

SUMMARY OF OUR NOTICE OF PRIVACY PRACTICES

Center for Joint Surgery and Sports Medicine

Effective Date: April 14, 2003

THIS NOTICE DESCRIBES HOW HEALTH INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION

Please review the full Notice of Privacy Practices (NPP) which is attached. If you have any questions about this notice, please contact Paulette Laing, Practice Administrator at (301) 665-4575.

WHO WILL FOLLOW THIS NOTICE:

- Center for Joint Surgery and Sports Medicine

This notice describes our privacy practices. All these entities, sites, and locations follow the terms of this notice. In addition, these entities, sites, and locations may share health information with each other for treatment, payment, or health care operations purposes described in this notice.

OUR PLEDGE REGARDING HEALTH INFORMATION:

We understand that health information about you and your health care is personal. We are committed to protecting health information about you. We create a record of the care and services you receive from us. We need this record to provide you with quality care and to comply with certain legal requirements. This notice applies to all of the records of your care generated by this health care practice, whether made by your personal doctor or others working in this office. This notice will tell you about the ways in which we may use and disclose health information about you. We also describe your rights to the health information we keep about you, and describe certain obligations we have regarding the use and disclosure of your health information.

We are required by law to:

- make sure that health information that identifies you is kept private;
- give you this notice of our legal duties and privacy practices with respect to health information about you; and
- follow the terms of the notice that is currently in effect.

HOW WE MAY USE AND DISCLOSE HEALTH INFORMATION ABOUT YOU.

The following categories describe different ways that we use and disclose health information. By coming for care, you give us the right to use your information for treatment, to get reimbursed for your care, and to operate our organization.

There are also various other ways in which we may use or disclose your information:

- **Appointment Reminders**
- **Health-Related Services and Treatment Alternatives**
- **To Allow Oversight of the Quality of the Healthcare We Provide**
- **To Allow Workers' Compensation Claims**
- **As Required by Subpoena in Lawsuits and Disputes**
- **Various Uses as Required by Law or to Avert a Serious Threat to Health or Safety**

The full details for all these uses are contained in the full NPP.

YOUR RIGHTS REGARDING HEALTH INFORMATION ABOUT YOU.

You have the following rights regarding health information we maintain about you:

- **Right to Inspect and Copy**
- **Right to Amend**
- **Right to an Accounting of Disclosures**
- **Right to Request Restrictions**
- **Right to Request Confidential Communications**
- **Right to a Paper Copy of This Notice**

Information on how to exercise these rights can be seen in the NPP or can be obtained from Paulette Laing, Practice Administrator at (301) 665-4575.

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 our facility. The notice will contain on the first page, in the top right-hand corner, the effective date. In addition, each time you register for treatment or health care services, we will offer you a copy of the current notice in effect.

COMPLAINTS

If you believe your privacy rights have been violated, you may file a complaint with us or with the Secretary of the Department of Health and Human Services. To file a complaint with us, contact Paulette Laing, Practice Administrator. All complaints must be submitted in writing. **You will not be penalized for filing a complaint.**

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.

HIPAA NOTICE OF PRIVACY PRACTICES

Center for Joint Surgery and Sports Medicine

Effective Date: April 14, 2003

THIS NOTICE DESCRIBES HOW HEALTH INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION

PLEASE REVIEW IT CAREFULLY

If you have any questions about this notice, please contact Paulette Laing, Practice Administrator at (301) 665-4575.

WHO WILL FOLLOW THIS NOTICE:

- Center for Joint Surgery and Sports Medicine

This notice describes our privacy practices. All these entities, sites, and locations follow the terms of this notice. In addition, these entities, sites, and locations may share health information with each other for treatment, payment, or health care operations purposes described in this notice.

OUR PLEDGE REGARDING HEALTH INFORMATION:

We understand that health information about you and your health care is personal. We are committed to protecting health information about you. We create a record of the care and services you receive from us. We need this record to provide you with quality care and to comply with certain legal requirements. This notice applies to all of the records of your care generated by this health care practice, whether made by your personal doctor or others working in this office. This notice will tell you about the ways in which we may use and disclose health information about you. We also describe your rights to the health information we keep about you, and describe certain obligations we have regarding the use and disclosure of your health information.

We are required by law to:

- make sure that health information that identifies you is kept private;
- give you this notice of our legal duties and privacy practices with respect to health information about you; and
- follow the terms of the notice that is currently in effect.

HOW WE MAY USE AND DISCLOSE HEALTH INFORMATION ABOUT YOU.

The following categories describe different ways that we use and disclose health information.

For each category of uses or disclosures we will explain what we mean and try to give some examples. 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 within one of the categories.

