be reviewed until the *Request to Restrict* form is completed and signed by the patient. The Privacy Official may assist the patient in completing the form, if necessary.
5. The Privacy Official will review the request in consultation with other MAO staff to determine the feasibility of the request. MAO shall give primary consideration to the need for access to the PHI for treatment and payment purposes in making its determination.
6. The Privacy Official shall complete the "MAO Response" section of the *Request to Restrict* form and provide a copy to the patient.

Restriction Not Accepted

If MAO declines the request for restriction, the Privacy Official will provide the patient with a copy of the signed response (part of the *Request to Restrict* form).

Restriction Accepted

1. If MAO agrees to the requested restriction, it must abide by the accepted restriction with the following exceptions:
 - a. MAO may use the restricted PHI, or may disclose such information to a health care provider if:
 - i. The patient is in need of emergency treatment, and
 - ii. The restricted PHI is needed to provide emergency treatment. In this case, MAO will release the information, but ask the emergency treatment provider not to further use or disclose the patient's PHI.
 - b. MAO may disclose the information to the individual who requested the restriction.
 - c. MAO may use and disclose the restricted PHI when statutorily required to use and disclose the information under the HIPAA Privacy Rule.
2. The Privacy Official will notify appropriate MAO staff of the restriction.
3. The Privacy Official will document the restriction on the *Request to Restrict* form, provide the patient with a copy and maintain the original in the patient's Medical Record.

Terminating the Restriction

Termination with the patient's agreement

1. MAO may terminate the accepted restriction if:
 - a. The patient agrees to the termination in writing; or
 - b. The patient agrees to the termination verbally and the verbal agreement is documented.
2. The Privacy Official will notify the appropriate MAO staff of the termination of the restriction.
3. The Privacy Official will document the patient's agreement to the termination of the restriction on the *Request to Restrict* form, provide the patient with a copy and maintain the documentation in the patient's record.
4. Termination of a restriction with the patient's agreement is effective for all PHI created or received by MAO.

Termination without the patient's agreement

1. MAO may terminate the restriction without the patient's agreement if it informs the patient that the restriction is being terminated.
2. Such termination is only effective with respect to PHI created or received after MAO has informed the patient that it is terminating the restriction.

Note: MAO must continue to abide by the restriction with respect to any PHI created or received before it informed the patient of the termination of the restriction.

3. Inform by mail: If the patient is informed by mail that MAO is terminating the restriction, the notification shall be sent via certified mail, return receipt requested. MAO shall maintain a copy of the notification and of the return receipt with the *Request to Restrict* form. MAO shall not terminate the restriction until it receives confirmation that the patient has received the notification.
4. Inform in person: It is preferable to have the patient sign and date a notification of termination of a restriction. However, it will be acceptable to document that the patient was so notified on the *Request to Restrict* form.
5. Inform via telephone: If the patient is informed by telephone, this action shall be documented on the *Request to Restrict* form. In addition, a letter shall be sent via certified mail, return receipt requested. The termination shall be effective as of the date the patient is informed by telephone.

MAO
REQUEST TO RESTRICT USE AND DISCLOSURE
OF PROTECTED HEALTH INFORMATION

Patient Name: _____

Medical Record No: _____

Address: _____

Do not disclose my general condition to: _____.

Signature of Patient or Personal Representative

Date

Print Name

Personal Representative's Title/Relationship

(e.g., Guardian, Executor of Estate, Health Care Power of Attorney)

Other Restrictions: I request the following restriction(s) on the use or disclosure of my Protected Health Information:

Do not release information to the following person(s):

Other restriction (please specify):

Signature of Patient or Personal Representative

Date

Print Name

Personal Representative's Title/Relationship

(e.g., Guardian, Executor of Estate, Health Care Power of Attorney)

***REQUEST TO RESTRICT USE AND DISCLOSURE
OF PROTECTED HEALTH INFORMATION***

MAO RESPONSE:

_____ Your request for restriction has been declined.

_____ Your request for restriction has been accepted. In the case of an emergency or if necessary to comply with the law, we may use and disclose your health information in violation of the restriction. Other than in those circumstances, we will abide by your request unless and until the restriction is terminated (with or without your agreement) and you are notified.

Signature of MAO Privacy Official

Date

Print Name

TERMINATION OF RESTRICTION

The above name patient agreed to terminate this restriction on:

_____.

The above named patient was notified on _____ (date) that this restriction was terminated.

Patient was notified: (check appropriate box)

_____ In person

_____ By telephone (attach documentation of notification)

_____ By mail (attach documentation of notification)

Signature of MAO Privacy Official

Date

Print Name

Distribution of copies: Original to patient's Medical Record; copy to patient

IV. OTHER REQUIREMENTS

A. BUSINESS ASSOCIATES

Purpose

The purpose of this Policy is to provide a process for establishing a written agreement with each of MAO's Business Associates ("BA") as required by the HIPAA Privacy Rule.

Policy

MAO contracts with various outside entities and organizations to perform functions or provide services on behalf of MAO that may involve the disclosure of Protected Health Information ("PHI") to the outside entity. These outside entities are MAO's Business Associates. The policy of MAO is to obtain written assurances from BAs that they will appropriately safeguard any PHI they create or receive on MAO's behalf. Such written assurances will be in place before MAO discloses PHI to the Business Associate.

