

THE SHOOK HOME

POLICY AND PROCEDURE REGARDING THE

NOTICE OF PRIVACY PRACTICES

It shall be the policy of The Shook Home, in accordance with the Health Information Portability and Accountability Act (HIPAA) regulations as outlined in 45 CFR §164.520 and HITECH Act, that there be a Notice which thoroughly describes the privacy practices of this facility. Such privacy practices include the methods in which the medical records of residents are maintained, to whom such records may be made available, residents' rights in expecting and receiving privacy and confidentiality with respect to their medical records, and Breach Notifications. This Notice is to be publicly posted and made available to all residents upon request. In addition, at the time of admission, each resident shall sign a consent form, stating that they have read or had the opportunity to read the Notice.

To satisfy the requirements of HIPAA and HITECH, this Notice shall require the following:

- a) A header stating that the purpose of the notice is to describe how medical information may be released and how the residents may review such a Notice,
- b) A description of how the uses and disclosures of the resident's protected health information (PHI) may be used,
- c) A statement that all uses not described in the Notice may only be done with the authorization of the resident,
- d) A statement that this facility is required to maintain the privacy of PHI,
- e) A statement that this facility is to abide by the terms of this Notice,
- f) A statement that this facility may modify the Notice,
- g) A statement giving the resident the right to make complaints when he or she feels that privacy is no longer being maintained, as well as the appropriate information for the resident to properly contact the proper authority about such a complaint,
- h) A statement that the resident has the right to receive copies of the notice, as well as a right of the resident to review and make appropriate amendments to their PHI, as well as to receive a record of persons to whom the PHI has been transmitted,
- i) A statement to the residents right to Request Access to Protected Health Information,

If we maintain information in an electronic record, the resident may obtain from us a copy of such information in an electronic format and direct us to transmit such copy directly to an entity or person designated by you.

j) A statement to the Residents Right to Accounting of Disclosures,

If we implement the use of electronic health records, disclosures for treatment, payment and health care operations purposes will be included in an accounting requested by you. To request an accounting of disclosures, you must submit a request in writing, stating a time period beginning on or after April 14, 2003 that is within six years from the date of your request (or within three years if we implement the use of electronic health records).

k) A statement that explains the Notification of Breach,

- Duty to Notify. We are required to notify you in the event that your unsecured protected health information (PHI) is breached. A “breach” is defined as the unauthorized acquisition, access, use, or disclosure of PHI which compromises the security or privacy of the PHI, but does not include unintentional acquisition, access or use of such information, inadvertent disclosure of such information within a facility, and disclosure to a person not reasonably able to retain it. “Unsecured protected health information” refers to PHI that is not secured through the use of a valid encryption process approved by the Secretary of Health and Human Services or the destruction of the media on which the PHI is recorded or stored. Such encryption or destruction methods are not mandated on covered entities such as ours. We will evaluate the propriety of securing PHI for our patients, and act using our own discretion. However, should any of your “unsecured” PHI held by us be “breached,” then we will notify you in the manner discussed below.
 1. A Risk Assessment will be completed with any Breach. If there is low probability that the PHI has been compromised, notification may not occur. The Risk Assessment will examine the following:
 - a. The Nature and extent of the PHI involved including the types of identifiers and likelihood of reidentification,
 - b. The unauthorized person who used the PHI or who received the disclosure,
 - c. Whether the PHI was actually acquired or viewed, and
 - d. The extent to which the risk to the PHI has been mitigated.
- Timing and Method of Notification. We will notify you no later than 60 days after discovery of such breach via first-class mail or e-mail, if specified by you as your preference. If the breach involves the information of more than 500 individuals, we will also provide notice to prominent media outlets. We will also notify the Secretary of Health and Human Services of the breach

(immediately if the breach involves the information of more than 500 individuals, or in an annual notification for all other breaches).

