

MASTER POLICY ON USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

PURPOSE:

To ensure the confidentiality of each patient's health information in compliance with federal and state laws.

POLICY:

Our patients have entrusted their personal and clinical information to us. This information contains highly sensitive material and requires thoughtful and attentive management by those who have access to it. The entire workforce of **Atlanta Family Neurology/Atlanta Child Neurology** is committed to protecting our patients' right to privacy and safeguarding their protected health information.

Related Policies:

- Patient's Right to Amend Protected Health Information
- Patient's Right to Request Restrictions on Uses/Disclosures of Protected Health Information
- Patient's Right to Request Confidential Communications of Protected Health Information
- Training Employees on HIPAA Policies and Procedures
- Use and Disclosures of Protected Health Information
- Patient's Right to Access His/her Own Protected Health Information

RESPONSIBLE PARTIES AND DUTIES:

Privacy Officer

The Privacy Officer will develop policies and procedures to implement the privacy policies adopted by Atlanta Family Neurology/Atlanta Child Neurology, PC and provide oversight over implementation of the policies to ensure compliance of Atlanta Family Neurology/Atlanta Child Neurology's workforce. The Privacy Officer may delegate some of his or her responsibilities to the Health Information Management Department or other appropriate personnel.

Security Officer

The Security Officer is responsible for ensuring data security of Atlanta Family Neurology/Atlanta Child Neurology's automated data, including maintenance of security passwords, restrictions of workforce member access to data files, and design of a system backup program to restore data in the event of loss and protecting the physical security of protected health information.

Office Manager

The human resources Department is responsible for the initial and on-going training of Atlanta Family Neurology/Atlanta Child Neurology's employees and other members of the workforce. The Human Resources Department will determine the scope of access to protected health information for each job position, define violations and infractions of the privacy policies and implement corrective actions for such violations and infractions.

Workforce

Atlanta Family Neurology/Atlanta Child Neurology's workforce members must respect the privacy of all patients, become informed and trained regarding all privacy policies, comply with Atlanta Family Neurology/Atlanta Child Neurology's privacy policies and report any breach of such policies, whether the breach was committed by the individual or another member of the workforce. No member of the workforce can have access to protected health information until that member has agreed to adhere to the privacy policies of Atlanta Family Neurology/Atlanta Child Neurology and has signed a confidentiality statement. The term "workforce" means officers, employees, independent contractors, trainees, volunteers, and other persons whose conduct, in the performance of work for Atlanta Family Neurology/Atlanta Child Neurology is under the direct control of Atlanta Family Neurology/Atlanta Child Neurology.

PROCEDURES:

1. Guiding Principles

- a. Only permitted individuals can have access to, use, or disclose protected health information. Permitted individuals are those whose job description or job responsibilities allow access to protected health information.
- b. Permitted individuals may only use or disclose protected health information if there is appropriate patient authorization, or a legal exception permitting such use or disclosure.

2. Definitions

- a. Disclosure means the release, transfer, provision of access to, or divulging in any other manner, of information outside Atlanta Family Neurology/Atlanta Child Neurology.
- b. Protected Health Information means information relating to the health or condition of a patient, the provision of care to a patient, or the payment for the provision of health care to a patient that identifies the patient and is transmitted or maintained electronically or otherwise.
- c. Use means the sharing, employment, application, utilization, examination, or analysis of information within Atlanta Family Neurology/Atlanta Child Neurology.

3. Workforce Access Rights

- a. Access rights to protected health information are limited to that which is necessary to adequately perform one's specific job responsibilities. **Access to a function on the computer does not imply that it is proper to search this information at will simply to satisfy curiosity.** Hard copy records are accessed by request to the department responsible for safeguarding the document and should be signed out appropriately.
- b. Access rights to protected health information are defined in:
 - (1) Employee job descriptions;
 - (2) Contract terms or job descriptions for independent contractors; or
 - (3) Policies and procedures for hospital volunteers.
- c. Persons not employed by Atlanta Family Neurology/Atlanta Child Neurology may have legitimate reasons to access patient information and/or information systems. Such access will be granted only when proper authorizations are in place. Such access will be time-limited. Non-employees include, but are not limited to, Medical Staff members, students, employees of private medical staff contractors, consultants, volunteers, insurers, vendors and payer-based case managers.
- d. Atlanta Family Neurology/Atlanta Child Neurology will make reasonable efforts to limit the amount of protected health information provided to members of the workforce who are permitted access to such information to ensure that only the minimum necessary is accessed to accomplish the intended purpose of the use or disclosure.