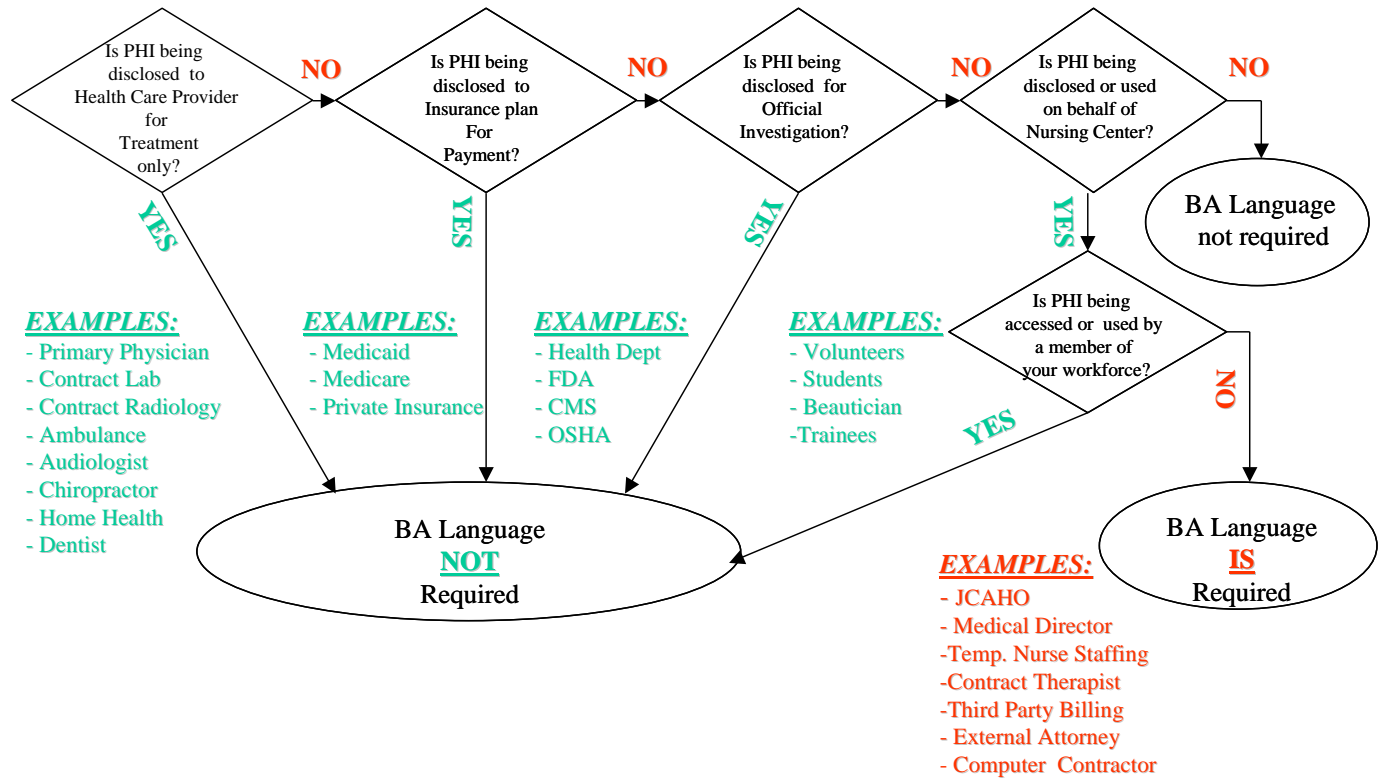
Procedure

1. MAO Administrator will follow established procedures regarding contract review, revision and approval to assure that contract is in compliance with state and federal law.
2. For each contract, determine whether a Business Associate Agreement is necessary. (See the "Business Associate Decision Tree" following this Policy.) Common examples of BAs are:
 - a. An attorney who reviews patient information to assist in internal audits or any other matter that requires the disclosure of PHI to the attorney
 - b. Medical Records Consultant

Note: Business Associate language is **not** required when the BA is a health care provider and all disclosures to the BA concern the treatment of a patient.
3. If a BA Agreement is necessary and the third party provides its own BA Agreement, review the Agreement to assure it meets all requirements of the Privacy Rule. (See "Business Associate Checklist" following this Policy.)
4. If a BA Agreement is necessary, and the third party does not provide the Agreement, submit MAO's template BA Agreement for approval by the third party.
5. If the BA refuses to sign the BA Agreement, the HIPAA Privacy Rule prohibits MAO from disclosing any PHI to the BA. If the BA requires access to PHI in order to perform the function or service on behalf of MAO, MAO shall not contract with the BA.
6. The original signed contract and contract addendum containing BA language shall be maintained by MAO.


7. Violations of BA Requirements - If MAO staff learns of a breach or violation of a BA requirement by a BA, such breach or violation shall be reported to the Privacy Officer, his designee, or to the Compliance Department. The Privacy Officer or Compliance Designee will assist MAO in determining whether reasonable steps can be taken to cure the breach. If MAO's reasonable steps to cure the BA's violations are unsuccessful, MAO may:
 - a. Terminate the contract or arrangement; or
 - b. If termination is not feasible, report the problem to the Secretary of the U. S. Department of Health and Human Services.
8. Notice of Termination of a Contract with a BA - MAO shall notify the Privacy Officer, his designee or the Legal Department when issuing or receiving a notice of contract termination involving a BA. The Legal Department will assist with contacting the BA regarding the BA's obligations to return or destroy all PHI or, if return or destruction is not feasible, to extend the protections of the BA requirements to the PHI and to limit further uses and disclosures to those purposes that make the return or destruction of the PHI infeasible.
 - a. The contract and contract addendum must be retained for six years after the contract was last in effect.

DECISION TREE: WHEN IS BA LANGUAGE REQUIRED?



MAO

BUSINESS ASSOCIATE CHECKLIST

Contract Provision	Reg. Cite	Requirement	Related provisions, comments
	164.504(e)(2)(i)	Establish permitted and required uses and disclosures of PHI by BA	Final rule – must generally state purposes, reasons for use/disclosure and types of persons to whom info can be disclosed
	164.504(e)(2)(i)	May <u>not</u> authorize BA to use or further disclose info in a manner that would violate requirements of subpart if done by CE except: 	Must include “minimum necessary” language, either within this clause, or as a separate clause. <i>BA shall use/disclose PHI only in the minimum amount and to the minimum number of individuals necessary to achieve the purpose of the services being rendered to or on behalf of CE.</i>
	164.504(e)(2)(i)(A)	May permit BA to use or disclose PHI for “proper management & administration of BA as permitted by (e)(4)	
	164.504(e)(4)(i)(A) and (B)	<u>May permit BA to use PHI</u> – in its capacity as a BA if necessary for the proper management & administration of BA or to carry out	

Contract Provision	Reg. Cite	Requirement	Related provisions, comments
		the legal responsibilities of BA.	
	164.504(e)(4)(ii)	<u>May permit BA to disclose</u> PHI – in its capacity as a BA for same purposes, but only if disclosure is →	
	164.504(e)(4)(ii)(A)	Required by law or ↓	
	164.504(e)(4)(ii)(B)(1)	BA obtains reasonable assurances from person to whom info is disclosed that info will be held confidentially and used or further disclosed only as required by law or for purpose <u>for which it was</u> → disclosed to the person AND	
	164.504(e)(4)(ii)(B)(2)	The person to whom the information was disclosed notifies BA of any instance of which it is aware in which the confidentiality of the information has been breached.	
	164.504(e)(2)(i)(B)	BA may provide data aggregation services relating to the health care operations of the covered entity.	
	164.504(e)(2)(ii)(A)	BA will not use or further disclose the information other than as permitted or required by the contract or as required by law.	
	164.504(e)(2)(ii)(B)	BA will use appropriate safeguards to prevent use or disclosure of the information other than as provided for by its contract.	
	164.504(e)(2)(ii)(C)	BA will report to the CE any use or disclosure of the information not provided for by its contract of which it becomes aware.	Negotiate time and manner of reporting with BA – in writing,