For Treatment. We may use health information about you to provide you with health care treatment or services. We may disclose health information about you to doctors, nurses, technicians, health students, or other personnel who are involved in taking care of you. They may work at our offices, at the hospital if you are hospitalized under our supervision, or at another doctor's office, lab, pharmacy, or other health care provider to whom we may refer you for consultation, to take x-rays, to perform lab tests, to have prescriptions filled, or for other treatment purposes. 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 at the hospital if you have diabetes so that we can arrange for appropriate meals. We may also 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.

For Payment: We may use and disclose health information about you so that the treatment and services you receive from us may be billed to and payment collected from you, an insurance company, or a third party. For example, we may need to give your health plan information about your office visit so your health plan will pay us or reimburse you for the visit. 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 operations of our health care practice. These uses and disclosures are necessary to run our practice and make sure that all of our patients receive quality care. For example, we may use health information to review our treatment and services and to evaluate the performance of our staff in caring for you. We may also combine health information about many patients to decide what additional services we should offer, what services are not needed, whether certain new treatments are effective, or to compare how we are doing with others and to see where we can make improvements. We may remove information that identifies you from this set of health information so others may use it to study health care delivery without learning who our specific patients are.

Appointment Reminders: We may use and disclose health information to contact you as a reminder that you have an appointment. Please let us know if you do not wish to have us contact you concerning your appointment, or if you wish to have us use a different telephone number or address to contact you for this purpose.

Health-Related Services and Treatment Alternatives: We may use and disclose health information to tell you about health-related services or recommend possible treatment options or alternatives that may be of interest to you. Please let us know if you do not wish us to send you this information, or if you wish to have us use a different address to send this information to you.

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 when necessary to prevent a serious threat to your health and safety or the health and safety of the public or another person. Any disclosure, however, would only be to someone able to help prevent the threat.

Military and Veterans. If you are a member of the armed forces or separated/discharged from military services, we may release health information about you as required by military command authorities or the Department of Veterans Affairs as may be applicable. We may also release

health information about foreign military personnel to the appropriate foreign military authorities.

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

Public Health Risks. We may disclose health information about you for public health activities. These activities generally include the following:

- to prevent or control disease, injury or disability;
- to report births and deaths;
- to report child abuse or neglect;
- to report reactions to medications or problems with products;
- to notify people of recalls of products they may be using;
- to notify person or organization required to receive information on FDA-regulated products;
- to notify a person who may have been exposed to a disease or may be at risk for contracting or spreading a disease or condition;
- to notify 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 include, for example, 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.

Lawsuits and Disputes. 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.

Law Enforcement. We may release health information if asked to do so by a law enforcement official:

- in reporting certain injuries, as required by law, gunshot wounds, burns, injuries to perpetrators of crime;
- in response to a court order, subpoena, warrant, summons or similar process;
- to identify or locate a suspect, fugitive, material witness, or missing person:
 - Name and address
 - Date of birth or place of birth;
 - Social security number;
 - Blood type or rh factor;
 - Type of injury;
 - Date and time of treatment and/or death, if applicable; and
 - A description of distinguishing physical characteristics.

- about the victim of a crime, if the victim agrees to disclosure or under certain limited circumstances, we are unable to obtain the person's agreement;
- about a death we believe may be the result of criminal conduct;
- about criminal conduct at our facility; and
- 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, Health Examiners and Funeral Directors. We may release health information to a coroner or health examiner. This may be necessary, for example, to identify a deceased person or determine the cause of death. We may also release health information about patients to funeral directors as necessary to carry out their duties.

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

Protective Services for the President and Others. We may disclose health information about you to authorized federal officials so they may provide protection to the President, other authorized persons or foreign heads of state or conduct special investigations.

Inmates. If you are an inmate of a correctional institution or under the custody of a law enforcement official, we may release health information about you to the correctional institution or law enforcement official. This release would be necessary (1) for the institution to provide you with health care; (2) to protect your health and safety or the health and safety of others; or (3) for the safety and security of the correctional institution.

YOUR RIGHTS REGARDING HEALTH INFORMATION ABOUT YOU.

You have the following rights regarding health information we maintain about you:

Right to Inspect and Copy: You have the right to inspect and copy health information that may be used to make decisions about your care. Usually, this includes health and billing records.

To inspect and copy health information that may be used to make decisions about you, you must submit your request in writing to Paulette Laing, Practice Administrator. If you request a copy of the information, we may charge a fee for the costs of copying, mailing or other supplies and services associated with your request.

We may deny your request to inspect and copy in certain very limited circumstances. If you are denied access to health information, you may request that the denial be reviewed. Another licensed health care professional chosen by our practice will review your request and the denial. The person conducting the review will not be the person who denied your request. We will comply with the outcome of the review.

