

P-2423 Nonmandatory Reporting of Abuse, Neglect, and Domestic Violence

Medical practice staff may report cases of suspected child abuse or neglect to the **Department of Health and Mental Hygiene** without the agreement of the patient if the following criteria are met:

- The patient's physician believes that the report may prevent serious injury to the patient or others.
- The disclosure is *permitted* under federal or state law

Medical practice staff should restrict the disclosure to information that can be disclosed legally.

45 CFR 164.512(c)(1)(iii)

Permits disclosure of protected health information related to abuse, neglect, and domestic violence when the disclosure is permitted by law and a provider believes it is necessary to prevent harm to the patient or others.

45 CFR 164.512(b)(1)(ii)

Permits disclosure of protected health information without the patient's consent or authorization that concerns *child abuse and neglect*.

45 CFR 164.512(c)(1)

Permits disclosure of protected health information to government agencies responsible for investigating abuse, neglect, and domestic violence.

P-2424 Voluntary Reporting of Abuse, Neglect, and Domestic Violence with the Patient's Agreement

Medical practice staff may report cases of suspected child abuse or neglect to the Department of Health and Mental Hygiene with or without the patient's authorization. Disclosure should be restricted to the types of information that state law or local law allows to be disclosed.

Regulation

45 CFR 164.512(c)(1)(ii)

Permits disclosure of protected health information to government agencies responsible for investigating abuse, neglect, and domestic violence when agreed to by the individual.

P-2425 Informing Patients of Disclosures

The patient must be informed of any disclosure of protected health information to the **Department of Health and Mental Hygiene** unless the patient's physician believes that informing the patient may lead to serious harm for the patient or another person or unless state law prohibits such notification.

If it is not possible to inform the patient, the patient's personal representative must be informed of the disclosure unless the patient's physician believes that informing the representative may lead to serious harm for the patient or another person.

Patient notification may be done verbally or in writing. In all cases, the Practice will log this disclosure and any patient notifications applicable on [PFL-3000](#).

45 CFR 164.512(c)(2)

Requires notification of a report of abuse, neglect, or domestic violence unless the provider believes that disclosure would put the individual at risk of serious harm.

P-2430 Disclosure of Patient Information to Law Enforcement Agencies

Medical practice staff may disclose the following protected health information requested by law enforcement agencies without obtaining the patient's authorization:

- Medical practice staff members may report certain wounds and physical injuries to the **Department of Health and Mental Hygiene** as required by state law. Reportable wounds and injuries shall be consistent with those required by governing authorities.
- Medical practice staff members may report any information requested by a subpoena, court order, or summons.
- Medical practice staff members may report the name and address, date and place of birth, social security number, ABO blood type and rh factor, type of injury, date and time of treatment or death, and a description of physical characteristics when requested by a law enforcement official. Staff may not report other information such as information related to DNA or DNA analysis, dental records, tissue typing, or the analysis of body fluids or tissues without a court order, subpoena, or summons.
- Medical practice staff members may report protected health information concerning the victim of a crime, but only with the agreement of the victim or when a law enforcement office indicates that the information is needed to investigate suspected criminal activity.
- Medical practice staff members may report protected health information that is evidence of criminal conduct on the premises of the practice.
- Medical practice staff members may report protected health information concerning emergency treatment when the disclosure is necessary to alert law enforcement agencies to the commission of a crime, the location of the victim(s) of a crime, or the identity, description, or location of a suspected perpetrator of a crime.

Procedures

- Medical practice staff members should refer requests for protected health information received from law enforcement agencies to Privacy Officer.
- The Privacy Officer will review requests for protected health information and obtain a legal opinion if he or she believes one is necessary before approving the disclosure of the requested information.
- Disclosures will be logged on [PFL-3000](#).

Regulation

45 CFR 164.512(f)

Permits disclosure of protected health information to law enforcement agencies without authorization

P-2440 Disclosure of Patient Information to Oversight Agencies

Staff may disclose protected health information to the appropriate government agencies, which are responsible for administering public health programs such as Medicare and Medicaid, and for licensing providers, conducting audits, and other purposes related to the oversight of the health system.

Procedures

- Staff should refer requests for protected health information received from oversight agencies to Privacy Officer.
- The Privacy Officer will review requests for protected health information and obtain a legal opinion if he or she believes one is necessary before approving the disclosure of the requested information.
- Disclosed information will be logged on [PFL-3000](#).

Regulation

45 CFR 164.512(d)

Permits disclosure of protected health information without consent or authorization to oversight agencies.

P-2450 Disclosures Related to Judicial and Legal Actions

Medical practice staff members may disclose protected health information for use in a legal proceeding under the following circumstances:

- The information has been requested in a court order or an order of an administrative tribunal.
- The information has been requested by means of a subpoena, discovery request, or other legal process.

Before responding to the request, efforts should be made to ensure that disclosure is limited to the minimum protected health information specifically requested, and that the following assurances are obtained:

- The party seeking the protected health information has made a good faith effort to provide a written notice to the subject of the request, has provided sufficient information to the subject of the request to permit the individual to object to the disclosure, and has resolved any objections that may have been raised.

- The party seeking the protected health information provides written documentation that it has entered into or otherwise obtained a qualified protective order that
 - (a) prevents the parties to the legal action from using or disclosing protected health information for any purpose not related to the litigation or legal proceeding for which the information was requested, and
 - (b) requires the return or destruction of the protected health information at the conclusion of that proceeding.

Procedures

- Unless a request is referred by the Privacy Officer, medical practice staff members should refer requests for protected health information from law enforcement agencies to Privacy Officer.
- The Privacy Officer will notify and seek guidance from legal counsel on how to respond to the request.
- Before responding, the Privacy Officer will obtain the assurances described in this policy.
- Disclosed information will be logged on [PFL-3000](#).