Contract Provision	Reg. Cite	Requirement	Related provisions, comments
			to whom, time frame, etc.
	164.504(e)(2)(ii)D	BA will ensure that any agents, including a subcontractor, to whom it provides PHI received from, or created or received by the BA on behalf of, the CE agrees to the same restrictions and conditions that apply to the BA with respect to such information.	May want BA to list subcontractors and agents in exhibit.
	164.504(e)(2)(ii)E	<u>Access</u> : BA will make available PHI in accordance with 164.524 .	Not necessary if BA does not have PHI in a designated record set.
	164.504(e)(2)(ii)F	<u>Amendment</u> : BA will make available PHI for amendment and incorporate any amendments to PHI in accordance with 164.526 .	Not necessary if BA does not have PHI in a designated record set.
	164.504(e)(2)(ii)G	<u>Accounting</u> : BA will document disclosures of PHI as would be required for CE to respond to a request for an accounting.	
	164.504(e)(2)(ii)G	<u>Accounting</u> : BA will make available PHI to provide an accounting of disclosures in accordance with 164.528 .	
	164.504(e)(2)(ii)H	BA will make internal practices, etc. available to the Secretary.	
	164.504(e)(2)(ii)I	<u>Termination</u> : BA will – if feasible – return or destroy all PHI received from, or created or received by the BA on behalf of the CE. BA will retain no copies of such information. If return or destruction of such information is not feasible, BA will extend the protections of the K to the information and limit further uses and disclosures to those purposes that make the return or the	

Contract Provision	Reg. Cite	Requirement	Related provisions, comments
		destruction of the information infeasible.	
	164.504(e)(2)(iii)	Authorize termination by CE if CE determines that the BA has violated a material term of the contract.	
	Not required by Privacy Rule	<u>MITIGATION</u>	Not required by law, but included in sample language in final rule.
	Not required by Privacy Rule	Insurance	If main contract has insurance clause, may not be necessary in addendum.
	Not required by Privacy Rule	<u>Inspection</u> Allow CE to inspect BA's systems, books, records if CE becomes aware of a breach	CE is not required to monitor BA's activities for Privacy Rule purposes.
	Not required by Privacy Rule	Indemnification	If main contract has indemnification clause, may not be necessary in addendum.
	Not required by Privacy Rule	<u>Interpretation/ambiguity</u> – broadly as necessary to implement and comply with the Privacy Rule and applicable state laws. Any ambiguity shall be resolved in favor of a meaning that complies and is consistent with the Privacy Rule.	
	Not required by Privacy Rule	<u>Amendment to comply with law</u> - Modification of K to be in compliance with Privacy Rule	

Contract Provision	Reg. Cite	Requirement	Related provisions, comments
	Not required by Privacy Rule	<u>Assistance in litigation or administrative proceedings</u>	If main contract has this type of clause, may not be necessary in addendum.
	Not required by Privacy Rule	<u>Conflict with contract</u> – addendum controls as it relates to PHI	

B. DE-IDENTIFICATION OF PROTECTED HEALTH INFORMATION

Purpose

To convert individually identifiable Protected Health Information (“PHI”) into information that no longer reveals the identity of any patient.

Policy

When patient PHI is used or disclosed for purposes other than treatment, payment or health care operations and/or without patient or personal representative authorization, the PHI must be converted into a format that does not identify the patient. This conversion process is called de-identification of PHI.

The Health Insurance Portability and Accountability (HIPAA) Privacy Rule does not apply to de-identified health information.

MAO meets the de-identification standard if it has removed all of the required identifiers and if MAO has no actual knowledge that the information could be used to identify a patient.

Procedure

1. MAO will convert patient PHI into a format that does not identify the patient (de-identify) when:
 - a. PHI is used or shared for purposes other than treatment, payment or health care operations, or
 - b. Information is used or shared without patient authorization.
2. MAO will de-identify the PHI by one of the following methods:
 - a. Elimination of all identifiers:
 - i. Names.
 - ii. All geographic subdivisions smaller than a state, including street address, city, county, precinct, zip code and their equivalent geocodes, except for the initial three digits of a zip code if the geographic area contains more than 20,000 people. If less than 20,000 people are found to be in this area based on the first three digits of the zip code, the code must be changed to 000.
 - iii. All elements of dates (except year) for date directly related to a patient including birth date, admission date, discharge date, date of death: and all ages over 90 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older.
 - iv. Telephone numbers.
 - v. Fax numbers.

- vi. Electronic mail address.
- vii. Social security numbers.
- viii. Medical Record numbers.
- ix. Health plan beneficiary numbers.
- x. Account numbers.
- xi. Certificate/license numbers.
- xii. Vehicle identifiers and serial numbers, including license plate numbers.
- xiii. Device identifiers and serial numbers.
- xiv. Web Universal Resource Locators (URLs).
- xv. Internet Protocol (IP) address numbers.
- xvi. Biometric identifiers, including finger and voiceprints.
- xvii. Full face photographic images and any comparable images.
- xviii. Any other unique identifying number, characteristic, or code.

Note: In addition to removing the above identifiers, MAO must not have actual knowledge that the information could be used alone or in combination with other information to identify a patient who is a subject of the information.

- b. Statistical De-Identification: A person with appropriate knowledge of and experience with generally accepted statistical and scientific principles and methods for rendering information not individually identifiable applies such principles and determines that the risk is very small that the information could be used to identify the patient. The methods and the results of the analysis must be documented.
3. Re-Identification: MAO may assign a code that would allow the information to be re-identified by MAO as long as the code is not derived from or related to information about the patient and is not otherwise capable of being translated so as to identify the patient. MAO must not use or disclose the code or any other means of record identification for any other purpose and must not disclose the mechanism for re-identification.