Right to Amend. If you feel that health information we have about you is incorrect or incomplete, you may ask us to amend the information. You have the right to request an amendment for as long as we keep the information. To request an amendment, your request must be made in writing, submitted to Paulette Laing, Practice Administrator, and must be contained on one page of paper legibly handwritten or typed in at least 10 point font size. In addition, you must provide a reason that supports your request for an amendment.

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:

- was not created by us, unless the person or entity that created the information is no longer available to make the amendment;
- is not part of the health information kept by or for our practice;
- is not part of the information which you would be permitted to inspect and copy; or
- is accurate and complete.

Any amendment we make to your health information will be disclosed to those with whom we disclose information as previously specified.

Right to an Accounting of Disclosures. You have the right to request a list accounting for any disclosures of your health information we have made, except for uses and disclosures for treatment, payment, and health care operations, as previously described.

To request this list of disclosures, you must submit your request in writing to Paulette Laing, Practice Administrator. Your request must state a time period which may not be longer than six years and may not include dates before April 14, 2003. The first list you request within a 12 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. We will mail you a list of disclosures in paper form within 30 days of your request, or notify you if we are unable to supply the list within that time period and by what date we can supply the list; but this date will not exceed a total of 60 days from the date you made the request.

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 treatment, payment, or health care operations. You also have the right to request a limit on the health information we disclose about you to someone who is involved in your care or the payment for your care, such as a family member or friend. For example, you could ask that we restrict a specified nurse from use of your information, or that we not disclose information to your spouse about a surgery you had.

We are not required to agree to your request for restrictions if it is not feasible for us to ensure our compliance or believe it will negatively impact the care we may provide you. If we do agree, we will comply with your request unless the information is needed to provide you emergency treatment. To request a restriction, you must make your request in writing to Paulette Laing, Practice Administrator. In your request, you must tell us what information you want to limit and to whom you want the limits to apply; for example, use of any information by a specified nurse, or disclosure of specified surgery to your spouse.

Right to Request Confidential Communications. You have the right to request that we communicate with you about health matters in a certain way or at a certain location. For example, you can ask that we only contact you at work or by mail to a post office box.

To request confidential communications, you must make your request in writing to Paulette Laing, Practice Administrator. We will not ask you the reason for your request. We will accommodate all reasonable requests. Your request must specify how or where you wish to be contacted.

Right to a Paper Copy of This Notice. You have the right to obtain a paper copy of this notice at any time. However, at the time of first service rendered after April 14, 2003, it is required that you receive a paper copy. To obtain a copy, please request it from Paulette Laing, Practice

Administrator.

You may also obtain a copy of this notice either from our website, www.hipknee.com, or by requesting a copy of this notice be sent through electronic mail to Paulettel@hipknee.com. If we know that the electronic message has failed to be delivered, a paper copy of the notice will be provided. Even if you have received a notice electronically, you still retain the right to receive a paper copy upon request.

If the first service delivery is delivered electronically, other than by telephone, we provide electronic notice in the same medium, automatically and contemporaneously in response to a first request for service.

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 our facility. The notice will contain on the first page, in the top right-hand corner, the effective date. In addition, each time you register for treatment or health care services, we will offer you a copy of the current notice in effect.

COMPLAINTS

If you believe your privacy rights have been violated, you may file a complaint with us or with the Secretary of the Department of Health and Human Services. To file a complaint with us, contact Paulette Laing, Practice Administrator. All complaints must be submitted in writing. **You will not be penalized for filing a complaint.**

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.

Acknowledgement of Receipt of this Notice

We will request that you sign a separate form or notice acknowledging you have received a copy of this notice. If you choose, or are not able to sign, a staff member will sign their name, date. This acknowledgement will be filed with your records.

Acknowledgement of Receipt of Notice of Privacy Practices

I, _____, have received the Notice of Privacy Practices from Center for Joint Surgery and Sports Medicine.

X _____ **Date:** _____

In lieu of patient signature, I, _____, a staff member of Center for Joint Surgery and Sports Medicine, state that _____ has been given our current Notice of Privacy Practices.

X _____ **Date:** _____

State Law Information for Notice of Privacy Practices

Center for Joint Surgery and Sports Medicine

State: MD

Your state's laws regarding Protected Health Information must be considered along with the HIPAA Privacy Regulation when updating your organization's policies and procedures. We are providing the information below as a guide to what those other considerations may be. Consult your state's laws to make sure you are meeting all of the requirements.

Summary

Maryland statutes have a great impact on the Notice of Privacy Practices. Though there are no provisions on the actual format of the NPP, there are many restrictions on non-consensual disclosures, patient's rights and revocation on an authorization. Carefully read each state provision and our "Expected Impact" and then incorporate appropriate language into your policy. Seek outside counsel if anything is unclear.

