

NICHOLAS COUNTY HEALTH DEPARTMENT
Notice of Privacy Practices

**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.**

This *Notice of Privacy Practices* describes how the Nicholas County Health Department (NCHD) may use and disclose your protected health information (PHI) to carry out treatment, payment or health care operations and for other purposes that are permitted or required by law. It also describes your rights to access and control your PHI. Each time you come to the NCHD, a record of the visit is made, which includes but is not limited to your health history, physical examination, test results, diagnoses and treatment and any plans for future care and treatment. The information contained in this record is referred to as your “protected health information (PHI).”

The NCHD is required by law to: 1) ensure that the information that identifies you is kept private, 2) provide you with this notice of our legal duties and privacy practices regarding confidential information about you, and 3) abide by the terms of this *Notice of Privacy Practices*. The NCHD reserves the right to change the terms of our notice, at any time. The new notice will be effective for all PHI that we maintain at that time. Upon your request, we will provide you with any revised *Notice of Privacy Practices*. You may call the office and request that a revised copy be sent to you in the mail, or ask for one at the time of your next appointment.

I. USES AND DISCLOSURES OF PHI

A. Uses and Disclosures of PHI For Treatment, Payment and Healthcare Operations

The law allows the NCHD to use or disclose your PHI for treatment, payment and healthcare operations. Here are examples of the types of uses and disclosures of your PHI that the NCHD is permitted to make.

1. Treatment: The NCHD will use and disclose

your PHI to provide, coordinate, or manage your health care and any related services. For example, we may disclose your PHI, when you have been referred to a specialist for care.

In addition, we may disclose your PHI from time-to-time to another facility (e.g., a laboratory) who, at the request of your physician or other practitioner, becomes involved in your care.

2. Payment: Your PHI will be used, as-needed, to obtain payment for your health care services. This may include certain activities such as: 1) determination of eligibility for specific program services, 2) reviewing services provided to you for medical appropriateness, and 3) quality assurance review activities. For example, a monthly report containing specific information about you may be submitted to the funding agency.

3. Healthcare Operations: The NCHD may use or disclose, as-needed, your PHI in order to support the business activities of the NCHD. These activities include, but are not limited to, quality assessment activities, employee review activities, licensing, training of health care personnel, and conducting or arranging for other business needs including auditing functions and legal review. NCHD may use a sign-in sheet at the registration desk; call you by name in the waiting room; or contact you to remind you of upcoming appointments.

4. Business Associates: There are some services provided in the NCHD through contracts with third-party “business associates.” These business associates perform various activities (e.g. billing, transcription services) for us. Whenever an arrangement between us and a business associate involves the use or disclosure of your PHI, we will have a written contract requiring that your PHI be kept private.

B. Uses and Disclosures of PHI Based Upon Your Written Authorization

Except as described in this *Notice of Privacy Practices*, the NCHD will not use or disclosure

your PHI without your written authorization. You may revoke a written authorization, at any time, in writing, except to the extent that your physician or the NCHD has relied on your authorization to use or disclose your PHI. We are unable to take back any disclosures we have already made with your permission.

1. Marketing and Fund-raising: The NCHD may use and disclose your PHI for marketing and fundraising activities but only with your written authorization in some circumstances. For example, if you sign a written authorization, your name and address may be used to send you information about products or services that are provided by a third party. The NCHD will not share or sell your PHI without your written permission. The prohibition on the sale of PHI includes financial as well as non-financial remuneration. Exceptions to this rule are described in Sec 164.512 of the HIPPA Rules. We may send you information about services that we offer (services necessary for your treatment, care coordination, or alternative therapy options) without your written authorization. You have the right to opt out of receiving fundraising communications if you so desire.

C. Other Permitted and Required Uses and Disclosures That May be Made With Your Authorization or Opportunity to Object

We may use and disclose your PHI in the following instances listed below. You have the opportunity to agree or object to these uses or disclosures of all or part of your PHI. If you are not present or able to agree or object to the use or disclosure of the PHI, then your physician or other practitioner may, using his/her professional judgment, determine whether the disclosure is in your best interest. In this case, only the PHI that is relevant to your health care will be disclosed.

1. Others Involved in Your Care: Unless you object, we may disclose to a member of your family, a relative, a close friend or any other person you identify, your PHI that directly relates to that person's involvement in your health care or payment for your health care. If

you are unable to agree or object to such a disclosure, we may disclose such information as necessary if we determine that it is in your best interest based on our professional judgment. We may use or disclose PHI to notify or assist in notifying a family member, legal representative or any other person that is responsible for your care, of your location, current condition, or death.

2. Disaster Relief: We may use or disclose your PHI to an entity assisting in disaster relief efforts so that your family can be notified about your condition, status, or location.

3. Emergencies: We may use or disclose your PHI in an emergency situation. If this happens, the NCHD will try to obtain your authorization as soon as possible after the delivery of treatment. If your physician or other practitioner at the NCHD is required by law to treat you and they have attempted to obtain your authorization but are unable to do so, he or she may still use or disclose your PHI to treat you.