C. MARKETING AND FUNDRAISING

Purpose

To ensure that all marketing and fundraising communications comply with the HIPAA Privacy Rule's requirements, as well as any applicable state laws or regulations. The goal is for MAO to safeguard the patient's Protected Health Information ("PHI") when engaging in permitted marketing or fundraising activities.

Policy

Marketing communications utilizing PHI require a prior written authorization from the patient with certain defined exceptions.

Fundraising communications that are made specifically for the benefit of MAO and contain only demographic information and dates of service do not require an authorization as long as MAO's *Notice of Privacy Practices* describes this limited use of PHI. Fundraising materials must describe how an individual can opt out of receiving future fundraising communications and MAO must make reasonable efforts to comply with opt-out requests.

Procedure

Marketing

1. The Privacy Rule defines marketing as a communication and/or disclosure of PHI that encourages an individual to use or purchase a product or service, except under the following conditions:
 - a. Communications made directly by MAO to describe s health related product or service it provides.
 - b. Communications made for treatment of the individual.
 - c. Communications for case management or care coordination for the patient.
 - d. Communications to direct or recommend alternative treatments, therapies, and health care providers or settings of care.
 - e. Face to face communications made by MAO representative to an individual.
 - f. Promotional gifts of nominal value (defined in policy; for example, less than \$25 each gift not to exceed \$100.00 per annum) provided by MAO.
2. MAO must obtain a valid, completed *Authorization to Use or Disclose Protected Health Information ("Authorization")* form prior to using or disclosing PHI for purposes that meet the HIPAA definition of marketing and do not qualify for any of the exceptions listed in Item 1 above.
 - a. The authorization must conform to the authorization policy.

- b. If direct or indirect remuneration to MAO from a third party is involved, the authorization must state the nature of such third party remuneration.
- 3. No authorization is required in the following situations:
 - a. Communications directed at an entire population (not to a targeted individual) that promote health in a general manner and do not endorse a specific product or service;
 - b. PHI is not disclosed in a marketing communication (such as a newspaper advertisement).
- 4. In the event a planned marketing activity involves payment to MAO (e.g., cash, referral, gifts, etc.), anti-kickback, inducement, self-referral and general fraud and abuse statutes and regulations may apply. These shall be considered and approved prior to implementation of the marketing activity. MAO will assure that any marketing activity is in compliance with such laws and regulations.
- 5. Business Associates and other third parties:
 - a. MAO may engage a marketing firm to conduct permitted marketing activities on MAO's behalf. Should the marketing activities require the use or disclosure of PHI to the marketing firm, then a Business Associate relationship would exist and a BA Agreement/Addendum would be required. (See the Policy "Business Associates.")
 - b. MAO may not sell or disclose PHI to a third party to help the third party market its own products or services without a signed authorization from the patient. (See Policy "Authorization for Release of Protected Health Information.")

Fundraising

- 1. When fundraising for its own benefit, MAO may use or disclose without authorization the following PHI to a Business Associate or to an institutionally related foundation, such as a nonprofit charitable foundation to act on MAO's behalf:
 - a. Demographic information relating to an individual, and
 - b. Dates of health care provided to an individual.
- 2. MAO's *Notice of Privacy Practices* must include the following information:
 - a. MAO or its agent may contact the patient to raise funds for MAO, and
 - b. The patient may opt out of receiving any fundraising communications.
- 3. Any fundraising materials MAO or its agent sends to an individual must describe how the individual may opt out of receiving any further fundraising communications.
- 4. If the fundraising is not for MAO's benefit or includes more than demographic or dates of service information, an authorization from the individual is required.

5. MAO must make reasonable efforts to ensure that individuals who decide to opt out of receiving future fundraising communications are not sent such communications.

D. RESPONDING TO A SUBPOENA

Purpose

To ensure that MAO complies with HIPAA Privacy Rule requirements when a subpoena requesting Protected Health Information (“PHI”) is served.

Policy

Protected Health Information may be disclosed pursuant to judicial or administrative process without the written authorization of the patient, or the opportunity for the patient to agree or object, subject to certain conditions. MAO will disclose PHI in the course of judicial or administrative process in response to a court or administrative tribunal order. MAO will disclose PHI in response to a subpoena, discovery request, or other lawful process that is not accompanied by a court order, subject to the conditions set forth in this procedure. In either case, MAO will disclose only that PHI expressly authorized by the subpoena, discovery request, other lawful process, or court order. MAO may contact its legal counsel to review and verify the legality of a subpoena requesting PHI served.

Procedure

1. If the subpoena or other lawful request is accompanied by an order of a court or administrative tribunal, MAO will verify the identity and authority of the individuals requesting PHI.
2. If the order of the court or other administrative tribunal is valid and meets the verification requirements, MAO will disclose only that PHI expressly authorized by such order.
3. If the subpoena, discovery request or other lawful process (“subpoena”) is not accompanied by a court order, MAO will disclose the PHI only after obtaining satisfactory assurances from the party seeking the information that they have made reasonable efforts
 - a. To notify the individual who is the subject of the requested PHI, or
 - b. To secure a qualified protective order.
4. Notice to individual. Prior to disclosing PHI when the subpoena is not accompanied by a court order and there is no qualified protective order meeting the requirements of the Privacy Rule, MAO will obtain a written statement and accompanying documentation from the requesting party that meets all of the following requirements:
 - a. The written statement and documentation must demonstrate that reasonable efforts have been made to give notice of the request to the individual who is the subject of the requested PHI.

- b. The notice must contain sufficient information about the litigation or proceeding to permit the individual to raise an objection to the court or administrative tribunal.
 - c. The written statement and accompanying documentation must demonstrate that:
 - i. Time for raising objections to the court or administrative tribunal has elapsed, and
 - ii. No objections were filed, or
 - iii. The court has resolved all objections filed by the individual or the administrative tribunal and the disclosures being sought are consistent with such resolution.
- 5. Qualified Protective Order. A qualified protective order means an order of a court or of an administrative tribunal or a stipulation by the parties to the litigation or administrative proceeding that:
 - a. Prohibits the parties from using or disclosing the PHI for any purpose other than the litigation or proceeding for which such information was requested; and
 - b. Requires the return to MAO or destruction of the PHI, (including all copies made) at the end of the litigation or proceeding.
- 6. Prior to disclosing PHI when the subpoena is not accompanied by a court order and the above notice requirements are not met, MAO will obtain from the requesting party a written statement and accompanying documentation demonstrating that:
 - a. The parties to the dispute giving rise to the request for PHI have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute, or
 - b. The party seeking the PHI has requested a qualified protective order from such court or administrative tribunal.
- 7. If the requesting party is unable to meet the requirements for Notice or a Qualified Protective Order, MAO will notify the requesting party that it is unable to comply with the subpoena. (See sample "Response to a Subpoena" letter following this Policy.)
- 8. If the requesting party decides to pursue the request for the PHI without meeting the above requirements, MAO Privacy Official will contact MAO's Legal Counsel for further direction.
- 9. MAO Privacy Official shall document the information regarding the subpoena or other legal process that requests PHI in an *Accounting of Disclosures* Log.
- 10. The subpoena and any documents produced for the subpoena will be retained according to state and federal regulations.

