



Policy: *Notice of Privacy Practices*

Responsible Office:	Compliance Office	Category:	Governance & Administration
Authorized:	Executive Vice President, General Counsel	Policy Number:	ADM-N002
Review Frequency:	3 Years	Current Effective Date:	09/01/2020

Policy Statement

- I. This policy sets forth guidance for the provision of Moffitt's Notice of Privacy Practices, that Moffitt, as a Covered Entity under HIPAA, must provide to an individual explaining Moffitt's privacy practices and how Moffitt may use and disclose an individual's Protected Health Information.
- II. Moffitt shall maintain and distribute a Notice to individuals that describes:
 - (1) How Moffitt may use and disclose PHI.
 - (2) Moffitt's legal duties and privacy practices regarding PHI.
 - (3) Individuals' rights regarding PHI.
- III. The Notice will be written in plain language and contain all required elements, including but not limited to the below:
 - (i) Header. The Notice must prominently display this specific statement in text or a header: "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."
 - (ii) Contact Information. The Notice must contain the name or title and telephone number of a person or office to contact for further information.
 - (iii) Effective Date. The notice must indicate the effective date.
 - (iv) Uses and Disclosures. The Notice must contain:
 - (A) A description, including at least one example, of the types of uses and disclosures that the Covered Entity is permitted to make for treatment, payment, and health care operations purposes;
 - (B) A description of each of the other purposes for which the Covered Entity is permitted or required to use or disclose PHI without the individual's written authorization;
 - (C) If a use or disclosure for any purpose is prohibited or materially limited by other applicable law, the description of such use or disclosure must reflect the more stringent law;
 - (D) For each purpose described in the Notice, the description must include sufficient detail to place the individual on notice of the uses and disclosures that are permitted or required by HIPAA and other applicable law; and
 - (E) A description of the types of uses and disclosures that require an authorization under § 164.508(a)(2)-(a)(4), a statement that other uses and disclosures not described in the Notice will be made only with the individual's written authorization, and a statement that the individual may revoke an authorization as provided by § 164.508(b)(5).
 - (v) The Notice will describe to the patient, in common language, Moffitt's uses and disclosures of PHI, the patient rights, and the legal duties of the Organized Health Care Arrangement (OHCA) with respect to PHI in compliance with applicable laws, regulations and Moffitt's policies and procedures. Including, that Covered Entities, such as Moffitt, that participate in the OHCA may provide a joint notice, provided that:
 - (1) The covered entities participating in the OHCA agree to abide by the terms of the Notice with respect to PHI created or received by the covered entity as part of its participation in the OHCA;
 - (2) The joint Notice describes with reasonable specificity the covered entities, or class of entities, to which the joint notice applies;
 - (3) The joint Notice describes with reasonable specificity the service delivery sites, or classes of service delivery sites, to which the joint Notice applies; and if applicable, states that the covered entities participating in the OHCA will share PHI with each other, as necessary to carry out treatment, payment, or health care operations relating to the OHCA.



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- (4) Provision of the joint Notice to an individual by any one of the covered entities included in the joint notice will satisfy the provision requirement with respect to all others covered by the joint Notice.
- IV. Moffitt will provide a Notice to patients on or prior to their first patient care service, as more fully described below. In an emergency treatment situation, Notice will be provided as soon as reasonably practicable after the emergency treatment situation.
- V. Moffitt will document compliance with the Notice requirements, as required by § 164.530(j), by retaining copies of the Notices issued and, if applicable, any written acknowledgements of receipt of the Notice or documentation of good faith efforts to obtain such written acknowledgement.
- VI. Moffitt will not require individuals to waive their rights under HIPAA as a condition of the provision of treatment, payment, enrollment in a health plan, or eligibility for benefits.
- VII. Moffitt will not use or disclose PHI in a manner inconsistent with the Notice.
- VIII. Workforce members will be required to abide by the terms of the Notice with respect to PHI created or received by them as part of their participation in the OHCA.

