

HIPAA
POLICIES AND PROCEDURES MANUAL
For
The Rehab Center and
Health & Rehabilitation Psychologists of Charlotte, P.A.

This document outlines the policies and procedures of The Rehab Center, Inc. and Health & Rehabilitation Psychologists of Charlotte, P.A. (hereafter, “The Rehab Center”) associated with implementation of the Health Insurance Portability and Accountability Act (“HIPAA”), including the Privacy Rule (45 C.F.R. parts 160 and 164).

Since the large majority of clients of The Rehab Center are evaluated and treated for Workers’ Compensation purposes, HIPAA often does not apply, for example, to disclosures of Protected Health Information (hereafter, “PHI”) per North Carolina laws requiring disclosure of findings to the employer and its agents. Nonetheless, The Rehab Center endorses the general concepts of the Privacy Rule and maintains an awareness of confidentiality issues in all matters related to its clients.

Use and Disclosure of PHI

The Rehab Center does not use or disclose PHI in ways that would be in violation of the Privacy Rule or North Carolina law, and uses and discloses PHI as permitted by the Privacy Rule and in accordance with state or other law.

Under the Privacy Rule, The Rehab Center is permitted, but not mandated, to use and disclose PHI without patient consent or authorization in limited circumstances.

Under the Privacy Rule, these permitted uses and disclosures include those made:

- To the patient
- As authorized by the patient
- For treatment, payment, or health care operations purposes (hereafter “TPO”)
 - “Treatment” means the provision, coordination, and management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another.
 - “Payment” includes billing, obtaining third party reimbursement, claims management, collection activities, determining eligibility or coverage, coordination of benefits, adjudication of health claims, utilization review, and certain disclosures to consumer reporting agencies.
 - “Health care operations” are activities that relate to the performance or operation of the office. Health care operations include, but are not limited to quality assessment and improvement, peer review, accreditation, licensing, credentialing, obtaining legal or auditing services, business planning, and other administrative and management functions of a covered entity.

North Carolina law supercedes HIPAA regarding TPO, because it mandates stricter handling of PHI. In North Carolina patient consent (but not written authorization), is required for treatment, payment, and health care operations. However, this does not appear to apply for workers' compensation cases in North Carolina.

- Workers' compensation laws

According to the North Carolina Workers' Compensation Act, §97-25:

"...Notwithstanding the provisions of G.S. 8-53, any law relating to the privacy of medical records or information, and the prohibition against ex parte communications at common law, an employer paying medical compensation to a provider rendering treatment under this Chapter may obtain records of the treatment without the express authorization of the employee..."

And §97-27:

"...Notwithstanding the provisions of G.S. 8-53, no fact communicated to or otherwise learned by any physician or surgeon or hospital employee who may have attended or examined the employee, or who may have been present at any examination, shall be privileged in any workers' compensation case with respect to a claim pending for hearing before the Industrial Commission..."

Therefore, it is the understanding of The Rehab Center that uses and disclosures for TPO require neither consent nor authorization in Workers' Compensation cases. (Additional guidance on this point was obtained from the American Psychological Association Practice Organization's state-specific recommendations on implementing HIPAA).

Additional permitted uses and disclosures that can be made with neither consent nor authorization include those related to or made pursuant to:

- Child abuse reporting, as required by law
- Abuse of a disabled adult, as required by law
- Health oversight activities (e.g., State medical and psychology boards)
- Court orders
- Serious threats to health or safety
- Government oversight (including disclosures to a public health authority, coroner or medical examiner, military or veterans' affairs agencies, an agency for national security purposes, law enforcement)
- Health research
- Marketing or fundraising.

Minimum Necessary Requirement

When using, disclosing or requesting PHI, The Rehab Center makes reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request. The Rehab Center recognizes that the requirement also applies to

covered entities that request patient records and require that such entities meet the standard, as required by law.

The minimum necessary requirement does not apply to uses and disclosures made:

1. For treatment purposes
2. To the patient
3. Pursuant to patient authorization
4. As required by law (e.g., Workers' Compensation, as is the case with the large majority of The Rehab Center's clients)
5. As required for compliance with the Privacy Rule.

Office staff involved in scheduling and other administrative services (e.g., billing) will have access to PHI. These staff members must have access to treatment notes, for example, in order to file them, or send them to appropriate parties (e.g., nurse case managers, insurance adjusters). They are trained in accordance with HIPAA to view them only as necessary for the intended purpose.