MAO
RESPONSE TO SUBPOENA NOT ACCOMPANIED BY A COURT ORDER AND LACKING
SATISFACTORY ASSURANCES OF NOTICE
OR QUALIFIED PROTECTIVE ORDER

[Date]

[Attorney Name and Address]

Re: [name of patient]

Dear [Attorney]:

The subpoena you caused to be issued dated _____ requesting copies of protected health information for _____ fails to comply with the applicable requirements of the HIPAA privacy regulations, specifically 45 CFR §164.512(e). As a covered entity, we are allowed to release health information only in accordance with these privacy regulations.

Accordingly, we recommend you either secure an authorization in conformity with 45 CFR 164.508 directly from [name of patient or his/her personal representative] for release of the requested protected health information or take the following steps pursuant to 45 CFR section 164.512(e):

- a) Secure a Court Order detailing your specific needs pursuant to 45 CFR § 164.512(e)(1)(i)); or
- b) Provide us with satisfactory assurance as described at 45 CFR 164.512(e)(1)(ii)(A) that you have made reasonable efforts to notify [name of patient] of your request for protected health information. This requires you to provide us with a written statement and accompanying

documentation assuring us that you have made a reasonable effort to provide [name of patient] with a written notice of your request. This written statement you provide to us must also attest that the written notice you provided [name of patient] included:

1. Sufficient information about the litigation or proceeding in which the protected health information is requested to permit [name of patient] to raise an objection to the court or administrative tribunal; and that
 2. The time for [name of patient] to raise objections to the court or administrative tribunal has elapsed; and
 3. No objections were filed; or
 4. All objections filed by [name of patient] have been resolved by the court or administrative tribunal and the disclosures or protected health information being sought are consistent with such resolution; or you may
- c) Provide us satisfactory assurance as described at 45 CFR 164.512(e)(1)(iv) that you have made reasonable efforts to secure a qualified protective order that meets the requirements set forth at 45 CFR 164.512(e)(1)(v). The satisfactory assurance you provide us must include a written statement and accompanying documentation demonstrating that:
1. The parties to the dispute giving rise to the request for protected health information have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute; or
 2. The party seeking the protected health information has requested a qualified protective order from such court or administrative tribunal.

A “qualified protective order”, as the term is used in paragraph (c) above means: an order of a court or of an administrative tribunal or a stipulation by the parties to the litigation or administrative proceeding that:

- a) Prohibits the parties from using or disclosing the protected health information for any purpose other than the litigation or proceeding for which such information was requested; and
- b) Requires the return to the covered entity or destruction of the protected health information (including all copies made) at the end of the litigation or proceeding.

We respectfully ask that if you are not able to meet one of the identified exceptions above regarding disclosure of protected health information, thereby allowing us to release such information in a manner compliant with the regulations cited that you withdraw your subpoena request until such time as one of the requirements can be met.

Sincerely,

[Privacy Official]

Cc: [MAO Director or administrator]

E. SANCTIONS

Purpose

To ensure there are appropriate sanctions that will be applied to employees who violate the requirements of the HIPAA Privacy Rule and/or MAO's HIPAA privacy policies and procedures.

Policy

It is the policy of MAO to discipline employees who fail to comply with MAO's policies and procedures regarding HIPAA.

Procedure

1. When a concern arises regarding a possible violation of HIPAA or MAO's policies or procedures related to HIPAA, MAO Privacy Official shall begin an investigation promptly. (See the Policy "Complaints" regarding conducting an investigation.)
2. If, at the conclusion of the investigation, it is found that a violation of MAO's policy or procedure has occurred, the employee involved shall be disciplined in accordance with the severity of the violation and MAO's disciplinary policy. Violations can be classified according to intent such as:
 - a. Level I Violations are those made accidentally or due to a lack of education.
 - b. Level II Violations are serious violations that are found to show purposeful disregard of MAO policy.
3. MAO Privacy Official shall review the circumstances surrounding any substantiated violation and take appropriate action to mitigate, to the extent possible, any harmful effects of the violation.
4. Documentation from the investigation shall be given to MAO Privacy Official to be maintained as a part of MAO's HIPAA documentation and retained for six years.
5. The disciplinary action report documenting the employee's violation shall be placed in the employee's personnel file as well as a copy provided to MAO Privacy Official.

F. VERIFICATION OF IDENTITY AND AUTHORITY OF OFFICIALS REQUESTING PHI

Purpose

To ensure that Protected Health Information (PHI) is disclosed only to appropriate persons in accordance with the requirements of the HIPAA Privacy Rule.

Policy

It is the policy of MAO to verify the identity and the authority of a person making a request for the disclosure of PHI, if the identity or authority of such person is not known to MAO. Further, MAO will obtain from the person seeking disclosure of PHI such documentation, statement or representation, as may be required by the HIPAA Privacy Rule, prior to a disclosure.

Procedure

1. In general, MAO may rely on required documentation, statements or representations that, on their face, meet the verification requirements, if the reliance is reasonable under the circumstances. If there are concerns as to the requirements, contact the legal counsel.
2. Administrative Requests, Subpoena and Investigative Demand: Verification is sufficient and MAO will disclose the requested PHI if the administrative document itself or a separate written statement recites:
 - a. The information sought is relevant to a lawful inquiry.
 - b. The request is specific and limited in scope, as much as practicable, for the purposes of the inquiry.
 - c. De-identified information could not be used.
3. Research: If disclosure is sought for research purposes, pursuant to a waiver of authorization, it is sufficient verification if the requesting documents:
 - a. Show that the waiver of authorization has been approved by a properly constituted Institutional Review Board or Privacy Board.
 - b. Is signed by the Chair of the Board or the Chair's Designee.
4. Requests by a Public Official
 - a. It is sufficient verification of the identity of the requesting person to rely on any of the following, if reasonable under the circumstances:
 - i. A badge or other credential
 - ii. A request on government letterhead.
 - iii. If the person making the request is acting on behalf of a public official, a written statement on government letterhead that the person is acting on behalf of a

public official. If other authority is presented, contact legal counsel for guidance before disclosure.