Regulation

45 CFR 164.512(e)

Permits disclosure of information for judicial and administrative proceedings, subject to specific requirements and assurances.

P-2500 Marketing and Fundraising

This section addresses the use of protected health information in marketing and fundraising activities. Whether the patient's authorization is required for fundraising and marketing depends on how marketing communications and fundraising appeals are structured by the medical practice.

P-2510 Marketing Communications That Require Authorization

The following types of communications do not require authorization:

- Communications to members of health plans that describe the medical practice, its members, and the services that are available from the practice
- Communications to a patient as part of the patient's treatment that are specific to the medical condition of the patient
- Communications from the patient's health plan during treatment for the purpose of alerting the patient to the availability of alternative treatments, therapies, health care providers, or treatment settings
- Face-to-face communications between medical practice staff members and patients during a patient visit
- Promotional gifts of nominal value such as pens, note pads, or coffee mugs

Regulation

45 CFR 164.501

The definition of marketing specifically excludes communications describing "a health-related product or service...that is provided by...the covered entity making the communication" and communications that are for the treatment of the individual.

P-2520 Marketing Activities That Require Authorization

Patients must specifically authorize ([PF-3000](#)) the use of protected health information collected or maintained by the medical practice for a communication that is sent to the individual describing a product or service offered by an organization other than the medical practice. Examples include mailings by pharmaceutical companies, retail pharmacies, health clubs and suppliers of unrelated medical services such as durable medical equipment.

Regulation

45 CFR 164.514(e)(1)

Requires authorization for use of protected health information in marketing.

P-2530 Fundraising Activities

The following information may be used to support efforts to raise funds that directly benefit the medical practice without obtaining the patient's authorization:

- Demographic information describing the individual (i.e., date of birth, sex, marital status, address, and other nonclinical information that describes the patient)
- The dates on which the patient received health care services from the medical practice
- Other protected health information may not be used in fundraising activities without authorization (PF-3200) by the patient (i.e. the patient's authorization is required for the use of any protected health information except demographic information and dates of service)*
- Fundraising appeals sent to individuals must include the following paragraph describing how the individual may opt-out of further fund-raising communications:
 - To be removed from future fundraising appeals, please call **Harford Lower Extremity Specialists** and ask to be removed from our fundraising mailing list, or check off the box asking to be removed from our fundraising mailing list on the reply card and return it to the office by dropping it in a mailbox.
- A fundraising mailing list will be maintained by the Practice Manager or her designee
- When a patient asks to be removed from the mailing list, a reasonable effort will be made to accommodate this request (PF-3400 and PFL-3000)
- Protected health information may not be used to support fundraising on behalf of other organizations (i.e. for raising funds that do not benefit the practice directly) without the patient's authorization (PF-3200)

Regulation

45 CFR 164.514(f)(1)

- * Permits use and disclosure of protected health information for fundraising purposes only with the patient's authorization.

P-3000 Use and Authorization

The policies in this section establish procedures for developing the Notice of Privacy Practices form and obtaining patient authorization for use and disclosure of PHI.

Regulation

45 CFR 164.508

Establishes requirements for authorization of uses and disclosure that are not covered by the notice.

45 CFR 164.520

Establishes requirements for the Notice of Privacy Practices.

P-3100 Notice of Privacy Practices

The **Privacy Officer** is responsible for developing the Notice of Privacy Practices ([PF-1000](#)).

The Notice of Privacy Practices must be written in language that most patients of average intelligence and education will be able to understand.

The notice must contain the elements discussed below. If italicized, the verbiage must appear verbatim as noted.

THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.

Uses and Disclosures

This section of the notice must describe and give examples of the uses and disclosures for purposes of treatment, payment, and health care operations covered by the notice.

It must identify the legally mandated disclosures that may be made without the patient's authorization.

It must indicate that any other use or disclosure of protected health information requires written authorization by the patient, and that an authorization may be revoked by the patient.

Additional Uses of Information

The uses and disclosures listed in this section must be specified if the medical practice intends to use protected health information for any of the listed activities. This section can be merged with the previous section.

This section identifies any use of protected health information in the preparation of appointment reminders, in offering information about treatment and other health-related benefits or services, or to conduct fundraising for the practice.

Note

An additional use or disclosure that the privacy rule requires concerns disclosure of information to plan sponsors. This information is, however, relevant only to disclosures by a health insurance issuer (including an HMO) to a group health plan. If, however, a practice is preparing a notice for use by a health plan that it sponsors, this use or disclosure should be listed.

Individual Rights

This section of the Notice of Privacy Practices must identify the rights of the patient under the federal privacy rule. These must include:

- The right to request restrictions
- The right to receive confidential communications
- The right to inspect and copy protected health information
- The right to amend protected health information
- The right to receive an accounting of disclosures
- The right to receive a printed copy of the Notice of Privacy Practices itself

Harford Lower Extremity Specialists' Duties

This section describes the duties of the medical practice, specifically with respect to maintaining the privacy of protected health information, giving the Notice of Privacy Practices to patients, and abiding by the terms of that notice.

Right to Revise Privacy Practices

The notice must clearly state that the medical practice reserves the right to modify its privacy practices and that should it do so, the revised notice will be made available to patients upon their request.

Complaints

This section must outline the procedure for submitting complaints concerning the medical practice's privacy practices, or to report suspected violations of privacy rights.

It also must indicate that the medical practice will not retaliate against the patient for submitting a complaint or reporting a suspected violation.

Contact Person

This section of the must give the name, address, and telephone number of the privacy contact designated in policy [P-1100](#).

Effective Date

This section must give the effective date of the Notice of Privacy Practices.

The effective date may not be earlier than the date on which the notice is printed and made available for distribution.