Care is taken to avoid revealing PHI to clinical and administrative staff that is unnecessary for them to know in order to carry out their duties.

Most requests for disclosure from The Rehab Center does not require patient authorization, as most are for treatment, payment, or Workers' Compensation purposes.

For uses and disclosures requiring a client's written authorization, the client completes an Authorization to Release Information Form. The Authorization to Release Information Form, in plain language, prompts for the specification of 1) the identification of the person(s) authorized to use or disclose the information, 2) the identification of the person(s) to whom the information is to be released, 3) the purpose of the release, ("at the request of the individual" is acceptable) 4) what information is to be released, including any limits of the disclosure (e.g., notes pertinent to a specific injury, condition, or during a specific time frame), and 5) the expiration date of the release. These elements, as well as the individual's (or his/her personal representative) signature and date are required for a valid authorization.

The Authorization to Release Information Form is retained in the client's chart for a minimum of six years from the date of its creation, or from the date when it was last in effect, whichever is later.

The client may request a copy of the signed authorization.

Possible uses and disclosures requiring a client's written authorization include, but are not limited to:

1. Disclosures of psychotherapy notes (further described below)
2. Disclosures for many marketing purposes
3. Release of a client's medical record to a life insurance company for the purposes of the individual's application for insurance.

The Rehab Center's procedure for non-routine disclosure requests is reviewed on an individual basis in accordance with the criteria. Office staff request assistance of the HIPAA Privacy Officer in the event of non-routine disclosure requests or when uncertain about The Rehab Center's policies and procedures on any HIPAA-related issue. In the event that such a request is necessary, care is taken to request only the minimum necessary information to accomplish the purpose.

When The Rehab Center seeks medical records from another entity, the client completes an Authorization to Obtain Information Form, which is similar to the Authorization to Release Information Form described above.

Employees of The Rehab Center may rely, if such reliance is reasonable under the circumstances, on a requested disclosure as the minimum necessary for the stated purpose, if the PHI is requested by another covered entity, by a public official (who represents that the information requested is the minimum necessary), by a researcher (with appropriate documentation), a business associate, or other employees of The Rehab Center.

The Rehab Center, for issues subject to HIPAA, will not use, disclose, or request an entire medical record, except when the entire medical record is justified as the amount that is reasonably necessary to accomplish the purpose of the use, disclosure, or request.

A patient may revoke an authorization at any time in writing, except to the extent that The Rehab Center has, or another entity has, taken action in reliance on the authorization.

Psychotherapy Notes Authorization

As defined by the Privacy Rule, "Psychotherapy Notes" are "notes recorded (in any medium) by a mental health professional, documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are separate from the rest of the individual's medical record." The term "excludes medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date."

While a client may authorize the release of any of his or her PHI, the Privacy Rule specifically requires patient authorization for the release of Psychotherapy Notes. Psychotherapy Notes authorization is different from patient consent or authorization for use or disclosure of other PHI, because a health plan or other covered entity may not condition treatment, payment, enrollment, or eligibility for benefits on obtaining such authorization.

The Rehab Center rarely generates psychotherapy notes. When kept, they are, in most if not all cases, destroyed at the conclusion of the treatment process, if not sooner. Pertinent issues are included in the medical record, typically in a "Psychology Progress Note," and are

therefore not considered psychotherapy notes. Therefore, "Psychology Progress Notes" kept in the medical record, are not "Psychotherapy Notes" as defined by HIPAA.

The psychologists of The Rehab Center abide by the Psychotherapy Notes authorization requirement of the Privacy Rule, unless otherwise required by law. In addition, authorization is not required in the following circumstances--

- For clinician's use for treatment
- For use or disclosure in supervised training programs where trainees learn to practice counseling
- To defend self in a legal action brought by the patient, who is the subject of the PHI
- For purposes of the U.S. Department of Health and Human Services in determining clinician's compliance with the Privacy Rule
- By a health oversight agency for a lawful purpose related to oversight of the practice
- To a coroner or medical examiner
- In instances of permissible disclosure related to a serious or imminent threat to the health or safety of a person or the public.

Any existent psychotherapy notes are kept separate from other PHI (which is included in the medical record), in the clinician's private office.

In the rare event a client is asked to sign an authorization for release of psychotherapy notes, he/she may refuse to do so.

The client has a right to revoke authorization to release psychotherapy notes at any time. Such requests, whether by clinician or client, and authorizations are documented and maintained in the client's medical record. Clients will be provided a copy of completed authorizations upon request.