- b. It is sufficient verification of the authority of the requesting person to rely on any of the following, if reasonable under the circumstances:
 - i. A written statement of the authority under which the information is requested, for example, a copy of the law or regulation. Rarely, a written statement is impractical, and then an oral statement is sufficient.
 - ii. Verification of authority is presumed if the request is made pursuant to a warrant, subpoena, order or other process issued by a grand jury, court or judge or administrative tribunal.
- 5. If the disclosure is sought by persons involved in the patient's care, and it is relevant to the requesting party's involvement in the care, MAO may rely on reasonable professional judgment in verifying the identity and authority of the person seeking disclosure.
- 6. Verification requirements are met if MAO, in good faith, makes a disclosure of PHI:
 - a. To prevent or lessen a serious and imminent threat to the health or safety of a person or the public, or
 - b. To law enforcement authorities to identify or apprehend an individual.

V. HIPPA DOCUMENTATION

A. RETENTION OF PROTECTED HEALTH INFORMATION

Purpose

To ensure appropriate retention of Protected Health Information (“PHI”) contained in a Designated Record Set.

Policy

PHI contained in the Designated Record Set will be retained according to state and federal regulations whichever requires retention for the longer period of time.

PHI, including medical and financial records contained in the Designated Record Set, will be retained for a minimum of six years as required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule.

In absence of state law specifying a greater retention period, Medical Records must be retained for at least six years after the date it was last in effect.

For minor patients (persons who have not reached full legal age), the Medical Record must be retained for three years after the minor reaches legal age under state law or six years from the date of discharge, whichever is longer.

Medical records on which there may be pending litigation may be exempt from scheduled destruction at the discretion of MAO.

If state laws and regulations require a greater retention time period, the greater will be followed.

Procedure

1. MAO will review state laws and regulations to determine Medical Record retention period and “legal age.”
2. If state laws or regulations require a different retention period, the greater retention period will be followed.
3. MAO will store the records until the retention period has expired. Records must be stored in a secure manner. The records must be protected from unauthorized access and accidental/wrong destruction.

4. At the expiration of the retention period, the Medical Records will be destroyed. Records should be destroyed annually in accordance with the retention time frames.

B. DESTRUCTION OF PROTECTED HEALTH INFORMATION

Purpose

To ensure that any medium containing Protected Health Information (“PHI”) is properly destroyed.

Policy

PHI stored in paper, electronic or other format will be destroyed utilizing an acceptable method of destruction after the appropriate retention period has been met.

Access to PHI stored on computer equipment and media will be limited by taking the appropriate measures to destroy electronically stored PHI.

Procedure

Paper Documents:

1. PHI maintained in paper format will be destroyed at the end of the retention period. (See the Policy “Retention of Protected Health Information.”)
2. All paper documents that contain PHI will be destroyed using an acceptable method of destruction.
3. Acceptable methods of destruction include shredding, incineration, pulverization and use of a bonded recycling company.
4. An *Inactive Medical Record Filing/Destruction Log* (“*Destruction Log*”) must be maintained to identify the destroyed records. At a minimum, the *Destruction Log* must capture the information listed below.
 - a. Date of destruction (date/s records are destroyed),
 - b. Destroyed by (name/s of the individuals responsible for destroying the records),
 - c. Witness (name/s of the person witnessing the destruction),
 - d. Method of destruction (method used to destroy records), and
 - e. Patient information (full name, Medical Record number, date of admission, date of discharge).

(See sample *Destruction Log* following this Policy.)

5. Prior to destruction of boxed items, MAO will verify the retention period has expired.
6. If the records are destroyed off-site through a destruction company, a Certificate of Destruction should be obtained attesting to destruction of the records.
7. MAO will maintain destruction documents permanently.

Computer Data Storage Media

1. Personal Computers: Workstations, laptops and servers use hard drives to store a wide variety of information. Patients' health information may be stored in a number of areas on a computer hard drive. For example, health information may be stored in "Folders" specifically designated for storage of this type of information, in temporary storage areas and in cache. Simply deleting the files or folders containing this information does not necessarily erase the data.
 - a. To ensure that any patients' health information has been removed, a utility that overwrites the entire disk drive with "1"s and "0"s must be used.
 - b. If the computer is being re-deployed internally or disposed of due to obsolescence, the aforementioned utility must be run against the computer's hard drive, after which the hard drive may be reformatted and a standard software image loaded on the reformatted drive.
 - c. If the computer is being disposed of due to damage and it is not possible to run the utility to overwrite the data, then the hard drive must be removed from the computer and physically destroyed. Alternatively, the drive can be erased by use of magnetic bulk eraser. This applies to PC workstations, laptops and servers.
2. Backup or Data Tapes:
 - a. Tapes are typically re-used many times but generally only by the data processing groups within MAO, which routinely must handle patient health information. However, there may be situations where tapes are sent to external recipients for specific processing. Tapes used for this purpose should be segregated from the general pool used for backups. These tapes should be degaussed prior to use in creating the files being sent to ensure that no prior patient health information remains on that portion of the tape beyond the end of the current file.
 - b. Tapes or diskettes that are being decommissioned must be degaussed before disposal. This can be accomplished using a bulk tape eraser. Alternatively, the media may be pulverized or shredded.
3. Compact Disks (CDs) and Diskettes: CDs containing patient health information must be cut into pieces or pulverized before disposal.
 - a. If a service is used for disposal, the vendor should provide a certificate indicating the following:
4. Computers and media that were decommissioned have been disposed of in accordance with environmental regulations as computers and media may contain hazardous materials.
5. Data stored on the decommissioned computer and/or media was erased or destroyed per the previously stated method(s) prior to disposal.

MAO

INACTIVE MEDICAL RECORD FILING/DESTRUCTION LOG

Year of
Discharge:

Year to
Destroy:

Patient Name (First and Last)	Medical Record Number	Admission Date	Discharge Date	Box Number

Date of Destruction: _____ Destroyed By: _____

Method of Destruction: _____ Center Name/Number: _____

The information described above was destroyed in the normal course of business pursuant to proper retention schedules as determined by Federal and State law and destruction policy and procedure.