General Issues of Concern

According to the HIPAA Privacy Regulation, you are required to give a copy of a Notice of Privacy Practices to each patient at the first encounter after April 14, 2003. The state law may have additional provisions on content, presentation requirements, and may note some exceptions to the federal requirements.

We have not discovered any relevant state statutes for this section.

Use and Disclosure of Protected Health Information

Use and Disclosure of Protected Health Information

The following sections describe different portions of the Notice of Privacy Practices. The state law may or may not allow the same categories for access or they may add additional restrictions in disclosing information for the categories. For each category you need to take a careful look at the state statutes and change the category accordingly. This may require you to remove some categories, add more categories, or revise the explanation in the category.

For Treatment

According to the HIPAA Privacy Regulation, a healthcare provider may release PHI without patient authorization for the purpose of treatment. State law may limit what information can be disclosed, if this information can be released without authorization, and under what circumstances the information can be released without authorization.

Expected Impact [Low]

The federal regulation allows for broad disclosures for treatment. State law does not define treatment so it is not clear if the federal and state terms mean the same thing.

NOTE: This is an uncertain area. Basic disclosures "for the sole purpose of treating the patient" are permissible under both the federal regulation and state law. This should cover most routine treatment activities. It is unclear if disclosures for other treatment purposes are allowed under state law, and if not, the disclosures may not be permissible. You may want to consult other authorities when specific question arise.

State Law Citation

MD Code Ann. Health-Gen. 4-305(b)(4)

Highlight of State Provision

A provider may disclose a medical record without the authorization of a person in interest to another provider for the sole purpose of treating the patient (subject to additional limitations for a medical record developed primarily in connection with the provision of mental health services).

For Payment

According to the regulation, a healthcare provider may release PHI without patient authorization for the purpose of payment. State law may limit what information can be disclosed, if this information can be released without authorization, and under what circumstances the information can be released without authorization.

Expected Impact [Low]

The federal regulation allows broad disclosures for payment. The federal definition of payment includes all of the activities permitted under state law. State law may not permit some payment disclosures allowed under the federal regulation.

NOTE: Most routine disclosures for payment may be made without patient authorization under the federal regulation and state law. It is unclear if federally allowed disclosures for risk adjustment, for re-insurance, or to consumer reporting agencies are allowed under state law. You may want to consult other authorities when specific questions arise.

State Law Citation

MD Code Ann. Health-Gen. 4-305(b)(5)

Highlight of State Provision

If a claim is filed by, or with the authorization of a patient, for covered insureds, beneficiaries, or enrolled recipients only, to third party payors including nonprofit health service plans, health maintenance organizations, the Department of Health and Mental Hygiene, the United States Department of Health and Human Services, or any other person obligated by contract or law to pay for the healthcare rendered for the sole purposes of: (i) submitting a bill to the third party payor; (ii) reasonable prospective, concurrent, or retrospective utilization review or predetermination of benefit coverage; (iii) Review, audit, and investigation of a specific claim for payment of benefits; or (iv) Coordinating benefit payments under more than one policy.

For Healthcare Operations

According to the regulation, a healthcare provider may release PHI without patient authorization for the purpose of healthcare operations. State law may limit what information can be disclosed, if this information can be released without authorization, and under what circumstances the information can be released without authorization.

Expected Impact [High]

The federal regulation allows disclosures without patient authorization for healthcare operations, an expansively broad category of activities. State law is specific in describing the non-consensual disclosures that are permitted for comparable purposes. It appears only those healthcare operations specifically authorized by state law are permitted.

NOTE: Make only those healthcare operations disclosures authorized under state law. Seek other guidance if specific problems arise regarding other disclosures.

State Law Citation

MD Code Ann. Health-Gen. 4-305(b)

MD Code Ann. Health-Gen. 4-306(b)

Highlight of State Provision

A provider may disclose a medical record without patient authorization: (1) (i) to the provider's authorized employees, medical staff, medical students, or consultants for the sole purpose of evaluating, or seeking payment for healthcare provided; (ii) to the provider's legal counsel regarding only the information in the medical record that relates to the subject matter of the representation; or (iii) to any provider's insurer or legal counsel, or their authorized agents, for the sole purpose of handling a claim against any

provider if the medical record is maintained on the claimant and relates to the subject matter of the claim; (2) if the person given access to the medical record signs an acknowledgment of the duty under this Act not to redisclose any patient identifying information, to a person for (i) evaluation and management of healthcare delivery systems; or (ii) accreditation of a facility by professional standard setting entities; (3) to a government agency performing its lawful duties as authorized by an act of the Maryland General Assembly or the United States Congress; (subject to additional limitations for a medical record developed primarily in connection with the provision of mental health services). A provider shall disclose information without patient authorization to a to a medical or dental review committee, or also to a provider or the provider's insurer or legal counsel, information relating to a patient's health or treatment which forms the basis for a claim in a civil action initiated by the patient, or person in interest.