Purpose

This policy establishes guidance for the provision of Moffitt's Notice of Privacy Practices.

Scope

This policy applies to all members of the Workforce.

Stakeholders: Patient Access, Health Information Management, Patient Relations, Office of General Counsel

Procedures

- I. The Notice will be provided by Moffitt to patients with a direct treatment relationship to Moffitt as follows:
 - (A) On or prior to the date of the first service delivery to the patient;
 - (B) Upon request;
 - (C) Posted in a clear and prominent location where it is reasonably expected that patients will be able to read the Notice;
- II. For patients receiving inpatient and outpatient services:
 - (A) The Notice will be provided by Scheduling, Admitting or Registration staff, depending on the location of the patient's registration for their first service delivery (e.g., Hospital, Moffitt Clinic, Radiology, Radiation Therapy). The Notice may also be provided through Moffitt's patient portal in advance of the patient's first visit. The Notice may be provided to a patient by e-mail, if the patient agrees to electronic notice and such agreement has not been withdrawn. If the covered entity knows that the e-mail transmission has failed, a paper copy of the notice must be provided. If the first service delivery to the patient is delivered electronically, Moffitt will provide electronic notice automatically and contemporaneously in response to the individual's first request for service.
 - (B) The provision of the Notice to the patient will be notated in the Registration system based upon the receipt of a signed "Acknowledgement of Receipt Notice of Privacy Practices" form whether electronically or on a paper form.
 - (C) The signed Acknowledgement of Receipt of Notice of Privacy Practices form will be scanned or imported into the patient's electronic medical record (Cerner) and will be viewable in the Cerner Consent tab.
 - (D) If the Acknowledgement of Receipt of Notice of Privacy Practices form is not signed due to patient's refusal or inability or an emergency situation, the staff will document such in the patient's medical record. In emergency situations, staff will attempt to obtain an Acknowledgement of Receipt of Notice of Privacy Practices form as soon as reasonably practicable after the emergency treatment situation.
- III. For individuals receiving products from the Hospital's Retail Pharmacy:
 - (A) The Notice will be provided to all individuals at their first encounter if they have not previously received a Notice as a patient or Team Member.



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- (B) A field will be used in the Retail Pharmacy Billing System to indicate acknowledgement of receipt of the Notice. Retail Pharmacy staff will forward the signed Acknowledgement of Receipt of Notice of Privacy Practices form to HIM for scanning.
 - (C) If the Acknowledgement of Receipt of Notice of Privacy Practices form is not signed due to patient's refusal or inability or an emergency situation, staff will make a notation in the Retail Pharmacy Billing System. Staff will attempt to obtain an Acknowledgement of Receipt of Notice of Privacy Practices form as soon as reasonably practicable after the emergency treatment situation.
 - (D) All Team Members will be asked to sign an Acknowledgement of Receipt of Notice of Privacy Practices form which will be retained in their personnel file, thus, covering any services provided to them by the Hospital's Retail Pharmacy.
- IV. Moffitt's most recent Notice is available in English and Spanish for printing and or viewing on the Moffitt web page (www.moffitt.org). If requested, staff shall provide patients a copy of an updated Notice by accessing and printing the Notice from this location.
 - V. Moffitt reserves the right to modify the Notice, as needed. Revised notices will be available to patients upon request.
 - VI. Modifications to the Notice will be coordinated through the Compliance Office. Historical versions of the Notice will be retained in Administration in accordance with applicable record retention requirements.
 - VII. Knowledge of a violation or potential violation of this policy must be reported directly to the Compliance Office, the Compliance Hotline (1-844-760-5840), or the Compliance Web Reporting Site.