Steps are taken to ensure that the psychotherapy notes authorization is valid. A valid authorization:

1. must be completely filled out with no false information
2. may not be combined with any other patient authorizations
3. must be written in plain language
4. must contain a statement that informs client of his or her right to revoke the authorization in writing and either exceptions to such right and a description of how to revoke, or a reference to revocation in the notice provided to the patient
5. must contain a statement that informs client of the inability to condition treatment, payment, enrollment, or eligibility for benefits on the authorization.
6. must contain a statement that informs the client of the potential for information to be redisclosed by the recipient and no longer protected by the rule.

Further, a valid authorization must contain the following information:

1. a description of the information to be used and disclosed that identifies the information in a specific and meaningful fashion.

2. the name or other specific identification of the person(s), or class of persons, authorized to make the requested use and disclosure.
3. the name or other specific identification of the person(s), or class of persons, to whom the requested use and disclosure will be made.
4. a description of each purpose of the requested use or disclosure. The statement “at the request of the individual” is a sufficient description of the purpose when a patient initiates the authorization and does not, or elects not to, provide a statement of the purpose.
5. an expiration date that relates to the individual or the purpose of the use or disclosure.
6. a signature (or if signed by a personal representative, a description of authority to sign) and date.

Patient Rights

Notice of Privacy Practices

As required under the Privacy Rule, and in accordance with state law, The Rehab Center provides notice, the Notice of Privacy Practices (hereafter, “NPP”), to patients of the uses and disclosures that may be made regarding their PHI and its duties and patient rights with respect to notice. Except in emergency situations, a good faith effort to obtain from a client written acknowledgement of receipt of the NPP is made. If the client refuses or is unable to acknowledge receipt of the NPP, the reason the acknowledgement was not obtained is documented in the client’s medical record.

The Rehab Center provides the NPP to its clients on the first date of treatment, or the first date of treatment on or after April 14, 2003 to existing clients. In an emergency situation, notice is provided “as soon as reasonably practicable.”

- The Rehab Center promptly revises and distributes notices whenever there is a material change to uses and disclosures, patient’s rights, legal duties, or other privacy practices stated in the notice.
- The Rehab Center makes the NPP available in the office for patients to take with them and posts the NPP in a clear and prominent location.
- The Rehab Center’s Notice of Privacy Practices is available for review on The Rehab Center website: www.therehabcenter.com.

Restrictions and Confidential Communications

The Privacy Rule permits patients to request restrictions on the use and disclosure of PHI for treatment, payment, and health care operations, or to family members. While The Rehab Center is not required to agree to such restrictions, it will attempt to accommodate a reasonable request. Once The Rehab Center has agreed to a restriction, the restriction may

not be violated; however, restricted PHI may be provided to another health care provider in an emergency treatment situation. If restricted PHI is disclosed to a healthcare provider for emergency treatment, the clinician must request that the information not be further used or disclosed.

A restriction is not effective to prevent uses and disclosures when a patient requests access to his or her records or requests an accounting of disclosures.

A restriction is not effective for any uses and disclosures authorized by the patient, or for any required or permitted uses recognized by law (e.g., Workers' Compensation purposes).

The Privacy Rule also permits patients to request receiving communications from The Rehab Center through alternative means or at alternative locations. As required by the Privacy Rule, The Rehab Center will accommodate all reasonable requests. The Rehab Center may not require an explanation for a confidential communication request, and reasonable accommodation may be conditioned on information on how payment will be handled and specification of an alternative address or method of contact.

A patient must make a request for restrictions in writing. A client must also request a change in the communication medium or location in writing, and may use the Request for Confidential Handling of Health Information form if desired. Once the request is received by The Rehab Center, a decision is made about whether the request can or will be honored. The client is notified of this decision verbally or in writing, and the change documented in the printed and/or electronic record. The record must be maintained for six years from the date of its creation or the date when it was last in effect, whichever is the later.

When a patient wants to terminate a restriction, he or she may notify The Rehab Center orally or in written form of the change. Such termination will be documented in printed and/or electronic medical record. The record must be maintained for six years from the date of its creation or the date when it was last in effect, whichever is the later.

Patient's General Right to Access Records

Clients must be permitted to request access to inspect and to obtain a copy of PHI about the client in a designated record set, for as long as the PHI is maintained in the record. A designated record set is a group of records maintained by or for a clinician that is medical records and billing records about patients maintained by or for the clinician; or used, in whole or in part by or for the clinician to make decisions about patients.