4. Communication Barriers: We may use or disclose your PHI if your physician or other practitioner at the NCHD attempts to obtain authorization from you but is unable to do so due to substantial communication barriers and the physician determines, using professional judgment, that you intend to consent to use or disclosure under the circumstances.

D. Other Permitted and Required Uses and Disclosures That May be Made Without Your Authorization or Opportunity to Object

We may use or disclose your PHI in the following situations without your authorization. These situations include:

1. Required by Law: We may use or disclose your PHI when required by federal, state or local law. The use or disclosure will be made in compliance with the law and will be limited to the relevant requirements of the law. You will be notified, as required by law, of any such uses or disclosures.

2. Public Health and Safety: As required by law,

the NCHD may disclose your PHI to *public health authorities for purposes such as: a) preventing or controlling disease, injury, or disability, b) reporting disease or infection exposure to a person who may have been exposed or may be at risk for contracting or spreading a disease or condition, c) reporting child abuse or neglect, d) reporting if we believe that you have been a victim of abuse or neglect, e) reporting, in certain circumstances, instances of domestic violence, or f) reporting births and deaths.* We may also disclose your PHI to appropriate persons in order to prevent or lessen a serious and imminent threat to your health or safety, or the health or safety of another person or the general public. Disclosures will only be made to a person or agency permitted by law to collect or receive the information. Disclosures will be made consistent with the requirements of applicable federal and state laws.

3. Health Oversight: We may disclose PHI to a health oversight agency, authorized by law and during the course of audits, investigations, inspections, licensure and other proceedings required by government agencies to monitor the health care system, government benefits programs, other government regulatory programs and civil rights laws.

4. Food and Drug Administration: We may disclose your PHI to a person or company required by the Food and Drug Administration to report adverse events, product defects or problems, biologic product deviations, to track products, enable product recalls, make repairs or replacements, or to conduct post marketing surveillance, as required.

5. Legal Proceedings: We may disclose PHI: 1) in the course of any judicial or administrative proceeding, 2) in response to an order of a court or administrative tribunal (to the extent such disclosure is expressly authorized), and 3) in certain conditions in response to a subpoena, discovery request or other lawful process.

6. Law Enforcement: We may disclose PHI to law enforcement officials for purposes or in situations, such as: 1) legal processes as otherwise required by law, 2) limited

information requests for identification and location purposes, 3) pertaining to victims of a crime, 4) suspicion that death has occurred as a result of criminal conduct, 5) in the event that a crime occurs on the premises of the practice, and 6) medical emergency (not on the health department's premises) and it is likely that a crime has occurred.

7. Coroners, Funeral Directors, and Organ Donation: We may disclose PHI to a coroner or medical examiner for identification purposes, determining cause of death or for the coroner or medical examiner to perform other duties authorized by law. We may also disclose PHI to a funeral director, as authorized by law, in order to permit the funeral director to carry out their duties. We may disclose such information in reasonable anticipation of death. PHI may be used and disclosed for organ, eye, tissue, or cadaver donation purposes.

8. Research: We may disclose your PHI to researchers when their research has been approved by an Institutional Review Board (IRB) that has reviewed the research proposal and established protocols to ensure the privacy of your PHI. If a researcher has not obtained the required waiver from an IRB, we will not disclose your PHI without your written authorization, other than in a "limited data set" described below.

9. Military Activity and National Security: When the appropriate conditions apply, we may use or disclose PHI of individuals who are Armed Forces personnel: 1) for activities deemed necessary by appropriate military command authorities, or 2) to foreign military authorities if you are a member of that foreign military service. We may also disclose your PHI to authorized federal officials for conducting national security and intelligence activities, including for the provision of protective services to the President or other legally authorized individuals.

10. Workers' Compensation: Your PHI may be disclosed by us as authorized to comply with workers' compensation laws and other similar legally-established programs.

11. Inmates: We may use or disclose your PHI if you are an inmate of a correctional facility and your physician or other practitioner created or received your PHI in the course of providing care to you.

12. Limited Data Set (LDS): For purposes of research, *public health*, or health care operations, it may be necessary to use or disclose some of your PHI without written authorization. In these situations, we may use your PHI to create a LDS in which certain required direct identifiers (such as your name) have been removed. We will disclose the information in the LDS for these purposes only, *if*, we have obtained satisfactory assurances that this information will be used for limited purposes.

13. Required Uses and Disclosures: Under the law, we must make disclosures to you and when required by the Secretary of the Department of Health and Human Services to investigate or determine our compliance with requirements of Section 164.500 (et. seq) of the Health Insurance Portability and Accountability Act (HIPAA).

II. YOUR RIGHTS REGARDING YOUR PHI

A. You have the right to inspect and copy your PHI.

This means you may inspect and obtain a copy of PHI about you that is contained in a designated record set for as long as we maintain the PHI. A “designated record set” contains medical and billing records and any other records the NCHD uses to make decisions about you, except for psychotherapy notes, information compiled in reasonable anticipation of, or use in, a civil, criminal, or administrative action or proceeding, and PHI that is subject to law that prohibits access to PHI. Depending on the circumstances, a decision to deny access may be reviewed by a licensed health care professional chosen by us. The person conducting the review will not be the person who denied your request. We will comply with the outcome of the review. Most uses or disclosures of a person’s psychotherapy notes

require authorization. Please contact our Privacy Officer if you have questions about access to your medical record.