4. Patient Rights

- a. Atlanta Family Neurology/Atlanta Child Neurology's patients have the right to be informed of their rights to privacy regarding protected health information and Atlanta Family Neurology/Atlanta Child Neurology's responsibilities to safeguard the confidentiality of a patient's protected health information. All patients will be provided with Atlanta Family Neurology/Atlanta Child Neurology's Notice of Privacy Practices upon request.
- b. Atlanta Family Neurology/Atlanta Child Neurology's patients have the right to restrict or amend their protected health information, have access to or obtain a copy of their information, obtain an accounting of the disclosures by Atlanta Family Neurology/Atlanta Child Neurology of their information and request communication of their protected health information by certain means. *See the following policies: (i) Right of an Individual to Request Restrictions of Uses and Disclosures, (ii) Patient's Right to Amend Protected Health Information, (iii) Patient's Right to Obtain Protected Health Information, and (iv) Accounting of Disclosures of Protected Health Information.*
- c. The Atlanta Family Neurology/Atlanta Child Neurology's Privacy Officer is responsible for handling any requests from patients to restrict the access to, or amend their protected health information, after consulting with the physician involved with the care of the patient. The Privacy Officer may delegate implementation to the Health Information Management Department.
- d. Atlanta Family Neurology/Atlanta Child Neurology's staff members who receive requests from patients to restrict access to or amend their protected health information or receive communication of their protected health information by certain means should refer the patients and the requests to the Privacy Officer/Health Information Management Department.
- e. Atlanta Family Neurology/Atlanta Child Neurology's patients must authorize the use or disclosure of their protected health information for any purpose other than for treatment, payment or health care operations unless there is a legal exception that does not require an authorization by the patient. *See the following policies: Authorizations for Psychotherapy Notes; Disclosure of Protected Health Information for Marketing; Disclosure of Protected Health Information for Fundraising.*
- f. The following are examples of Atlanta Family Neurology/Atlanta Child Neurology's payment, treatment or health care operations that are permitted:
 - (1) Direct patient care.
 - (2) Requests for information from the responsible practitioner in charge of the patient's care at **Northside Hospital, Piedmont, St. Joseph's and Children's Healthcare of Atlanta/Scottish Rite.**
 - (3) Information to a referring physician regarding the specific service requested for the patient, the referring physician's note/report, lab x-ray, etc.
 - (4) Treatment information to a non-**Hospital** physician.
 - (5) Information pertaining to the injury and/or treatment for Worker's Compensation cases except patients with diagnoses of AIDS or HIV infection, alcohol or drug abuse, or mental illness.
 - (6) Requests for information in an emergency situation if the disclosure is made in the "good faith belief that the use of disclosure is necessary to protect the health or safety of an individual from serious, imminent harm". When this type of release is made an entry regarding the nature of the release must be documented in the medical record.
 - (7) Requests by the accrediting and licensing bodies (JCAHO, Department of Health) (with appropriate identification) to review medical records during surveys for accreditation and State licensure or as otherwise required by law.
 - (8) Requests by committees of the Medical Staff conducting reviews of quality of care.
 - (9) Requests from authorized Federal and State insurance programs/review organizations or other authorized agencies (e.g. Medicare, Peer Review Organization).

- (10) Paying physicians, hospitals, and others who provide health care services to the patient.
- (11) Providing payment information about a patient to another health care provider for their payment activities relating to the patient.
- (12) Performing case management, utilization review, and risk assessments.
- (13) Performing accreditation, licensing or credentialing activity.
- (14) Analyzing health plan claims or health care record data.
- (15) Conducting quality assurance activities or outcomes assessments.

5. Patient Acknowledgement Required for Receipt of Notice of Privacy Practices

- a. Atlanta Family Neurology/Atlanta Child Neurology must provide each patient with Atlanta Family Neurology/Atlanta Child Neurology's Notice of Privacy Practices no later than the date of the first service delivery, including service delivered electronically, **EXCEPT** in emergency treatment situations, Atlanta Family Neurology/Atlanta Child Neurology must provide the Notice as soon as reasonably practicable after the delivery of the emergency treatment.
- b. Atlanta Family Neurology/Atlanta Child Neurology must post its Notice of Privacy Practices in a clear and prominent location where it is reasonable to expect individuals seeking treatment from Atlanta Family Neurology/Atlanta Child Neurology to be able to read the Notice.
- c. Whenever the Notice is revised, Atlanta Family Neurology/Atlanta Child Neurology must make the Notice available upon request on or after the effective date of the revision and provide the revised Notice to patients as described above.
- d. If Atlanta Family Neurology/Atlanta Child Neurology maintains a website that provides information about its services, the Notice must be prominently displayed on the website. In addition, Atlanta Family Neurology/Atlanta Child Neurology must make the Notice available to its patients electronically.