The clinician may require clients to make requests for access in writing, provided he/she informs patients of such a requirement. Patients do not have a right to inspect and copy:

1. psychotherapy notes;
2. information compiled in reasonable anticipation of or for use in legal or administrative proceedings;

3. PHI that was obtained from someone other than a health care provider under a promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information.

Documents prepared for litigation at the request of an attorney will be assumed to be covered by the state attorney-client privilege and will not be included in the patient's record or released to anyone without consulting with the attorney who requested it. Other documents prepared for litigation may be released to the patient if the provider chooses to do so. A clinician may be able to withhold these documents from a patient. If that issue arises, clinician of The Rehab Center will seek counsel.

Timely response by the clinician Generally, the clinician must act on a request for access no later than 30 days after receipt of the request as follows: 1) If the clinician grants the request, in whole or in part, he/she must inform the patient of the acceptance of the request and provide the access requested; 2) If the clinician denies the request, in whole or in part, he/she must provide the patient with a written denial (see below).

If, however, the request for access is for PHI that is not maintained or accessible to the clinician on-site, the clinician must either grant or deny the request (as per the preceding paragraph) no later than 60 days from the receipt of such request.

If the clinician is unable to take one of these actions within the specified time, the clinician may extend the time only once by no more than 30 days. If the clinician does extend the time, he/she must still (within the original time limits) provide the patient with a written statement of the reasons for the delay and the date by which the clinician will complete his/her action on the request.

Allowing inspection and/or copying The clinician must provide the access requested by patients, including inspection or obtaining a copy, or both, of the PHI regarding them in designated record sets. If the same PHI that is the subject of a request for access is maintained in more than one designated record set or at more than one location, the clinician need only produce the PHI once in response to a request for access.

Providing access in the form or format the patient requests The clinician must provide the patient with access to the PHI in the form or format requested by the patient, if it is readily producible in such form or format. If the PHI is not readily producible in such form or format, it may be produced in a readable hard copy form or such other form or format as agreed to by the clinician and the patient. The clinician may provide the patient with a summary of the PHI requested (in lieu of access to the PHI) or may provide an explanation of the PHI only if the patient agrees in advance to the summary or explanation and the fees imposed, if any, by the clinician.

Convenient time and manner of access The clinician must provide the access as requested by the patient in a timely manner (see "Timely response by the clinician" above), including arranging with the patient for a convenient time and place to inspect or obtain a

copy of the PHI, or mailing the copy of the PHI at the patient's request. The clinician may discuss the scope, format and other aspects of the request for access with the patient as necessary to facilitate the timely provision of access.

Fees If the patient requests a copy of the PHI, or agrees to a summary or explanation of the PHI, the clinician may impose a reasonable, cost-based fee, provided that the fee includes only the cost of copying, including the cost of supplies for and labor of copying, postage, and preparing an explanation or summary of the PHI if the fees are agreed to by the patient.

Reviewable grounds for denial of patient access A clinician may deny a patient access to his/her PHI in the following circumstances:

1. a clinician has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the patient or another person;
2. the PHI makes reference to another person (unless such other person is a health care provider) and a clinician has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person; or
3. the request for access is made by the patient's personal representative and a clinician has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the patient or another person.

Right to review a denial of access If access is denied on a reviewable ground for denial, the patient has the right to have the denial reviewed by a licensed health care professional who is designated by the clinician to act as a reviewing official and who did not participate in the original decision to deny. The clinician must provide or deny access in accordance with the determination of the reviewing official, as follows.

Process for review of denial If the patient has requested a review of a denial, the clinician must designate a licensed health care professional who was not directly involved in the denial to review the decision to deny access. The clinician must promptly refer a request for review to such designated reviewing official. The designated reviewing official must determine, within a reasonable period of time, whether to deny the access requested based on the standards in Section "Reviewable grounds for denial of patient access," above. The clinician must promptly provide written notice to the patient of the determination of the designated reviewing official and take other action as required to carry out the designated reviewing official's determination.

Clinician's duties after denying access If the clinician denies access, in whole or in part, to PHI, the clinician must comply with the following requirements:

- a) to the extent possible, the clinician must give the patient access to any other PHI requested (after excluding the PHI for which the clinician has a ground to deny access);
- b) the clinician must provide a timely written denial to the patient within the time frame specified above. The denial must be in plain language and contain the basis for the denial; a statement of the patient's review rights (if applicable), including a description of how the patient may exercise their review rights or complain to the clinician or to the Secretary of Health and Human Services (a clinician must document all complaints received and their disposition, if any). The description must include the name, or title, and telephone number of the contact person or office designated to receive such complaints.
- c) if the clinician does not maintain the requested PHI, and knows where it is maintained, the clinician must inform the patient where to direct the request for access.

