SECTION 4: PATIENT RIGHTS

4.1. The Notice of Privacy Practices

POLICY

1. **Notice**: Patients or their personal representatives will be notified of their privacy rights and of how the University of Florida (UF) may use their protected health information (PHI) before they enter the health care system at any point, including home visits, in accordance with current federal and state laws.

2. **Availability**: Paper copies of the Notice are provided to every new patient and are available at any time upon request. The Notice is also posted in conspicuous locations in UF’s patient care areas, as well as on UF’s Privacy Office web site.

3. **Changes in the Notice**: If UF’s privacy practices change, patients will be notified of the change by making the updated notice accessible as noted above and available at service delivery sites for individuals to request on or after the effective date of the revision.

4. **OHCA**: UF participates in an Organized Health Care Arrangement (OHCA) with UF Health Shands Hospital (Shands); any member of the OHCA may provide a Notice of Privacy Practices to a patient at the first delivery of service.

DEFINITIONS

1. **Notice of Privacy Practices**: A statement, mandated by federal and state laws, which outlines how a covered entity (CE) and its affiliates will use and disclose patients’ PHI and how patients may gain access to that information.

2. **Acknowledgement of Receipt**: A statement, mandated by federal law and preferably signed by the patient, indicating that the patient received the Notice of Privacy Practices.

PRIVACY REQUIREMENTS

1. **Notice**: An individual has a right to adequate notice of the uses and disclosures of PHI that may be made by the covered entity, and of the individual’s rights and the CE’s legal duties with respect to PHI.

2. **Required Notice Elements**: The CE must provide a notice that is written in plain language and that contains the following required elements:

   a. Header: The notice must contain the following statement as a header or otherwise prominently displayed: “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.”

   b. A description, including examples, of the types of uses and disclosures that the CE is permitted to make for the purposes of treatment, payment, and health care operations. A description of each of the other purposes for which the CE is permitted or required to use or disclose PHI without the individual’s written authorization. Each of these description must include sufficient detail to place the individual on notice of the uses and disclosures that are permitted or required by the Privacy Rule and other applicable law.

   c. A statement indicating that most uses and disclosures of psychotherapy notes (where appropriate), uses and disclosures of PHI for marketing purposes, and disclosures that constitute a sale of PHI require authorization.
d. A statement regarding fundraising communications and an individual’s right to opt out of receiving such communications.

e. A statement that other uses and disclosures not described in the NPP will be made only with the individual’s written authorization and that the individual may revoke such authorization.

f. A statement that individuals may complain to the CE and to the Secretary if they believe their privacy rights have been violated, a brief description of how the individual may file a complaint with the CE, and a statement that the individual will not be retaliated against for filing a complaint.

g. A statement that the CE is required by law to maintain the privacy of PHI, to provide individuals with notice of its legal duties and privacy practices with respect to PHI, and to notify affected individuals following a breach of unsecured PHI; that the CE is required to abide by the terms of the notice currently in effect; and that the CE reserves the right to change the terms of its notice and to make the new notice provisions effective for all PHI that it maintains. The statement must also describe how it will provide individuals with a revised notice.

h. The notice must contain the name, or title, and telephone number of a person or office to contact for further information, and the date on which the notice is first in effect, which may not be earlier than the date on which the notice is printed or otherwise published.

3. Health care providers are required to include a statement informing individuals of their right to restrict certain disclosures of PHI to a health plan where the individual pays out of pocket in full for the health care item or service.

4. Revisions to the Notice: The CE must promptly revise and distribute its notice whenever there is a material change to the uses or disclosures, the individual’s rights, the CE’s legal duties, or other privacy practices stated in the notice.

5. Providing the Notice: A covered health care provider that has a direct treatment relationship with an individual must:
   a. Provide the notice no later than the date of the first service delivery, including service delivered electronically, to such individual; or as soon as reasonably practicable after an emergency treatment situation;
   b. Make a good faith effort to obtain a written acknowledgment of receipt of the notice provided;
   c. Have the notice available at the service delivery site for individuals to request to take with them;
   d. Post the notice in a clear and prominent location where it is reasonable to expect individuals seeking service from the covered health care provider to be able to read the notice;
   e. Whenever the notice is revised, make the notice available upon request on or after the effective date of the revision.

6. A CE that maintains a web site that provides information about the CE’s customer services or benefits must prominently post its notice on the web site and make the notice available electronically through the web site.

PROCEDURES

1. Give the Notice of Privacy Practices (see Forms) to every patient or personal representative before or at the first delivery of service. Provide a new copy of the NPP whenever the notice has been updated, even if the patient has received a notice before.

2. Ask the patient to sign the Acknowledgement form when they receive the notice. (See Patient Rights Forms)
a. If a patient cannot or will not sign the acknowledgement, note the reason on the form and any efforts made to obtain the signature.

b. The patient may be treated whether the acknowledgement is signed or not.

3. Give the patient a copy of the acknowledgement form, whether the patient signed it or not. File the original acknowledgement form in the patient’s health record. Acknowledgement forms must be retained for at least six years after the last effective date of the acknowledgement.

4. Enter any appropriate tracking information in the computer-based or other tracking system designated for this purpose, to indicate that the patient received the NPP.
   a. When a patient returns to UF or Shands, at any point of entry, determine whether the patient has received the most current version of the NPP by checking the tracking system.
   b. Follow the procedure above to give a new patient the most current NPP, or, if the NPP has been updated, to give a returning patient the most current version.
   c. No action is required if the system indicates the patient has already received a current NPP. However, if in doubt, provide another NPP and have the patient sign an acknowledgment.

REFERENCES
1. HIPAA: 45 CFR §164.501 (Definitions); § 164.520 (Notice of Privacy Practices)

EXHIBITS
1. UF Privacy Form Joint Notice of Privacy Practices in English and Spanish at, http://privacy.ufl.edu/uf-health-privacy/forms/
2. UF Privacy Form Acknowledgement of Receipt of NPP at, http://privacy.ufl.edu/uf-health-privacy/forms/