Forms

- Notice of Privacy Practices
- Notice of Privacy Practices (Spanish)
- Acknowledgement of Receipt of Notice of Privacy Practices

Related Information

- ADM-C017 HIPAA Privacy - Confidentiality of Patient Information
- BR003 Compliance Reporting – Board Rule

Education

- Mandatory Education

Definitions

Business Associate – for this Policy includes (other than a member of the workforce of Moffitt): anyone who provides a service on behalf of Moffitt that involves creating, receiving, maintaining, or transmitting PHI for a function or activity regulated by the HIPAA Privacy Rule, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, certain patient safety activities, billing, benefit management, practice management, and repricing; or a person who provides legal, actuarial, accounting, consulting, data aggregation, research, management, administrative, accreditation, or financial services to Moffitt. Subcontractors that create, receive, maintain, or transmit PHI on behalf of a business associate also are business associates. In addition, if Moffitt is conducting business with a contractor that provides data transmission services of PHI and requires access to such information (e.g., Health Information Exchange; Regional Health Information Organization or e-Prescribing Gateway) or a vendor that allows Moffitt to offer workforce members access to a Personal Health Record, that contractor will be treated as a business associate.

Center – Collectively and individually, the H. Lee Moffitt Cancer Center and Research Institute and its not-for-profit subsidiaries.

Disclosure – The release, transfer, provision of access to, or divulging in any other manner of information outside the



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entity holding the information. (45 C.F.R. § 160.103)

HIPAA – The Health Insurance Portability and Accountability Act.

HITECH Act – The Health Information Technology for Economic and Clinical Health Act

Moffitt – The H. Lee Moffitt Cancer Center and Research Institute Hospital, Inc.

Notice of Privacy Practices (Notice) – A document that provides patients with adequate notice of the uses and disclosures of protected health information (PHI) that may be made by a covered entity, the patient’s rights and how these rights may be exercised, and the covered entity’s responsibilities with respect to PHI.

Organized Health Care Arrangement (OHCA) – For purposes of the Privacy Rule, an arrangement between the Center and the covered components of the University of South Florida, and includes all employees, physicians, medical staff, faculty, trainees, medical and nursing students, interns, residents, fellows, volunteers and other health care providers of the Center and any other person who undertakes activity for, and under the direct control of, the Center, or the OHCA between the Center and the covered components of the University of South Florida.

Protected Health Information (PHI) – Individually identifiable health information that is transmitted or maintained in any form or medium. Information that is a subset of health information, including demographic information collected from an individual, and:

1. Is created or received by a healthcare provider, health plan, employer, or healthcare clearinghouse; and
2. Relates to the past, present, or future physical or mental health or condition of an individual; or the past, present, or future payment for the provision of healthcare to an individual; and
 - a. That identifies the individual; or
 - b. With respect to which there is a reasonable basis to believe the information can be used to identify the individual. (45 C.F.R. § 160.103)

Service Delivery – Encounter with a patient with the intent to provide health care services (i.e., Clinic visit, inpatient admission, outpatient testing and/or evaluation).

Team Member – Faculty and staff members whose conduct, in the performance of work, is under the direct control of the H. Lee Moffitt Cancer Center and Research Institute and its subsidiaries.

Use – Sharing, employment, application, utilization, examination, or analysis of individually identifiable health information within an entity that maintains such information. (45 C.F.R. § 160.103)

Workforce – Employees, faculty, volunteers, trainees, and other persons whose conduct, in the performance of work, is under the direct control of the H. Lee Moffitt Cancer Center and Research Institute and its subsidiaries, whether or not they are paid by the H. Lee Moffitt Cancer Center and Research Institute or one of its subsidiaries.

References

[Privacy Provisions of the Health Insurance Portability & Accountability Act of 1996 \(HIPAA\) Final Rule, August 14, 2002](#)

[Omnibus Final Rule \(2013\)](#)

<https://www.hhs.gov/hipaa/for-individuals/guidance-materials-for-consumers/index.html>

Appendices

N/A

Revision History

04/2003, 06/2009, 07/2011, 07/2014, 09/2017, 09/2020