Documentation The Rehab Center must document the titles of the persons or offices responsible for receiving and processing requests for access by patients and the designated record sets that are subject to access by patients. Clinicians must maintain a written or electronic record of any such documentation. Clinicians must retain this record for six years from the date of its creation or the date when it last was in effect, whichever is later.

Patient's General Right to Amend Records

A patient has the right to have a clinician amend PHI or a record about the patient in a designated record set for as long as the PHI is maintained in the designated record set. The clinician may require patients to make requests for amendments in writing and to provide a reason to support a requested amendment, provided that he/she informs patients in advance of such requirements.

Timely action by the clinician The clinician must act on the patient's request for an amendment no later than 60 days after receipt of such a request. If the clinician grants the requested amendment, in whole or in part, he/she must take the actions required below. If the clinician denies the requested amendment, in whole or in part, he/she must provide the patient with a written denial, in accordance with the procedure below.

If the clinician is unable to act on the request for amendment within that time, he/she can take a one-time only extension of no more than 30 days. Within the 60-day time frame, the clinician must provide the requester with a written statement of the reasons for the delay and the date for completing action on the request.

Accepting the amendment If the clinician accepts the requested amendment, in whole or in part, he/she must comply with the following requirements:

- a) make the appropriate amendment to the PHI or record that is the subject of the request for amendment by, at minimum, identifying the records in the designated record set that are affected by the amendment and appending or otherwise providing a link to the amendment;
- b) timely inform the patient (as described above) that the amendment is accepted and have the patient identify the relevant persons with whom the clinician may share the amendment, (see next section) and agree to have the clinician notify such persons; and
- c) make reasonable efforts to inform and provide the amendment within a reasonable time to those persons identified by the patient as having received PHI about the patient and needing the amendment; and persons, including business associates, that the clinician knows have the PHI that is the subject of the amendment and that may have relied, or could foreseeable rely on such information to the patient's detriment.

Acting on notices of the amendment A clinician who is informed by another Covered Entity of an amendment to a patient's PHI must amend the PHI in designated record sets as provided above.

Documentation A clinician must document the titles of the persons or offices responsible for receiving and processing requests for amendments by patients. Clinicians must maintain a written or electronic record of any such documentation for six years from the date of its creation or the date when it was last in effect, whichever is later.

Denial of amendment A clinician may deny the request for amendment if he/she determines that the PHI or record that is the subject of the request:

- a) was not created by the clinician (unless the patient provides a reasonable basis to believe that the originator of the PHI is no longer available to act on the requested amendment); or
- b) is not part of the designated record set; or
- c) would not be available for inspection under the Right to Inspect and Copy provision;
or

- d) is accurate and complete.

If the clinician denies the requested amendment in whole or in part, the clinician must provide the patient with a timely (as described above) written denial. The denial must be in plain language and contain:

- a) the basis for the denial;
- b) a statement of the patient's right to submit a written statement disagreeing with the denial and how the patient may file such a statement;
- c) a statement that, if the patient does not submit a statement of disagreement, the patient may request that the clinician provide the patient's request for amendment and the denial with any future disclosures of the PHI that is the subject of the amendment; and
- d) a description of how the patient may complain to the clinician pursuant to the complaint procedures or to the Secretary of Health and Human Services. The description must include the name or title and telephone number of the contact person or office designated to receive such complaints.

Statement of Disagreement The clinician must permit the patient to submit to the clinician a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such disagreement. The clinician may reasonably limit the length of that statement.

Rebuttal Statement The clinician may prepare a written rebuttal to the patient's statement of disagreement and must provide a copy the rebuttal to the patient.

Recordkeeping The clinician must, as appropriate, identify the record or PHI in the designated record set that is the subject of the disputed amendment and append or otherwise link to the patient's request for amendment, the clinician's denial of the request, the patient's statement of disagreement, if any, and the clinician's rebuttal, if any, to the designated record set.

Future Disclosures If a statement of disagreement has been submitted by the patient, the clinician must include the material appended in accordance with the preceding section ("Recordkeeping"), or, at the election of the clinician, an accurate summary of any such information, with any subsequent disclosure of the PHI to which the disagreement related.