- Contents of Notification. Our notification to you will include:
 - ✓ A brief description of what happened, including the date of breach and date of discovery (if known)
 - ✓ A description of the types of PHI that were involved in the breach
 - ✓ Any steps you should take to protect yourself from potential harm resulting from the breach
 - ✓ A brief description of what we are doing to investigate the breach, mitigate harm to the patient, and protect against further breaches; and
 - ✓ Contact procedures for you to ask questions or learn additional information, which must include a toll-free telephone number, an e-mail address, Web site, or postal address.

l) A statement on Fundraising Activities,

Residents have the right to object to the use of their information for fundraising purposes. Unless they object, we may use certain personal health information to contact them in an effort to raise money for the Facility and its operations. Such fundraising communications shall provide, in a clear and conspicuous manner, the opportunity for them to opt out of receiving future fundraising communications.

m) A statement on Marketing Communications,

Discussions between Facility and resident concerning possible products and services offered by outside entities are considered “marketing communications.” For example, if an outside vendor requests that we recommend their product or service to a resident, or we provide the resident with a pamphlet or other written brochures, a “marketing discussion” has occurred. Generally, speaking, before we can engage in these conversations with the resident, or provide the resident with the materials, we will need to receive authorization. The only current exception to this process is for conversations that involve a drug or biologic that the resident is currently receiving, and so long as any payment received by us from the outside supplier in exchange for this communication is reasonable in amount.

n) A statement on the Right to Request Restrictions on Disclosures,

The Facility must agree to the restriction if the disclosure is to a health plan for purposes of carrying out payment or health care operations and the information pertains solely to a health care item or service for which the resident has paid in full out of pocket. Furthermore, a covered entity must limit disclosures to the limited

data set or the minimum necessary to accomplish the intended purpose of such use, disclosure, or request.

The Facility shall limit, to the extent practicable, the amount of such information provided to the limited data set or, if needed by the Facility, to the minimum necessary to accomplish the intended purpose of such use, disclosure, or request. The Facility must itself determine the minimum amount of information necessary.

Procedure: Upon Admission, The Shook Home Employees should provide the Notice to the resident, and have the resident sign the Acknowledgment form. A “layered Notice” may be used, whereby the resident receives both a summary and complete version of the Notice of privacy Practices, however, the summary Notice shall not replace the complete notice. The complete notice is also posted within the facility, and hard copies are available upon resident request. A Sample Notice, Summary Notice, and Acknowledgment Form is included in the Forms section of this handbook.

Retention: In accordance with HIPAA retention rules, all HIPAA related documents must be retained for a period of 6 years after its last effective date. Should this Notice ever be replaced, this facility shall retain it for a period of six (6) years.

POLICY RELATED TO ACKNOWLEDGMENT FORM

The Acknowledgment: Pursuant to HIPAA regulations upon admission, each resident is to be given a copy of the Notice of Privacy Practices. Additionally, such Notice shall be posted in a prominent place, and be made available upon request. In order to acknowledge their receipt and/or understanding of the Notice of Privacy Practices, each resident shall sign an acknowledgment form, stating such.

Contents Of The Acknowledgment Form: The Shook Home shall adhere to the following elements in drafting an acknowledgment form:

- a) The Acknowledgment shall be written in plain language, and it will be as brief as possible.
- b) The general purpose of the Acknowledgment form is to inform the resident that the facility has established Privacy Practices, and that the resident has had an opportunity to become familiar with such, has been given a copy of such, and is aware that the facility has the right to modify the Privacy Practices, and has a right to receive such changes.
- c) The object of the Acknowledgment form will be to refer the resident to the notice that fully explains that certain PHI can and

will be disclosed, but that it will also be protected, as well as describe the privacy policies and practices of the facility.

- d) The Acknowledgment form will state that the resident has the right to know that the PHI is protected, and that it will be used and disclosed by the facility.
- e) The Acknowledgment form must state that the resident has the right to review the notice at any time he or she may wish, and that they have a right to review the notice prior to signing the Acknowledgment form.
- f) The Acknowledgment form will also state that this facility has a right to change the privacy practices as described in the notice, and to change the language of the notice or how the PHI is used and disclosed. Analogous to this right to modify the notice, however, there is a right of the resident to receive a copy of the revised notice, and have the opportunity to review the notice at any time.
- g) The Acknowledgment form must be signed and dated by the resident, in order for it to be valid. However, if the resident is incapable of signing the Acknowledgment form, a personal representative of the resident may sign on his or her behalf.
- h) A good faith effort must be made to get the residents to sign this acknowledgment form. If such a form is not signed, such reason for such must be indicated on the form. Additionally, the steps taken to obtain the signature must be included.

How And Where Acknowledgment Will Be Maintained: It shall be the policy of this facility, in accordance with 45 CFR §164.508(b)(6), and 45 CFR §164.530 (j), that the valid, signed Acknowledgment forms will be retained by the facility in written or electronic form for a period of 6 years after creation or the date that it was last in effect, whichever is later. This facility is free to decide in which format these Acknowledgment Forms are to be maintained (i.e. tangible or paper), and the manner and location of filing these forms.