6. Use or Disclose Only the Minimum Necessary

- a. Minimum necessary applies. This requirement applies when **Atlanta Family Neurology/Atlanta Child Neurology** itself uses or discloses protected health information for a purpose other than treatment or when **Atlanta Family Neurology/Atlanta Child Neurology** requests protected health information from another entity for payment or health care operations.
- b. Minimum necessary does not apply. This requirement does not apply to:
 - (1) Disclosures to or requests by another health care provider for treatment;
 - (2) Uses or disclosures made to the patient;
 - (3) Uses and disclosures made pursuant to a patient's authorization;
 - (4) Disclosures made to the Secretary of Health and Human Services; or
 - (5) Uses or disclosures that are required by law.
- c. When minimum necessary applies, the work force of Atlanta Family Neurology/Atlanta Child Neurology should limit any request for protected health information to that which is reasonably necessary to accomplish the purpose for which the request is made.
 - (1) For a request that is made on a routine and recurring basis, **Atlanta Family Neurology/Atlanta Child Neurology** will implement policies and procedures that limit the protected health information requested to the amount reasonably necessary to accomplish the purpose for which the request is made.
 - (2) In all other requests, **Atlanta Family Neurology/Atlanta Child Neurology** will review the request on case-by-case basis to determine that the protected health information sought is limited to the information reasonably necessary to accomplish the purpose for which the request is made.
 - (3) For all uses, disclosures, or requests to which the requirements apply, **Atlanta Family Neurology/Atlanta Child Neurology** may not use, disclose or request an entire medical record,

except when the entire medical record is specifically justified as the amount that is reasonably necessary to accomplish the purpose of the use, disclosure, or request.

7. Use and Disclosure for which Patient Authorization is Required

- a. Use or disclosure of psychotherapy notes except in certain circumstances (*See Policy on Authorization for Use/Disclosure of Psychotherapy Notes*).
- b. Research (*See Policy on Use and Disclosures of Protected Health Information for Research*).
- c. Disclosure to third parties outside of Atlanta Family Neurology/Atlanta Child Neurology for purposes other than treatment, payment or health care operations (*See Policies on Use and Disclosures of Protected Health Information for Marketing and Use and Disclosures of Protected Health Information for Fundraising*).

8. Use and Disclosure Permitted by Law without Patient Authorization

- a. Requests for pertinent information from the police in cases involving knife wounds, bullet wounds, gunshot wounds, powder burns, or any injury that would seriously maim, produce death, or render unconscious, caused by the use of violence or sustained in a suspicious or unusual manner.
- b. Reporting information about victims of abuse, neglect or domestic violence if we believe in our professional judgment, it is necessary to prevent serious harm to the patient or other potential victims or if disclosure is expressly authorized by statute or regulation.
- c. In compliance with and as limited by the relevant requirements of:
 - (1) A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;
 - (2) A grand jury subpoena; or
 - (3) An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that:
 - a) The information sought is relevant and material to a legitimate law enforcement inquiry;
 - b) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and
 - c) De-identified information could not reasonably be used.
- d. Atlanta Family Neurology/Atlanta Child Neurology may disclose protected health information in response to law enforcement official's request for information to identify or locate a suspect, fugitive, material witness, or missing person.
 - (1) Atlanta Family Neurology/Atlanta Child Neurology may disclose only the following information:
 - a) Name and address;
 - b) Date and place of birth;
 - c) Social security number;
 - d) ABO blood type and rh factor;
 - e) Type of injury;
 - f) Date and time of treatment;
 - g) Date and time of death, if applicable; and
 - h) A description of distinguishing physical characteristics, including height, weight, gender, race, hair, and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.
- e. Reporting victims of a crime, if:
 - (1) The individual agrees to the disclosure; or
 - (2) Atlanta Family Neurology/Atlanta Child Neurology is unable to obtain the individual's agreement because of incapacity or other emergency circumstance, provided that:

- a) The law enforcement official represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred, and such information is not intended to be used against the victim;
 - b) The law enforcement official represents that immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure; and
 - c) The disclosure is in the best interests of the individual as determined by Atlanta Family Neurology/Atlanta Child Neurology in the exercise of professional judgment.
- f. Alerting law enforcement of the death of the individual if Atlanta Family Neurology/Atlanta Child Neurology has a suspicion that such death may have resulted from criminal conduct.
 - g. Providing evidence of criminal conduct that occurred on the premises of Atlanta Family Neurology/Atlanta Child Neurology
 - h. When providing emergency health care other than on the premises of Atlanta Family Neurology/Atlanta Child Neurology to alert law enforcement to:
 - (1) The commission and nature of a crime;
 - (2) The location of such crime or the victim(s) of such crime; and
 - (3) The identity, description, and location of the perpetrator of such crime.
 - i. Requests from the Medical Examiner or his/her deputy, the Coroner or his/her deputy, or their respective appointees, relating to the investigation of a death and/or the determination of a cause of death (not necessarily that of a **Hospital** patient), which includes patients with AIDS or HIV infection, alcohol/drug abuse and mental illness (with appropriate identification and documentation).
 - j. Identification of deceased individuals.
 - k. Using or disclosing protected health information to organ procurement organizations or other entities engaged in the procurement, banking, or transplantation of cadaveric organs, eyes, or tissue for the purpose of facilitating organ, eye or tissue donation and transplantation.
 - l. Requests from the Department of Health or other person authorized by law, regarding mandatory reporting of infectious and communicable diseases or for use in the following:
 - (1) Disease or injury report
 - (2) Public health surveillance
 - (3) Public health investigation or intervention
 - (4) Health or disease registry
 - m. Disclosures to law enforcement authorities to identify or apprehend an individual:
 - (1) Because of a statement by an individual admitting participation in a violent crime that Atlanta Family Neurology/Atlanta Child Neurology reasonably believes may have caused serious physical harm to the victim; or
 - (2) Where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody.

9. Situations Where a Personal Representative May Act for a Patient regarding Protected Health Information

- a. Any individual who, acting alone can obtain a type of health care without violating any applicable federal or state law, and who has sought this care, can authorize the use and release of his or her health information.
- b. If under applicable law a person has authority to act on behalf of an individual who is an adult or an emancipated minor in making decisions related to health care, Atlanta Family Neurology/Atlanta Child Neurology must treat such person as a personal representative. A person holding authority under a valid Durable Power of Attorney for Health Care Decisions falls within this category.

- c. Health care information may be released to a patient's personal representative or relative for the purpose of providing health care to the patient if:
 - (1) The patient has been notified of his/her right to object to the disclosure and the patient has not objected to the disclosure; or
 - (2) The patient is in a physical or mental condition such that the individual is not capable of objecting, and there are no prior indications that the individual would object.
- d. If under applicable law a parent, guardian, or other person acting *in loco parentis* has authority to act on behalf of an individual who is an unemancipated minor in making decisions related to health care, Atlanta Family Neurology/Atlanta Child Neurology must treat such person as a personal representative. The following conditions apply:
 - (1) If the minor consents to such health care service; then no other consent is required, and the minor has not requested that such person be treated as the personal representative;
 - (2) The minor may lawfully obtain such health care service without the consent of a parent, guardian, or other person acting *in loco parentis*, and the minor, a court, or another person authorized by law consents to such health care service; or
 - (3) A parent, guardian, or other person acting *in loco parentis* assents to an agreement of confidentiality between a covered health care provider and the minor with respect to such health care service.
- e. Deceased Individuals: If under applicable law an executor, administrator, or other person has authority to act on behalf of a deceased individual or of the individual's estate, Atlanta Family Neurology/Atlanta Child Neurology must treat such person as a personal representative.
- f. Cases or suspected cases of abuse, neglect, or endangerment. Unless there is a conflict in an existing State law, Atlanta Family Neurology/Atlanta Child Neurology may decide not to treat a person as the personal representative of patient if there is a reasonable belief that:
 - (1) The patient has been or may be subjected to domestic violence, abuse, or neglect by such person; or
 - (2) Treating such person as the personal representative could endanger the patient and Atlanta Family Neurology/Atlanta Child Neurology, in the exercise of professional judgment, Atlanta Family Neurology/Atlanta Child Neurology determines that it is not in the best interest of the patient to treat the person as the individual's personal representative.

RESPONSIBILITY:

Responsibility for the content and administration of this policy resides with Atlanta Family Neurology/Atlanta Child Neurology.

ENFORCEMENT:

Violation of patient confidentiality policies will be grounds for disciplinary action, up to and including termination. In addition, persons violating patient confidentiality practices may be subject to civil and criminal liability under applicable law.

If you have questions about this notice, please contact:

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