If the patient has not submitted a written statement of disagreement, the clinician must include the patient's request for amendment and his/her denial, or an accurate summary of such information, with any subsequent disclosure of the PHI only if the patient has requested such action in accordance with section above.

When a subsequent disclosure described in the above two points is 1) made using a "standard transaction" under the HIPAA Transaction Rule (an electronic transmission of any health information to carry out a financial or administrative activity, such as submitting a claim for

reimbursement) and 2) that transaction does not permit the additional material to be included with the disclosure, then the clinician may separately transmit the material required by these above two points as applicable, to the recipient of the standard transaction.

Accounting of Disclosures

The Rehab Center provides its clients with an accounting of disclosures upon request, for disclosures made up to six years prior to the date of the request. While The Rehab Center may, it does not have to, and does not routinely, provide an accounting for disclosures made for treatment, payment, or health care operations purposes, or pursuant to patient authorization. The Rehab Center also does not have to provide an accounting for disclosures made for Workers' Compensation purposes, national security purposes, to correctional institutions or law enforcement officers, or that occurred prior to April 14, 2003.

Patients may request an account of disclosures by submitting a request in writing or by using the Request for Accounting of Disclosures Form. The request must state the time period for which the accounting is to be supplied, which may not be longer than six years. The request must state whether the patient wishes to be sent the accounting via postal or electronic mail.

A written accounting will be provided, typically using the Accounting of Disclosures Form. For each disclosure in the accounting--the date, name and address (if known) of the entity that received the PHI, a brief description of the PHI disclosed, and a brief statement of the purpose of the disclosure that "reasonably informs" the patient of the basis of the disclosure—is provided. In lieu of the statement of purpose, a copy of a written request for disclosure for any of the permitted disclosures in the Privacy Rule or by HHS for compliance purposes may be provided. The Form may also be returned indicating that no disclosures were made during the specified time period.

A copy of the Accounting of Disclosures is maintained in the client's medical record, and includes the name of the person who is responsible for receiving and processing accounting requests (e.g., typically office administrative staff under the supervision of the HIPAA Officer).

If multiple disclosures have been made for a single purpose for various permitted disclosures under the Privacy Rule or to HHS for compliance purposes, the accounting also includes the frequency, periodicity, or number of disclosures made and the date of the last disclosure. Disclosures for Workers' Compensation purposes are not recorded in the client's chart, and are not included in the accounting of disclosures. Client is informed at beginning of treatment process that all notes generated for Workers' Compensation purposes will be disclosed to employer/insurance company for payment, and typically to Worker's Compensation case manager, if applicable.

The Rehab Center will provide an accounting within 60 days of a request, and may extend this limit for up to 30 more days by providing the patient with a written statement of the reasons for the delay and the date that the accounting will be provided.

The first accounting is provided without charge. For each subsequent request, The Rehab Center may charge a reasonable, cost-based fee. The Rehab Center will inform the patient of this fee and provide the patient the option to withdraw or modify his or her request.

The Rehab Center must temporarily suspend providing an accounting of disclosures at the request of a health oversight agency or law enforcement official for a time specified by such agency or official. The agency or official should provide a written statement that such an accounting would be “reasonably likely to impede” activities and the amount of time needed for suspension. However, the agency or official statement may be made orally, in which case The Rehab Center will document the statement, temporarily suspend the accounting, and limit the temporary suspension to no longer than 30 days, unless a written statement is submitted.

Business Associates

The Rehab Center relies on certain persons or other entities, who or which are not employees, to provide services on its behalf. These persons or entities may include accountants, lawyers, billing services, and collection agencies. Where these persons or entities perform services that require the disclosure of individually identifiable health information, they are considered under the Privacy Rule to be business associates.

The Rehab Center enters into a written agreement with each of its business associates to obtain satisfactory assurance that the business associate will safeguard the privacy of the PHI of its clients.

The written Business Associates Agreement for each business associate establishes the uses and disclosures of PHI to the business associate and prohibits use and further disclosure, except to the extent that information is needed for the proper management and administration of the business associate or to carry out its legal responsibilities. The contract also provides that the business associate will—

- a) Use appropriate safeguards to prevent inappropriate use and disclosure, other than provided for in the contract,
- b) Report any use or disclosure not provided for by its contract of which it becomes aware,
- c) Ensure that subcontractors agree to the contract’s conditions and restrictions,
- d) Make records available to clients for inspection and amendment and incorporate amendments as required under the patient access and amendment of records requirements of the rule,
- e) Make information available for an accounting of disclosures,
- f) Make its internal practices, books, and records relating to the use and disclosure of PHI available to HHS for compliance reviews, and

- g) At contract termination, if feasible, return or destroy all PHI.