Health-Related Services and Treatment Alternatives

According to the regulation, a healthcare provider may disclose health information to tell the patient about health-related services or to recommend possible treatment options, as long as the patient has the right to accept or reject such a disclosure. State law may have a different provision for handling this situation.

Marketing

Uses and Disclosures With Individual Involvement

Expected Impact [High]

Nothing in state law appears to allow any use or disclosure for marketing purposes.

NOTE: The limited marketing activities allowed without patient authorization under the federal regulation do not apply due to the lack of a comparable state law.

Fundraising Activities

According to the regulation, a healthcare provider may disclose health information to contact patients in an effort to raise money for not-for-profit operations as long as the patient has the right to accept or reject such a disclosure. State law may have a different provision for handling this situation.

Expected Impact [High]

Nothing in state law appears to allow any use or disclosure for fundraising purposes.

NOTE: The fundraising activities allowed under the federal regulation do not apply due to the lack of a comparable state law.

Research

According to the regulation, under certain circumstances a healthcare provider may release PHI without patient consent for the purpose of research. State law may limit what information can be disclosed, if this information can be released without

authorization, and under what circumstances the information can be released without authorization.

Expected Impact [Medium]

The federal regulation on research is considerably more complex. It allows some disclosures for research without approval by an institutional review board.

NOTE: In general, you may follow the federal regulation on research disclosures. However, the state law requirement for institutional review board approval appears to prohibit some research disclosures allowed under the federal regulation without institutional review board approval. The state requirement that the person given access to the medical record signs an acknowledgment of the duty not to redisclose any patient identifying information remains applicable.

State Law Citation

MD Code Ann. Health-Gen. 4-305(b)(2)

Highlight of State Provision

Disclosure is permitted for educational or research purposes, subject to the applicable requirements of an institutional review board, provided that the person given access to the medical record signs an acknowledgment of the duty not to redisclose any patient identifying information.

Organ and Tissue Donation

According to the regulation, a healthcare provider may release PHI without patient consent for the purpose of organ and tissue donation. State law may limit what information can be disclosed, if this information can be released without authorization, and under what circumstances the information can be released without authorization.

Expected Impact [Medium]

The state law appears somewhat more restrictive than the federal regulation.

NOTE: Follow the state law provision on disclosures related to organ donation.

State Law Citation

MD Code Ann. Health-Gen. 4-305 (b)(8), (9)

Highlight of State Provision

Subject to some restrictions, disclosures may be made to an appropriate organ, tissue, or eye recovery agency for a patient whose organs and tissues may be donated for the purpose of evaluating for possible organ and tissue donation; or to the Department of Health and Mental Hygiene or an organ, tissue, or eye recovery agency designated by the Department for the purpose of conducting death record reviews.

As Required By Law

The regulation allows you to disclose PHI when required by federal, state, or local law.

State law may have additional provisions when releasing information for such a purpose.

Expected Impact [Low]

The federal regulation and state law appear to be similar.

NOTE: There is no conflict between the federal regulation and state law on disclosures required by law.

State Law Citation

MD Code Ann. Health-Gen. 4-302(a)

Highlight of State Provision

A healthcare provider shall disclose the medical record only as provided by the Confidentiality of Medical Records Act or as otherwise provided by law.

To Avert a Serious Threat to Health or Safety

The regulation allows you to disclose PHI without patient consent for the purpose of health and safety. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient consent.

Expected Impact [Medium]

The federal regulation allows for disclosures under much broader conditions, including threats to the health or safety of the public or any person, not just the patient.

NOTE: Follow the state law only for emergency disclosures.

State Law Citation

MD Code Ann. Health-Gen. 4-301(d)

MD Code Ann. Health-Gen. 4-305(b)(6)

Highlight of State Provision

"Emergency" means a situation when, in the professional opinion of the healthcare provider, a clear and significant risk of death or imminent serious injury or harm to a patient exists. Disclosure is permitted if a provider makes a professional determination that an immediate disclosure is necessary, to provide for the emergency.

Military and Veterans

The regulation allows you to disclose PHI without patient consent as required by military command authorities of the Department of Veterans Affairs. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient consent.

Expected Impact [Low]

NOTE: There is no conflict between the state law and the federal regulation on disclosures to correctional institutions.

State Law Citation

MD Code Ann. Health-Gen. 4-305(b)(3)

Highlight of State Provision

Disclosures may be made to a government agency performing its lawful duties as authorized by an act of the Maryland General Assembly or the United States Congress (subject to additional limitations for a medical record developed primarily in connection with the provision of mental health services).

