



NOTICE OF PRIVACY PRACTICES

THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE READ IT CAREFULLY.

DEFINITIONS. The words “we”, “us”, and “our”, as used in this notice, all refer to University Physicians & Surgeons, Inc., also known as Marshall Health, and all its employees. When we use the word “you” or “your” in this notice, we mean any person about whom we have any medical information that we received or created in our capacity as a health care provider. If any such person is a minor or has a legal guardian or other personal representative, then, as to those persons, this notice is directed to the minor’s parent, or to the legal guardian, or other personal representative, but “you” and “your” refer to the minor or incompetent person. The words “medical information”, as used in this notice, mean information received or created by us about your health care and from which it is reasonable for us to believe you could be identified. Such information is referred to as “protected health information” in federal health care privacy laws. Information from which you could not be identified is not protected health information and is not “medical information”, as that term is used in this notice.

OUR DUTIES AS TO YOUR MEDICAL INFORMATION. We have the following duties as to your medical information:

We are required by law to maintain the privacy of your medical information, to provide to you notice of our legal duties and privacy practices as to your medical information, and to notify you following any breach of your medical information.

By “breach of your medical information”, we mean, generally, the acquisition, access to, use, or disclosure of your medical information in a manner that is not permitted by applicable health care privacy laws. However, certain unintentional and inadvertent acquisitions, access, uses, and disclosures; disclosures as a result of which we or our contractors believe in good faith the unauthorized person to whom the disclosure was made would not reasonably have been able to retain the information; and acquisitions, access, uses, and disclosures with respect to which we can demonstrate there is a low probability that the information has been compromised are not considered breaches. Disclosure of information that has been rendered unusable or unreadable by the use of a method approved by designated government officials is not considered to be a breach.

We are required by law to abide by the terms of this notice as long as this notice remains in effect.

We reserve the right to change the terms of this notice and to make the notice provisions effective for all medical information that we maintain. If we revise this notice, we will make the revised notice available to take with you upon request from any of our clinical offices; we will post the revised notice in a clear and prominent location in each of our clinical offices, where you may read it; and we will post the revised notice on our website at Marshallhealth.org/patients/.

YOUR RIGHTS AS TO YOUR MEDICAL INFORMATION. What follows is a statement of your rights as to your medical information and a brief description of how you may exercise those rights:

You have a right to request that we restrict certain uses and disclosures of your medical information. If you request that we restrict disclosure to your health plan of your medical information related to a health care item or service, we must agree to that restriction under the following circumstances:

- if you or someone on your behalf other than your health plan has paid in full for that health care item or service; and
- the purpose of the disclosure you request that we restrict would be for payment or health care operations and is not required by law.

We are not required to agree to other restrictions you request on use or disclosure of your medical information, if those uses and disclosures are otherwise permitted by law.

You have a right to request or receive communications about your medical information from us or our contractors by alternate means or at alternate locations to protect the confidentiality of such communications, and, to the extent your requests are reasonable, we must accommodate them.

You have a right to inspect and receive a copy of your medical information except for:

- psychotherapy notes;
- information compiled in reasonable anticipation of a civil, criminal, or administrative proceeding; and
- certain information that is subject to restriction under law.

You have a right to have us amend your medical information, unless we determine that the medical information that is the subject of your request to amend:

- was not originated by us and the originator of the information remains available to act on the requested amendment;
- is not in records that we maintain and that specifically are about you (that is, the records you request us to amend are not in a “designated record set” as that term is defined in applicable law); or
- is not in records that you would have a right to inspect, as described above.

You have a right to receive an accounting of disclosures of your medical information made by us in the six years prior to the date on which your request for an accounting is made, except for disclosures required or permitted by law and made:

- to carry out treatment, payment, and health care operations;
- to you;
- without your authorization but required or permitted by applicable law;
- pursuant to your written authorization;
- for directory or notification purposes;
- for national security or intelligence purposes;
- to correctional institutions or law enforcement officials;
- after excluding certain identifying information about you, and your relatives, household members, and employers as permitted by law (that is, disclosures in a “limited data set” as that term is defined by applicable law); or
- before we were required to comply with the federal laws that require this notice.

You have a right to have, on request, a paper copy of this notice, even if you previously have agreed to receive notices about your medical information electronically.

You may exercise all the rights described above by sending a written request to our Privacy Officer clearly stating what you want us to do, using the contact information given at the end of this notice. You may make a request for a written copy of this notice at any of our clinical offices or by contacting our Privacy Officer, using the contact information provided at the end of this notice.

You may COMPLAIN to us or to the Secretary of the United States Department of Health and Human Services, if you believe that your privacy rights have been violated. To make a complaint to us, you may contact our Privacy Officer, using the contact information provided at the end of this notice. We may require that you submit any complaint in writing to our Privacy Officer.