The Rehab Center relies on its business associates to abide by the contract but will take reasonable steps to remedy any breaches of the agreement of which it becomes aware. If such steps are unsuccessful, The Rehab Center will terminate the contract, or if termination is not feasible, will report the problem to HHS.

Administrative Requirements

Privacy Officer

The Rehab Center President designates a privacy officer, who is responsible for the development and implementation of the policies and procedures to protect PHI, in accordance with the requirements of the Privacy Rule. As the contact person for the practice, the privacy officer receives complaints and fulfills obligations as set out in notice to patients.

The Rehab Center's Privacy Officers are:

Katrina Beveridge, R.N. and John F. Riley, Ph.D.
2610 East 7th Street
Charlotte, North Carolina 28204
(704) 375-8900

The Privacy Officer is responsible for all ongoing activities related to the development, implementation, maintenance of, and adherence to the practice's policies and procedures covering the privacy of and access to patient's PHI in compliance with federal and state laws. The Privacy Officer reports to the President of The Rehab Center. Qualifications for the job include a current knowledge of applicable federal and state privacy laws.

The *duties* of the Privacy Officer are as follows:

1. Develops, implements and maintains the practice's policies and procedures for protecting individually identifiable health information.
2. Conducts ongoing compliance monitoring activities.
3. Works to develop and maintain appropriate consent forms, authorization forms, notice of privacy practices, business associate contracts and other documents required under the HIPAA Privacy Rule.
4. Ensures compliance with the practice's privacy policies and procedures and applies sanctions for failure to comply with privacy policies for all members of the practice's workforce and business associates.
5. Establishes and administers a process for receiving, documenting, tracking, investigating and taking action on all complaints concerning the practices privacy policies and procedures.
6. Performs all aspects of privacy training for the practice and other appropriate parties. Conducts activities to foster information privacy awareness with the practice and related entities.

7. Ensures alignment between security and privacy practices.
8. Cooperates with the Office of Civil Rights and other legal entities in any compliance reviews or investigations.

Training

As required by the Privacy Rule, The Rehab Center trains all staff, as necessary and appropriate to carry out their functions, on the policies and procedures to protect PHI. The Rehab Center has the discretion to determine the nature and method of training necessary to ensure that staff appropriately protects the privacy of patients' records.

New staff members are trained within a reasonable time after joining the staff. Staff members' whose function is impacted by a material change in the Privacy Rule are educated and trained within a reasonable time from the effective date of the material change.

Safeguards

To protect the privacy of the PHI of its patients, The Rehab Center has in place appropriate administrative, technical, and physical safeguards, in accordance with the Privacy Rule.

The Rehab Center reasonably safeguards PHI from any intentional or unintentional use or disclosure that would violate the Privacy Rule. For example, passwords are required to access the computerized scheduling program, which contains PHI, which guards against unauthorized access of PHI. Patient medical records are guarded carefully, and are stored in locking cabinets.

The Rehab Center reasonably safeguards PHI to limit incidental uses or disclosures. For example, sound screens are available for use in treatment rooms to guard against accidental breaches of confidentiality due to transfer of sound from room to room. Staff members make sincere efforts to discuss patient matters privately, for example, leaving the front desk or writing notes to transfer information discreetly to other staff members. A confidential sign-in sheet, although not required by HIPAA, is often used. The use of a scheduling book was replaced with computerized scheduling to eliminate the ability of clients to view other clients' appointments. These safeguards are only a few of the many that have been implemented to protect patients' privacy.

Complaints

The privacy of patients' PHI is critically important for The Rehab Center's relationships with its patients and for its practice. The Rehab Center provides a process for clients to make complaints concerning its adherence to the requirements of the Privacy Rule.

Clients may file privacy complaints by submitting them in one of the following ways:

- a) In person, in a letter or form containing the necessary information.
- b) By mail, in a letter or form containing the necessary information. All complaints should be mailed to:
The Rehab Center
2610 East 7th Street
Charlotte, North Carolina 28204
- c) By telephone at 704-375-8900.

All privacy complaints should be directed to Katrina Beveridge, RN., HIPAA Privacy Officer.