B. You have the right to request a restrictions or limitations of the use and disclosure of your PHI.

This means you may ask the NCHD not to use or disclose any part of your PHI for the purposes of treatment, payment or healthcare operations. You may restrict certain disclosures of PHI to a health plan when you pay in full, out of pocket, for a health care service provided by the NCHD. You may also request that any part of your PHI not be disclosed to family members or friends who may be involved in your care or for notification purposes as described in this *Notice of Privacy Practices*. Your request must state specifically: 1) what information you want restricted, 2) whether you are requesting to restrict use, disclosure or both, 3) to whom the restriction will apply, and 4) an expiration date.

The NCHD is not required to agree to a restriction that you request. If your physician or other practitioner believes it is in your best interest to permit use and disclosure of your PHI, then it will not be restricted. If we do not agree to the requested restriction, the NCHD may not use or disclose your PHI in violation of that restriction unless it is needed to provide emergency treatment. Please discuss any restriction you wish to request with our Privacy Officer.

We may terminate an agreed upon restriction without your consent. In that situation, the restriction will only apply to PHI created or received before you were informed of the termination of the restriction.

C. You have the right to request that you receive confidential communications from us by alternative means or at an alternative location.

You have the right to request that the NCHD communicate with you about medical matters in a certain way or at a certain location. For example, you can ask that you only be contacted at work or by mail. We will not request an

explanation from you as to the basis for the request, however we may want to know how payment will be handled or request an alternative address or other method of contact. Please make this request in writing to our Privacy Officer.

D. You have the right to request that your PHI be amended.

If you feel that PHI we have about you is not correct or is incomplete, you may ask us to amend the information. You have the right to request an amendment for as long as we maintain your PHI. Your request must be in writing and provide a reason to support your requested amendment. Your request will be considered and changes will be made based on the medical opinion of the physician or other practitioner originating the entry. In certain cases, your request may be denied. If we deny your request for amendment, you have the right to file a statement of disagreement with us and we may prepare a rebuttal to your statement and will provide you with a copy of any such rebuttal. Please contact our Privacy Officer if you have questions about amending your medical record.

E. You have the right to receive an accounting of certain disclosures we have made, if any, of your PHI.

This right applies to disclosures for purposes other than treatment, payment or healthcare operations as described in this *Notice of Privacy Practices*. It excludes disclosures we may have made to you, to family members or friends involved in your care, or for notification purposes. You have the right to receive specific information regarding these disclosures that occurred after April 14, 2003. The first list you request in a twelve-month period will be free of charge. For additional lists, we may charge you for the cost(s) of providing the list(s). We will notify you of the cost(s) involved and you may choose to withdraw or modify your request before any cost(s) are incurred. You may request this disclosure for any time period up to a maximum time frame of six years. The right to receive this information is subject to certain exceptions,

restrictions and limitations.

F. You have the right to obtain a paper copy of this Notice of Privacy Practices.

G. You have the right to be notified if there is a breach affecting PHI.

A breach is, generally, an impermissible use or disclosure of PHI that compromises security or privacy and poses a significant risk of financial, reputational, or other harm to the affected individual.

Conditions for reporting a breach:

- Breach must be in violation of the Privacy Rule
- Breach is considered a low possibility and the PHI has been compromised to whom disclosed, the possibility of mitigation, and the type of information disclosed
- Risk analysis must be documented if no disclosure is made

Exceptions to Reporting:

- Good faith unintentional access by authorized person
- Inadvertent disclosure by one authorized person to another
- Unauthorized disclosure to a person who cannot reasonably retain it

Business Associates must only provide the required notification if the breach involved unsecured PHI. Unsecured PHI is PHI that has not been rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of technology or methodology specified by security in guidance.

Notice must describe:

- What happened (including date of breach and date of discovery)
- Types of information involved
- Mitigation efforts
- Contact information
- Notice must be given in a timely manner, which is 60 days from the first day the breach is discovered (i.e., when breach is known or should have been

known with reasonable diligence)

A Business Associate is required to notify the covered entity without unreasonable delay and in any event within 60 days of the breach the Business Associate is required to provide information that the covered entity must include in the notification (but should not delay initial notification while they collect this information).

Any incident involving patient records is assumed to be a breach, and unless a practice conducts a risk assessment that proves a low probability that any PHI was compromised, the breach must be reported.

If it is determined after investigation that fines are applicable, the fine structure is detailed in 45 CFR 160.404.

III. COMPLAINTS

You will not be penalized for filing a complaint. If you believe your privacy rights have been violated, you may file a complaint by notifying our Privacy Officer or by writing to the Secretary of the Department of Health and Human Services.

Privacy Officer, Nicholas County Health Department,
One Stevens Road, Summersville, West Virginia, 26651,
Phone: 304-872-5329, Fax: 304-872-6691.

IV. QUESTIONS

For further information about matters covered by this Notice you may contact the NCHD.

This notice becomes effective on October 28th, 2003

This notice was revised October 21, 2013