Worker's Compensation

The regulation allows you to disclose PHI without patient consent for Worker's Compensation programs. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient consent.

We have not discovered any relevant state statutes for this section.

Public Health Risks

The regulation allows you to disclose PHI without patient consent for public health activities which are listed in this category. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient consent.

Health Oversight Activities

Expected Impact [Low]

The federal regulation on public health disclosures allows some disclosures to persons that are not government agencies. State law authorizes disclosures to public health agencies.

NOTE: Most traditional public health disclosures can continue as before. Federally authorized disclosures to persons that are not government agencies may not apply unless other state law authorizes the disclosures.

State Law Citation

MD Code Ann. Health-Gen. 4-305(b)(3)

Highlight of State Provision

Disclosures may be made to a government agency performing its lawful duties as authorized by an act of the Maryland General Assembly or the United States Congress (subject to additional limitations for a medical record developed primarily in connection with the provision of mental health services).

Victims of Abuse, Neglect or Domestic Violence

Expected Impact [Medium]

The federal regulation broadly allows disclosures in cases of abuse, subject to requirements in some circumstances for informing the individual. The federal regulation and state law are not in direct conflict.

NOTE: The federal regulation concerning disclosures about victims of abuse, neglect or domestic violence is consistent with the state law. However, for those disclosures that are permissible under the state law

limitations, a disclosure must meet the terms of the federal procedures for informing the individual.

State Law Citation

MD Code Ann. Health-Gen. 4-306(b)(1)

Highlight of State Provision

Records may be disclosed to a state or local government unit for purposes of investigation or treatment in a case of suspected abuse or neglect of a child or an adult, subject to the following conditions: (i) The provider shall disclose only the medical record of a person who is being assessed in an investigation or to whom services are being provided in accordance with particular provisions of State Family Law; (ii) The provider shall disclose only the information in the medical record that will, in the professional judgment of the provider, contribute to the: (1) Assessment of risk; (2) Development of a service plan; (3) Implementation of a safety plan; or (4) Investigation of the suspected case of abuse or neglect.

Health Oversight Activities

The regulation allows you to disclose PHI without patient consent for certain health oversight activities. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient consent.

Expected Impact [Low]

The broad state law provision for disclosures to agencies appears to cover disclosures for health oversight allowed by the federal regulation. In some instances, it is possible that other state conditions will apply.

NOTE: There is no conflict between the federal regulation and state law on disclosures related to health oversight activities.

State Law Citation

MD Code Ann. Health-Gen. 4-305(b)(3)

Highlight of State Provision

Disclosures may be made to a government agency performing its lawful duties as authorized by an act of the Maryland General Assembly or the United States Congress (subject to additional limitations for a medical record developed primarily in connection with the provision of mental health services).

Lawsuits and Disputes

The regulation allows you to disclose PHI without patient consent for lawsuits and disputes. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient consent.

Judicial and Administrative Proceedings

Expected Impact [Medium]

The federal regulation and state law are broadly comparable, but there are some procedural differences that are beyond the scope of this analysis.

NOTE: You will need additional guidance on the procedural details for responding to compulsory process.

State Law Citation

MD Code Ann. Health-Gen. 4-305(6)

Highlight of State Provision

Subject to some limitations, disclosure may be made in accordance with compulsory process, (i) if the subpoena, summons, warrant or court order contains a certification that: 1. A copy of the subpoena, summons, warrant, or court order has been served on the person whose records are sought by the party seeking the disclosure; or 2. Service of the subpoena, summons, warrant, or court order has been waived by the court for good cause; (ii) In accordance with a stipulation by a patient or person in interest; or (iii) In accordance with a discovery request permitted by law to be made to a court, an administrative tribunal, or a party to a civil court, administrative, or health claims arbitration proceeding.

Law Enforcement

The regulation allows you to disclose PHI without patient consent for certain law enforcement issues. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient consent.

Pursuant to process/ required by law, Identification and Location Information, Victims of Crime, Decedents, Crime on Premises, Reporting Crime in Emergencies

Expected Impact [Medium]

NOTE: You can make law enforcement disclosures about crime on premises only if the conditions of both state law and the federal regulation are met. Not all federally authorized disclosures will necessarily be consistent with state law.

State Law Citation

MD Code Ann. Health-Gen. 4-305(7)

Highlight of State Provision

Subject to limitations for mental health records, disclosures may be made to grand juries, prosecution agencies, law enforcement agencies to further an investigation or prosecution that is pursuant to a subpoena, warrant, or court order for the sole purposes of investigating and prosecuting criminal activity, provided that the prosecution agencies and law enforcement agencies have written procedures to protect the confidentiality of the records.