USES AND DISCLOSURES WE MAY MAKE WITHOUT YOUR AUTHORIZATION. We may use and disclose medical information about you for the following purposes without your authorization, except as limited in this notice:

Treatment. We will use and disclose your medical information to provide health care for you and to coordinate or manage your health care. We will disclose necessary medical information to the people or organizations involved in your care (such as doctors, nurses, physician assistants, technicians, medical students, hospitals, and other health care personnel or organizations), whether or not they are employed by or affiliated with Marshall Health. For example, we may disclose your medical information to a specialist, lab or other provider or facility that your doctor has asked to help with your care.

Payment. We will use and disclose your medical information to obtain payment for the health care services we provide to you. We may disclose information about you to find out whether a service is covered, and for billing, claims management, medical data processing, and payment. The information we use and disclose for payment purposes may include copies of parts or all of your medical records that we believe are necessary for payment. For example, we may send your insurance company information that identifies you, your diagnosis, and the procedures and supplies used to treat you, in order to receive payment from your insurance company.

Health Care Operations. We will use and disclose your medical information to carry out the business activities of our practice, to assess the quality of care we have provided, and to review the performance of our employees. For example, we may share your medical information with health care professionals in training and with our employees who are not directly involved in your care to provide continuing training and education. We may also disclose your health information to other businesses or individuals with whom we have contracts to provide billing, transcription, consulting, or other services necessary to support our work. Before we share medical information with our contractors, we will require those contractors to agree in writing to protect the privacy of your health information in substantially the same way we do.

ADDITIONAL USES AND DISCLOSURES WE MAY MAKE WITHOUT YOUR AUTHORIZATION. We also may use and disclose medical information about you for the following purposes without your authorization, except as limited in this notice:

As required by law, to the extent the use or disclosure complies with and is limited to the relevant requirements of the law.

For public health activities, such as disclosure to government agencies authorized to receive information about certain diseases or to report child abuse or neglect to the appropriate government authorities, to your employer if we provided health care to you at your employer's request, and to schools about immunizations if the school is required by law to have such information before admitting you and if we receive your verbal agreement to the disclosure to the school and document that agreement.

To report on victims of abuse, neglect, or domestic violence, to agencies authorized to protect such victims, to the extent we believe such disclosures are necessary to protect such victims, and to the extent such disclosures are authorized by law.

For health oversight activities, to health oversight agencies for oversight activities authorized by law, such as for audits; civil, criminal, and administrative investigations or proceedings; inspections, licensure or disciplinary actions; or other activities necessary for oversight of the health care system, for oversight of government benefit programs, for government regulation of health care, and for enforcement of civil rights laws.

For judicial and administrative proceedings, in response to court orders and, under some circumstances, to respond to subpoenas.

For law enforcement purposes, in response to court orders or court-ordered warrants; in response to grand jury subpoenas; and, under some circumstances, in response to administrative requests from law enforcement officials; to assist law enforcement in identifying or locating fugitives or missing persons; to alert law enforcement to a death that might have resulted from criminal conduct; to report crime on our premises; and to alert law enforcement of emergency situations.

About persons who have died, to coroners, medical examiners, and funeral directors as necessary for them to carry out their duties.

For organ, eye, or tissue donation purposes, to organizations engaged in the procurement, banking, or transplantation of organs, eyes, or tissue from persons who have died; to facilitate donation or transplantation of organs, eyes, or tissue.

For research purposes, under some circumstances, and under the supervision and with the approval of an institutional review board or privacy board that meets the requirements of applicable law.

To avert a serious threat to health or safety, to the extent the use or disclosure is necessary to avert such a threat and is to a person or persons who reasonably are able to prevent or lessen the threat, and to law enforcement authorities when necessary for them to identify or apprehend a person who has admitted commission of a violent crime or who has escaped from a correctional institution, with certain limitations.

For specialized government functions, such as certain military or veterans affairs functions, national security or intelligence functions, protection of certain government officials, medical suitability determinations for government security clearances, and as needed for certain custodial duties of correctional facilities and law enforcement agencies.

For workers' compensation purposes, as authorized by and as necessary to comply with laws relating to workers' compensation programs that are established by law and that provide benefits for work-related injuries or illness without regard to fault.

Fundraising communications, to you, to our contractors, and to Marshall University-related foundations, limited to use and disclosure of your demographic information, your dates of treatment, your treating physicians and departments, your outcome information, and your insurance status. Each time you receive a fundraising communication, you will be reminded that you may opt out of receiving any further fundraising communications, with information on how to opt out. If you opt out, you will not receive any further fundraising communications from us unless you opt back in. Your willingness or unwillingness to receive fundraising communications will not affect your treatment by us or payment to us.

ADDITIONAL USES AND DISCLOSURES WE MAKE WITHOUT YOUR AUTHORIZATION UNLESS YOU OBJECT. We also may use and disclose medical information about you for the following purposes without your authorization, unless you object under the circumstances described below and as otherwise limited in this notice:

For facility directory information, we may disclose to clergy your name, your location within our facility, your general condition, and your religious affiliation. Except for your religious affiliation, we may disclose the same kinds of information to others who ask for you by name. If you want to restrict or prohibit some or all of the disclosures described in this paragraph for directory information, you may do so by telling our Privacy Officer verbally, by telephone, by email, or in writing, using the contact information given at the end of this notice.