Retain log permanently.

VI. GLOSSARY

A

Accounting of Disclosures –

A log that is maintained for each patient that indicates the disclosures that have been made of his or her PHI.

Active Medical Record –

The active Medical Record consists of two parts: (1) the active record which is filed at the active record storage area and (2) the overflow files. (See also Medical Record.)

Administrative Tribunal –

A judge or group of judges who conduct hearings and exercise judgment over specific issues involving persons or things.

Administrative – connotes of or pertains to administration, especially management, as by managing or conducting, directing or superintending the execution, application, or conduct of persons or things.

Tribunal – is the seat of a judge; the place where he administers justice. The whole body of judges who compose a jurisdiction; a judicial court; the jurisdiction that the judges exercise.

Alternative Communication Means –

Information or communications delivered to patients by MAO in a manner different than the normal practice of MAO. For example, the patient may ask for delivery at an alternative address, phone number or post office box; or that discussion of PHI be limited when specified people are present.

Amend / Amendment –

An amendment to PHI will always be in the form of information added to the existing PHI. This additional information may contain items that substantially change the initial PHI, make parts of the initial PHI more precise, or show some of the original PHI to be incorrect. However, the original PHI is never altered. Changes are indicated by the addition of the amended information.

Authorization –

A patient's statement of agreement to the use or disclosure of Protected Health Information to a third party.

B

Business Associate (BA) –

A person or organization that performs a function or an activity on behalf of MAO that involves the use or disclosure of Protected Health Information. A business associate might also be a person or entity that provides legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation or financial services involving the use or disclosure of PHI.

C

CMS – Centers for Medicare and Medicaid Services –

The agency formerly known as HCFA (Health Care Financing Administration) that regulates and enforces Federal Regulations for Medicare and Medicaid beneficiaries.

Conditioned –

An authorization is “conditioned” if a patient cannot obtain treatment or service unless he or she signs that authorization.

Continuum of Care –

A range of services available to people in the community. They include supportive, rehabilitative, preventive and social services. They meet various levels of need or impairment.

Court Order –

An order issued from a competent court that requires a party to do or abstain from doing a specific act.

Covered Entity –

A health care provider who transmits health care information using one of the transaction standards defined by the Department of Health and Human Services. An example of this would be billing Medicare and Medicaid electronically for services MAO provides to a patient.

D

De-Identification –

The process of converting individually identifiable information into information that no longer reveals the identity of the patient. Information may be de-identified by statistical de-identification or the safe harbor method of de-identification.

De-Identified Health Information –

Health information that does not identify an individual and does not contain information that can identify or link the information to the individual to whom the information belongs.

Department of Health and Human Services (HHS) –

The federal agency charged with the development, statement and implementation of the HIPAA Privacy Rule.

Designated Record Set –

Patient Medical Records and billing records maintained and used by MAO to make decisions about the patient. In this context a record is any item, collection, or grouping of information that contains Protected Health Information and is maintained, collected, used or disclosed by MAO. The Designated Record Set also includes billing information that may contain ICD-10-CM codes that represent health conditions of the patient and that are part of the patient's Protected Health Information.

For access to the Designated Record Set, policy allows the patient to have access to all records pertaining to him or her including current clinical records.

Policy further defines personal records to include all types of records MAO might keep on a patient, whether they are medical, social, fund accounts, automated or other.

Disclosure –

To release, transfer, provide access to or divulge in any way a patient's health information to individuals or entities outside MAO. (See also Use.)

Routine Disclosure – Customary disclosures of PHI that MAO discloses on a regular basis.

Non-Routine Disclosure – Disclosures of PHI that are not usually disclosed by MAO.

E

F

Financial Records –

Admission, billing, and other financial information about a patient included as part of the Designated Record Set.

Fundraising –

An organized campaign by a private, non-profit or charitable organization designed to reach out to certain segments of the population or certain identified populations in an effort to raise monies for their organization or for a specific project or purpose espoused by their organization.

G

H

Health Care Operations –

Any of the following activities of MAO:

1. Conducting quality assessment and improvement activities, provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;
2. Reviewing the competence or qualifications of health care professionals, evaluating employee and MAO performance, conducting training programs under supervision to practice or improve skills, training of non-health care professionals, accreditation, certification, licensing or credentialing activities;
3. Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;
4. Business planning and development such as conducting cost-management and planning related analyses related to managing and operating MAO;
5. Business management and general administrative activities of MAO/ campus, including, but not limited to:
 - a. Customer service
 - b. Resolution of internal grievances
 - c. Due diligence in connection with the sale or transfer of assets to a potential successor in interest
 - d. Creating de-identified health information, fundraising for the benefit of MAO/campus and marketing for which an individual's authorization is not required.

Health Care Provider –

An entity that provides health care, service or supplies related to the health of an individual, e.g., medical, dental, physical therapy, or chiropractic clinics; hospitals, etc.

HIPAA –

Refers to the Health Insurance Portability and Accountability Act of 1996, in particular the portion of the Act known as Administrative Simplification (Subpart F) dealing with the privacy of individually identifiable health information.

I

Individually Identifiable Health Information (IIHI) –

Any information, including demographic information, collected from an individual that:

1. Is created or received by a health care provider, health plan, employer or health care clearinghouse; and
2. Relates to the past, present or future physical or mental health or condition of an individual, and
 - a. Identifies the individual or
 - b. With respect to which there is reasonable basis to believe that the information can be used to identify the individual.

Institutional Review Board (IRB) –

In reference to a research project, a board that is designated to review and approve proposed research and the process by which the investigator intends to secure the informed authorization of participants.

J

K

L

Limited Data Set (LDS) –

A data set that includes elements such as dates of admission, discharge, birth and death as well as geographic information such as the five digit zip code and the individual's state, county, city or precinct but still excludes the other 16 elements that "de-identify" information. In addition, this limited data set can only be used if a covered entity enters into a "data use agreement" with the data recipient similar to the agreements entered into between covered entities and their business associates.