Coroners, Health Examiners and Funeral Directors

The regulation allows you to disclose PHI without patient consent to coroners, health examiners and funeral directors. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient consent.

Expected Impact [Medium]

Disclosure to a coroner is apparently allowed under state law if the coroner is a government agency. Nothing in main state health privacy law appears to authorize disclosure to a funeral director.

NOTE: Disclosures to a coroner are permitted, but not disclosures to a funeral director, other than the disclosure of a death certificate required by law.

State Law Citation

MD Code Ann. Health-Gen. 4-305(b)(3)

Highlight of State Provision

Disclosures may be made to a government agency performing its lawful duties as authorized by an act of the Maryland General Assembly or the United States Congress (subject to additional limitations for a medical record developed primarily in connection with the provision of mental health services).

National Security and Intelligence Activities

The regulation allows you to disclose PHI without patient consent for national security and intelligence activities. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient consent.

Expected Impact [Low]

NOTE: There is no conflict between the state law and the federal regulation on disclosures to correctional institutions.

State Law Citation

MD Code Ann. Health-Gen. 4-305(b)(3)

Highlight of State Provision

Disclosures may be made to a government agency performing its lawful duties as authorized by an act of the Maryland General Assembly or the United States Congress (subject to additional limitations for a medical record developed primarily in connection with the provision of mental health services).

Protective Services for the President and Others

The regulation allows you to disclose PHI without patient consent for protective services for the President and others. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient consent.

Expected Impact [Low]

NOTE: There is no conflict between the state law and the federal regulation on disclosures to correctional institutions.

State Law Citation

MD Code Ann. Health-Gen. 4-305(b)(3)

Highlight of State Provision

Disclosures may be made to a government agency performing its lawful duties as authorized by an act of the Maryland General Assembly or the

United States Congress (subject to additional limitations for a medical record developed primarily in connection with the provision of mental health services).

Inmates

The regulation allows you to disclose PHI without patient consent for inmates. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient consent.

Expected Impact [Low]

NOTE: There is no conflict between the state law and the federal regulation on disclosures to correctional institutions.

State Law Citation

MD Code Ann. Health-Gen. 4-305(b)(3)

Highlight of State Provision

Disclosures may be made to a government agency performing its lawful duties as authorized by an act of the Maryland General Assembly or the United States Congress (subject to additional limitations for a medical record developed primarily in connection with the provision of mental health services).

Patient Rights

Right to Inspect and Copy

The regulation allows patients to view their PHI except for psychotherapy notes. The state law may have special provisions for patients to access their records and may have specific impact on the management of psychotherapy notes.

Psychotherapy Notes

Expected Impact [Medium]

The federal regulation exempts all psychotherapy notes from patient access. The state and federal provisions on psychotherapy notes are similar, but the state law allows the notes to become part of a medical record that a patient can see and copy under some conditions.

NOTE: If a psychotherapy note qualifies under state law as a personal note, then the federal exemption does not apply.

State Law Citation

MD Code Ann. Health-Gen. 4-307

Highlight of State Provision

A personal note shall be considered part of a recipient's medical records if, at any time, a mental healthcare provider discloses a personal note to a person other than: (i) the provider's supervising healthcare provider; (ii) A consulting healthcare provider; (iii) An attorney of the healthcare provider; or (iv) discovery in a lawsuit by the patient against the provider.

Access Procedure

Expected Impact [Low]

The federal regulation allows providers to ask for a written request for access or for a copy.

NOTE: There is no conflict between the state law and federal regulations with respect to access procedures. You may ask a patient for a request in writing.

State Law Citation

MD Code Ann. Health-Gen. 4-304(a), (d)

Highlight of State Provision

A provider shall comply within a reasonable time after patient requests in writing to receive a copy of a medical record or to see and copy the medical record.

Right to Amend

The regulation allows patients to amend their PHI. There are however, certain exceptions. The state law may have special provisions for patients to amend their records and may or may not have the same exceptions.

Denial

Created by Third Party

Expected Impact [High]

The federal regulation does not require that a provider amend a record that was not created by the provider. State law gives a patient the right to seek a correction of a medical record in the possession of a provider even if the provider did not create the record.

NOTE: Don't rely on the federal exemption for information created by a third party.

State Law Citation

MD Code Ann. Health-Gen. 4-301(g)

MD Code Ann. Health-Gen. 4-304(b)

Highlight of State Provision

"Medical record" includes any file or record received from another provider that relates to the healthcare of a patient or recipient; and identifies the identity of the patient or recipient. A provider shall establish procedures for a patient to request an addition to or correction of a medical record.

Not Part of Designated Record Set

Expected Impact [Medium]

The federal amendment regulation applies to protected health information maintained in a designated record set. The state law exemption for administration records of a facility appears to be similar in some respects.