To a family member, other relative, close personal friend, or any other person identified by you, we may disclose medical information directly relevant to that person's involvement with your health care or payment for your health care, and **to others**, we may disclose information as to your location, general condition, or death, for the purpose of notifying or assisting in the notification of a family member, your personal representative, or another person responsible for your care. For uses and disclosures permitted under this paragraph, if you are present or otherwise available before we make the use or disclosure and if you have the capacity to make health care decisions, we must do at least one of the following things:

- obtain your verbal or written agreement to the use or disclosure;

- give you an opportunity to object to the use or disclosure and receive no objection from you; or
- reasonably infer, based on the exercise of professional judgment, that you do not object to the use or disclosure.

For disclosures permitted under this paragraph, if you are not present before we make the disclosure or an opportunity to agree or object to the use or disclosure cannot practicably be provided because of your incapacity or an emergency circumstance, then we may use professional judgment to determine whether the disclosure is in your best interests, and, if so, use or disclose only the information that is directly relevant to the person's involvement in your health care or payment for your health care or is needed for notification purposes.

West Virginia law places more stringent restrictions than federal law on the disclosure of certain kinds of medical information. The following information in this paragraph applies to uses and disclosures for all the purposes described above: Generally speaking, but with several exceptions listed in the applicable West Virginia statutes, West Virginia law requires either your written authorization or a court order, for disclosure of information about your mental health care or about HIV or AIDS testing of you. West Virginia law requires that before performing an abortion for a minor, a physician intending to perform the abortion must notify the minor's parent or legal guardian if they can be found, but, under some circumstances, a minor may get a court order forbidding such disclosure. Under West Virginia law, a physician may, at the request of a minor patient, withhold from the patient's parents or legal guardian information about venereal disease treatment, birth control, pre-natal care, or drug rehabilitation treatment of the minor. Under West Virginia law, a physician may, at the request of a minor patient whom the physician believes to be a "mature minor" capable of making his or her own health care decisions, withhold medical information about the minor from the minor's parents or legal guardian and may follow the minor's instructions about disclosure or non-disclosure of the mature minor's medical information. **For any medical information the use or disclosure of which is more stringently restricted by West Virginia law than by federal law, we will abide by the more stringent restrictions imposed by West Virginia law.**

USES AND DISCLOSURES THAT MAY REQUIRE YOUR WRITTEN AUTHORIZATION. With the exceptions referred to below, we will not use or disclose your medical information of the kinds described below unless we receive your written authorization to do so:

Psychotherapy notes. Psychotherapy notes are notes recorded by a behavioral health provider documenting or analyzing the content of conversation during an individual, group, joint, or family counseling session, which are separated from the rest of your medical record. Records of appointment times, medications, diagnoses, test results, or other behavioral health information not related to the content of a counseling session are not psychotherapy notes. We will not use or disclose psychotherapy notes without your written authorization to do so, except for the following uses and disclosures, which may be made without your authorization:

- by the originator of the notes for treatment;
- for training of our own students and employees in mental health;
- to defend us in a legal action or other proceeding brought by you;
- to the federal Secretary of Health and Human Services when required by him or her to investigate our compliance with applicable federal law;
- when required by law;
- for health oversight activities;
- to coroners and medical examiners about persons who have died; and
- to avert a serious threat to health or safety, to the extent the use or disclosure is necessary to avert such a threat and is to a person or persons who reasonably are able to prevent or lessen the threat.

Marketing. Marketing means communications about a product or service that encourages the person who receives the communication to buy or use the product or service. However, so long as we do not receive any payment from the provider of the product or service in return for making the communication, the following are not considered marketing communications:

- communications about medications already prescribed for you;
- communications to help with your treatment; and
- communications to you about treatment or non-treatment alternatives for your case management or coordination of your care.

We will not use or disclose your medical information for marketing purposes without your written authorization to do so, except for the following uses and disclosures, which may be made without your authorization:

- face-to-face communications with you; and
- promotional gifts of slight value from us to you.

If we make any marketing communication and receive payment from anyone other than you for making the communication, your authorization for us to make the communication must state that we will receive such payment.

Sale of medical information. A sale of medical information means, generally, our disclosing medical information in return for payment by the person or entity that received the information. Certain limited disclosures to our contractors and for treatment, payment, research, and similar purposes are not considered sales even if we do receive payment for the disclosure. We will not sell your medical information unless we have your written authorization to do so. That authorization must state that we will receive payment for the disclosure.

All other uses and disclosures, not described above in this notice as permissible without authorization, will be made only with your written authorization. You may revoke your written authorization, for any use or disclosure that has not already occurred at the time you revoke, by sending a written notice of revocation to our Privacy Officer, using the contact information provided below. Any written revocation will be effective when it is received by our Privacy Officer.

CONTACT INFORMATION. You may contact us for further information or to make any complaints about the privacy of your health information at:

Privacy Officer
Marshall Health
1600 Medical Center Drive
Suite 3407
Huntington, WV 25701

Telephone: (304) 691-1616
Email: hipaasom@marshall.edu

Certain notifications and requests, as described in this notice, must be in writing.

Effective date: August 1, 2013