

BARNABAS HEALTH
POLICY # HIE-16
INFORMATION TECHNOLOGY AND SERVICES
POLICY

TITLE: Patient Rights

EFFECTIVE DATE: 6/18/2015

APPROVED BY: 

System: System Chief Information Officer/
Barnabas Health

Date: 8/6/2015

ATTACHMENTS:

None

PURPOSE:

To ensure that the Patient rights afforded under HIPAA and HITECH and state law continue to be extended to Patients in connection with the BHIE.

POLICIES:

1. Access to Information by Patient
 - a. A Patient shall have the right to Access his or her own PHI in accordance with HIPAA, HITECH and other applicable “access rights” laws.
 - b. Response by Participant:
 - i. Each Participant shall continue to afford its Patients the right to access their PHI maintained by such Participant in a Designated Record Set in accordance with HIPAA and other applicable laws.
 - ii. A Participant shall not access the BHIE to PULL and produce copies of other Participant’s Data in response to a Patient’s request to access to his/her PHI. Each Participant’s response to a Patient’s access request shall

be limited to PHI contained in such Participant's respective EMR maintained on the Patient.

c. Response by BHIE:

- i. Requests for access to Data in the BHIE that are received directly by the BHIE will generally be directed to the originating Participant, unless the Participant and the BHIE have specifically agreed otherwise (e.g., that the BHIE will respond to access requests on behalf of the Participant). Unless specifically agreed to otherwise, the BHIE will not directly access and PULL any Data in the BHIE in response to a Patient's request to access to his/her PHI.
- ii. The BHIE shall work towards providing Patients direct access to their Data contained in the BHIE through means such as a Personal Health Record offering. When and if such offering is launched, Patients will be informed of their option to request Data to be submitted to their PHR by the originating Participant or Authorized User.

2. Accounting of Disclosures

a. Response by Participant:

- i. Each Participant shall continue to afford its Patients the right to an Accounting of Disclosures with regard to PHI maintained by such Participant in a Designated Record Set in accordance with HIPAA, HITECH and other applicable laws.
- ii. If Participant is registered as a Data Sharer, then in order to allow Participant to fully respond to a Patient's Accounting of Disclosures request, the responding Participant shall notify the BHIE Program Manager as soon as possible to produce an Accounting of Disclosures report ("AOD Report") reflecting the information required under HIPAA to account for any "disclosures" of PHI that may have resulted from other Participants accessing Data through the BHIE which originated with such requesting Participant.

b. Response by BHIE:

- i. As a HIPAA Business Associate of each Participant, the Barnabas HIE shall maintain adequate records that would permit it to respond to a Participant that has received a Patient's request for an Accounting of Disclosures with regard to Data that the BHIE is maintaining on behalf of a Participant.
- ii. The BHIE will provide an AOD Report to a requesting Participant in a readable form and format and containing such information as needed in

order to respond to a Patient's Accounting of Disclosures request in accordance with HIPAA.

- iii. The BHIE shall work toward developing a process through which Patients may be able to request an Accounting of Disclosures directly from the BHIE, and for Barnabas.

3. Amendment of Data

- a. Each Participant shall continue to afford its Patients the right to request an ***Amendment*** to PHI maintained by such Participant in a Designated Record Set in accordance with HIPAA, HITECH and other applicable laws.
- b. If a Patient requests, and the Participant accepts, an Amendment to PHI about the Patient (and such information was accessed and may have been relied upon or could foreseeable have been relied upon by other Participants in the BHIE to the detriment of the Patient), then the Participant shall make reasonable efforts to inform such other Participants of the Amendment. To accomplish the foregoing, Each Participant's EMR **must** support automatic transmission of accepted amendments or corrections to the BHIE **OR** have the technological capability to "send" the correction to the BHIE.

4. Requests for Restrictions

- a. Each Participant shall continue to afford its Patients the ***right to Request for Restrictions*** on the uses and disclosure of PHI maintained by such Participant in a Designated Record Set in accordance with HIPAA and other applicable laws.
- b. Except for cases where a patient has paid for services "out of pocket in full" and such restriction must be honored under HITECH, BHIE is not required to give effect to a Patient's requested for restrictions with regard to how his or her PHI is used or disclosed in accordance with the law.
 - i. The Patient's current choice to Request for Restrictions is to Opt-Out of the BHIE altogether, as provided for under these BHIE Policies.
 - ii. If the BHIE moves toward allowing for more granularity of choice by Data-type, Participant-type, or Treatment-Episode, then this BHIE Policy shall be updated to reflect how the BHIE abides by a Patient's Request for Restrictions.

5. Authorizations and Consents

- a. When a Patient's written authorization or Consent is required to use and/or disclose Data through the BHIE, then an approved Patient Authorization Form shall be used to obtain such prior written authorization.
- b. Durability and Revocation

- i. Written Authorizations and Consents when obtained shall generally be **durable** and remain in effect until revoked.
- ii. In those cases where Applicable Law requires prior written Authorization or Consent of the patient on an episode-by-episode basis, then any written Authorization or Consent obtained for a *particular purpose* shall expire and be no longer effective once the related disclosure has occurred.

QUALIFICATIONS: NA

EQUIPMENT: NA

PROCEDURE:

DOCUMENTATION: NA

INFECTION CONTROL: NA

SAFETY: NA

SECURITY OVERSIGHT GROUP (SOG) Approve for Release:

REFERENCES:

ORIGINAL DATE: 6/18/2015

REVIEWED DATE(S):

REVISED DATE(S):