NOTE: We are not sure to what extent the federal designated record set limitation may be consistent with state law. We suggest that you not rely on the federal designated record set limitation if possible. You may be able to satisfy amendment requests without confronting the issue.

State Law Citation

MD Code Ann. Health-Gen. 4-301(g)

MD Code Ann. Health-Gen. 4-302(b)(1)(i)

Highlight of State Provision

"Medical record" means any oral, written, or other transmission in any form or medium of information that: (i) is entered in the record of a patient or recipient; (ii) identifies or can readily be associated with the identity of a patient or recipient; and (iii) relates to the healthcare of the patient or recipient. It includes documentation of disclosures of a medical record to any person who is not an employee, agent, or consultant of the healthcare provider. The access provisions do not apply to records relating to the administration of a healthcare facility.

Not Available for Inspection

We have not discovered any relevant state statutes for this section.

Accurate and Complete

Expected Impact [Medium]

The federal regulation allows denial of a request for amendment if the record is accurate and complete. State law does not establish a standard for denial.

NOTE: This is an uncertain area, but you can probably rely on the federal accuracy and completeness standard unless you hear otherwise from a recognized authority.

State Law Citation

MD Code Ann. Health-Gen. 4-304(b)

Highlight of State Provision

A healthcare provider shall establish procedures for a patient to request an addition to or correction of a medical record, but a patient may not have any information deleted from a medical record.

Implementation Procedure

Expected Impact [Low]

The procedures under state law are similar to those under the federal regulation.

NOTE: There is no conflict between state law and federal regulation regarding the procedure for implementing amendments. State law expressly prohibits deletion of information, and that prohibition is applicable.

State Law Citation

MD Code Ann. Health-Gen. 4-304(b)

Highlight of State Provision

A provider shall establish procedures for a patient to request an addition to or correction of a medical record, but a patient may not have any information deleted from a medical record. Within a reasonable time after a person requests a change in a medical record, the provider shall make the requested change, or provide written notice of a refusal to make the change. A notice of refusal shall contain each reason for the refusal, and the procedures, if any, that the provider has established for review of the refusal. If the final determination of the provider is a refusal to change the medical record, the provider shall permit the patient to insert in the record a concise statement of the reason that the patient disagrees. The provider may insert in the medical record a statement of the reasons for the refusal.

Right to an Accounting of Disclosures

The regulation allows patients to request an accounting of disclosures of their PHI. The state law may have special provisions for patients to access this.

Accounting of Disclosures

Expected Impact [Low]

The state requirements for accounting do not appear to be inconsistent with the federal regulation.

NOTE: The state law for accounting requirements is consistent with the federal regulation, and both can be followed.

State Law Citation

MD Code Ann. Health-Gen. 4-301(g)(2)

MD Code Ann. Health-Gen. 4-306(c)(2)

Highlight of State Provision

A medical record includes documentation of disclosures of a medical record to any person who is not an employee, agent, or consultant of the healthcare provider.

Exceptions

We have not discovered any relevant state statutes for this section.

Access

Expected Impact [Medium]

By making accounting part of the medical record, state law makes all accounting records accessible to the patient. The federal regulation provides for access only to the accounting required under the federal regulation.

NOTE: Follow the state law requiring that all accounting records be made accessible to the patient. The access time limit under state law for medical records is applicable to accounting records rather than the federal time limit.

State Law Citation

MD Code Ann. Health-Gen. 4-301(g)(2)

Highlight of State Provision

A medical record includes documentation of disclosures of a medical record to any person who is not an employee, agent, or consultant of the healthcare provider.

Right to Request Restrictions

The regulation allows patients to request restrictions on their PHI. The state law may have special provisions for this issue.

We have not discovered any relevant state statutes for this section.

Right to Request Confidential Communications

The regulation allows patients to request confidential communications of their PHI. The state law may have special provisions for this issue.

We have not discovered any relevant state statutes for this section.

Other Uses of Health Information

Revocation

According to the regulation, any other disclosures of PHI not covered by this notice require patient authorization. Also, a patient may revoke an authorization at any time. The state law may have special provisions for when patients may revoke an authorization.

Expected Impact [Medium]

The federal regulation limits the ability of a patient to revoke an authorization where a provider has taken action in reliance on the authorization.

NOTE: Follow the state law, which allows revocation without regard to action taken in reliance.

State Law Citation

MD Code Ann. Health-Gen. 4-303(d)

Highlight of State Provision

Except in cases of criminal justice referrals, a person in interest may revoke an authorization in writing. A revocation of an authorization becomes effective on the date of receipt by the healthcare provider. A disclosure made before the effective date of a revocation is not affected by the revocation.