The complaint must include the following information:

- a) The type of infraction the complaint involves
- b) A detailed description of the privacy issue
- c) The date the incident or problem occurred, if applicable
- d) The mailing/email address where formal response to the complaint may be sent.

When a patient files a privacy complaint, the following process should be followed:

- a) Validate the complaint with the individual.
- b) If appropriate, attempt to correct any apparent misunderstanding of the policies and procedures on the patient's part; if after clarification, the patient does not want to pursue the complaint any further, indicate that "no further action is required." Record the date and time and file under dismissed complaints.
- c) If not dismissed, log the complaint by placing a copy of the complaint letter/form in both the complaint file and in the patient's record.
- d) Investigate the complaint by reviewing the circumstances with relevant staff (if applicable).
- e) If it is determined that the complaint is invalid, send a letter stating the reasons the complaint was found invalid. File a copy of the letter and form in an investigated complaints file.
- f) If the investigative findings are unclear, get a second opinion either from your lawyer, the APA Insurance Trust, or the APA Practice Organization.
- g) If it is determined that the complaint is valid and linked to a required process or an individual's rights, follow the office sanction policy to the extent that an individual is responsible. If the complaint involves compliance with the standards that do not involve a single individual, then begin the process to revise current policies and procedures.
- h) Once an appropriate sanction or action has been taken with respect to a complaint with merit, or if the response will take more than 30 days, send a letter explaining the findings and the associated response or intended response. Document the disposition of the complaint and file the letter and form in an investigated complaints file.

- i) Place a copy of the complaint letter/form in the patient's record.
- j) Review both invalid and investigated complaint files periodically, to determine if there are any emerging patterns.

Sanctions

The Rehab Center applies appropriate sanctions against a member of my staff who fails to comply with the requirements of the Privacy Rule or its policies and procedures. The Rehab Center may not apply sanctions against an individual who is testifying, assisting, or participating in an investigation, compliance review, or other proceeding. Sanctions include, but are not limited to verbal and written warnings and accompanying additional training, and termination.

Mitigation

The Rehab Center mitigates, to the extent possible, any harmful effect of which it becomes aware regarding its use or disclosure, or its business associates' use or disclosure, of PHI in violation of policies and procedures or the requirements of the Privacy Rule.

Retaliatory Action and Waiver of Rights

The Rehab Center upholds clients' right to exercise their rights under the Privacy Rule. It does not take retaliatory action against a patient for exercising his or her rights or for bringing a complaint. The Rehab Center would take legal action to protect itself, if it concludes a patient undertakes an activity in bad faith.

The Rehab Center will not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against a patient for exercising a right, filing a complaint or participating in any other allowable process under the Privacy Rule.

The Rehab Center will not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against a patient or other person for filing an HHS compliance complaint, testifying, assisting, or participating in a compliance review, proceeding, or hearing, under the Administrative Simplification provisions of HIPAA.

The Rehab Center will not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against a patient or other person for opposing any act or practice made unlawful under the Privacy Rule, provided that the patient or other person has a "good faith belief" that the practice is unlawful and the manner of opposition is reasonable and does not involve disclosure of PHI.

The Rehab Center will not require a patient to waive his or her rights provided by the Privacy Rule or his or her right to file an HHS compliance complaint as a condition of receiving treatment.

Policies and Procedures

To ensure that The Rehab Center is in compliance with the Privacy Rule, policies and procedures to ensure compliance with the Privacy Rule have been implemented. The policies and procedures contained herein are a demonstration of its compliance with the Privacy Rule.

The Rehab Center promptly changes its policies and procedures that accord with changes to the Privacy Rule. Notice provided to clients is also promptly changed to reflect the change in policy and procedure, unless the change does not materially affect the NPP. The timing of the change in NPP and reliance on the change may depend on the terms for such changes in the NPP.

Documentation

The Rehab Center meets applicable state laws and the Privacy Rule's requirements regarding documentation. Documentation is required throughout the Privacy Rule to demonstrate implementation of certain requirements. These documentation requirements include those specifically related to notice, authorization, the minimum necessary standard, and patients' rights.

The Rehab Center maintains policies and procedures in written and electronic form.

All written communication required by the Privacy Rule is maintained (or an electronic copy is maintained) as documentation.

If an action, activity, or designation is required by the Privacy Rule to be documented, a written or electronic copy is maintained as documentation.

Documentation is maintained for a period of six years from the date of creation or the date when it last was in effect, whichever is later.