M

Marketing –

1. To provide information about a product or service that encourages recipients of the communication to purchase or use the product or service, unless the communication is made:
 - a. To describe a health-related product or service (or payment for such product or service) that is provided by or included in a plan of benefits of the covered entity making the communication, including communications about the entities participating in a health care provider network or health plan network; replacement of, or enhancement to, a health plan; and health-related products or services available only to a health plan enrollee that add values to, but are not part of, a plan of benefits;

- b. For treatment of that individual; or
 - c. For case management or care coordination for the individual, or to direct or recommend alternative treatments, therapies, health care providers or settings of care to the individual.
- 2. An arrangement between a covered entity and any other entity whereby the covered entity discloses Protected Health Information to the other entity in exchange for direct or indirect remuneration, for the other entity or its affiliate to make a communication about its own product or service that encourages recipients of the communication to purchase or use that product or service.

Medical Record -

The collection of documents, notes, forms, test results, etc. which collectively document the health care services provided to an individual in any aspect of health care delivery by a provider; individually identifiable data collected and used in documenting healthcare services rendered. The Medical Record includes records of care used by healthcare professionals while providing patient care services, for reviewing patient data, or documenting observations actions or instructions. The Medical Record is included as part of the Designated Record Set.

Minimum Necessary –

The least amount of Protected Health Information needed to achieve the intended purpose of the use or disclosure. Covered Entities are required to limit the amount of Protected Health Information it uses, discloses or requests to the minimum necessary to do the job.

N

Notice of Privacy Practices –

A document required by HIPAA that provides the patient with information on how MAO generally uses a patient's Protected Health Information and what the patient's rights are under the Privacy Rule.

O

Office of Civil Rights –

The agency with the U.S. Department of Health and Human Services that has responsibility for enforcement of the HIPAA Privacy Rule. (www.usda.gov/cr/)

Opt Out –

To make a choice to be excluded from services, procedures or practices. Patient rights under HIPAA include many situations where the patient may request to be excluded from a service, procedure or practice. In most cases, MAO must comply or attempt to comply with the request to be excluded.

Order –

A mandate, precept; a command or direction authoritatively given; a rule or regulation.

P

Patient –

As used in this Manual includes patient.

Payment –

The activities undertaken by a health care provider or payer to obtain reimbursement for the provision of health care.

Personal Representative –

Is the term used in the Privacy Rule to indicate the person who has authority under law to act on behalf of a patient. For purposes of the Privacy Rule MAO must treat a personal representative as having the same rights as the patient unless there is a reasonable belief that the personal representative has subjected the patient to abuse or neglect, or treating the person as the personal representative could endanger the patient.

Policy –

A high-level over-all plan embracing the general principles and aims of an organization.

Pre-emption / Pre-empts –

Taking priority over or supercedes.

Privacy Breach –

A violation of one's responsibility to follow privacy policy and procedure that results in the patients' PHI being accessed by unauthorized persons.

Privacy Official –

The person in MAO who is the designated point of contact for HIPAA-related issues and whose position includes oversight of training related to HIPAA. May also be called the Privacy Representative or the HIPAA Point of Contact (HPOC).

Privacy Officer –

The person designated by the organization who is responsible for development and implementation of the HIPAA policies and procedures. The Privacy Officer serves as a resource to assist MAO's Privacy Official in implementing HIPAA policies and procedures. HIPAA requires that each covered entity appoint a Privacy Official

Privacy Rule –

Refers to the regulation issued by the Department of Health and Human Services entitled Standards for Privacy of Individually Identifiable Health Information that was published on December 28, 2000, and subsequently modified on August 14, 2002. The effective date for the Privacy Rule is April 14, 2003. In this Policy and Procedure Manual, "HIPAA" and "Privacy Rule" are used interchangeably.

Protected Health Information (PHI) –

Information that is a subset of health information, including demographic information, and:

1. Is created or received by a health-care provider, health plan, employer or health-care clearinghouse; and
2. Relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and
 - a. That identifies the individual; or
 - b. There is a reasonable basis to believe the information can be used to identify the individual.

Psychotherapy Notes –

Notes that are recorded (in any medium) by a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint or family counseling session. Psychotherapy notes must be kept separate from the rest of the patient's Medical Record.

Q

Qualified Protective Order –

A legal command intended to protect a person or thing from an unfair or unjust action.

R

Re-Identification –

The process of converting de-identified health information back to individually identifiable health information. Re-identified health information does reveal the identity of the patient and must be treated as PHI under the HIPAA Privacy Rule.

Research –

A systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalized knowledge.

Revoke –

To cancel or withdraw an authorization to release medical information.

Role Based Access –

Access to PHI based on the duties of employees. MAO will identify persons or classes of persons in its workforce who need access to PHI to carry out their duties and make a reasonable effort to limit access PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.

S

Safeguarding –

To ensure safekeeping of Protected Health Information for the patient.

Security Officer –

A position mandated by the HIPAA. The responsibilities of this person are to oversee implementation of the requirements mandated by the Final Security regulation and any security requirements included in the other sections of the HIPAA regulation.

Subpoena (2 Kinds) –

A process to cause a witness to appear and give testimony, commanding him to lay aside all pretenses and excuses, and appear before a court or magistrate therein named at a time therein mentioned to testify for the party named under a penalty thereof.

Duces Tecum – A request for witnesses to appear and bring specified documents and other tangible items. The subpoena *duces tecum* requires the individual to appear in court with the requested documents, or simply turn over those documents to the court or to counsel requesting the documents.

General Subpoena (AKA Ad Testificandum) – A command to appear in court at a certain time and place to give testimony regarding a certain matter, for example, to testify that the record was kept in the normal course of business.

T

TPO –

(See Treatment, Payment and Operation.)

Treatment –

The provision, coordination or management of health care and related services by MAO, including the coordination or management of health care by MAO with a third party; consultation with other health care providers relating to a patient; or the referral of a patient for health care between MAO and another health care provider.

Treatment, Payment and Operations (TPO) –

The Privacy Rule allows sharing of information for purposes of treatment, payment and health care operations. Treatment includes use of patient information for providing continuing care. Payment includes sharing of information in order to bill for the care of the patient. Health care operations are certain administrative, financial, legal, and quality improvement activities that are necessary for your MAO to run its business and to support the core functions of treatment and payment.

U

Use –

To share, apply, use, examine or analyze health information within MAO. (See also Disclosure).

V

W

Whistleblower –

A person, usually a staff member, who reveals wrongdoing within an organization to the public, government agencies or to those in positions of authority.

Workforce –

Employees, volunteers, trainees and other persons whose conduct, in the performance of work for MAO, is under the direct control of MAO, whether or not they are paid. Members of the workforce are not business associates.

X

Y

Z