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## Privacy 2.0: Notice of Privacy Practices

HIPAA Privacy Rule	45 CFR § 164.520(a)(1) & (b)(1)
Texas	Tex. Health & Safety Code § 181.102
Reviewed and Approved By: Jill Clark	
Date of Approval:01/01/2019	

**POLICY:** Under its obligations as a covered entity for purposes of the HIPAA Privacy Rule, Waco ENT provides a Notice of Privacy Practices to all patients.

**PROCEDURE:** Waco ENT has developed a Notice of Privacy Practices (NPP) as outlined below, which is provided to all patients.

- A. **Privacy Practices Notice.** A covered entity, with certain exceptions, must provide a notice of its privacy practices. The Privacy Rule requires that the notice contain certain elements:
  1. The ways in which Waco ENT may use and disclose protected health information (PHI).
  2. Waco ENT’s duties to protect privacy, provide a notice of privacy practices, and abide by the terms of the current notice.
  3. Individuals’ rights, including the right to complain to HHS and to Waco ENT if they believe their privacy rights have been violated. The notice will include a point of contact for further information and for making complaints to Waco ENT.
  4. Waco ENT will act in accordance with the notices.
  
- B. **Notice Distribution.** As a covered health care provider with a direct treatment relationship with individuals, the NPP will be delivered to patients as follows:
  1. Waco ENT will provide their NPP to patients no later than the first service encounter. Generally speaking, this will be done in person, by automatic and contemporaneous electronic response (for electronic service delivery), or by prompt mailing the notice to the patient.
  2. Waco ENT will post the NPP at each office in a clear and prominent place where people seeking service may reasonably be expected to be able to read the notice.

3. In emergency treatment situations, Waco ENT will furnish the NPP as soon as practicable after the emergency abates.
4. Waco ENT will supply the NPP by request via paper, fax, email or patient portal.
5. Waco ENT will prominently post a link to the NPP on the homepage of its website.
6. Waco ENT will also make its notice electronically available on the web page it maintains for new patient information. The NPP can be found under the Forms section of the web site.

C. **Acknowledgement of Notice Receipt.** As a covered health care provider with a direct treatment relationship with individuals, Waco ENT will make a good faith effort to obtain written acknowledgement from patients of receipt of the privacy practices notice. If the patient refuses to sign the acknowledgment a workforce member will note that on the acknowledgment and scan the note to the patient's medical chart.

1. The Privacy Rule does not prescribe any particular content for the acknowledgement. A Waco ENT workforce member will document the reason for any failure to obtain the patient's written acknowledgement. The documentation will be scanned to the patient's medical chart.
2. Waco ENT is relieved of the need to request acknowledgement in an emergency treatment situation.

D. **Texas Consumer Access to Medical Record.** The Texas Medical Privacy Act § 181.102 requires that if a health care provider using an electronic health records system that is capable of fulfilling the request, the health care provider, not later than the 15<sup>th</sup> business day after the date it receives a written request from a patient for the patient's electronic health record, it shall provide the requested record to the patient in electronic form unless the patient agrees to accept the record in another form. Waco ENT is not required to provide access to a person's PHI that is excepted from access, or to which access may be denied, under 45 C.F.R. § 164.524.

E. **Texas Notice and Authorization Required for Electronic Disclosure of Information.**

1. Waco ENT will provide notice to an individual for whom it creates or receives PHI if the individual's PHI is subject to electronic disclosure. Waco ENT will provide general notice by:
  - a. posting a written notice in all places of business;
  - b. posting a notice on its website; or

- c. posting a notice in any other place where individuals whose PHI is subject to electronic disclosure are likely to see the notice.
2. Waco ENT will not electronically disclose an individual's PHI to any person without a separate authorization from the individual or the individual's legally authorized representative for each disclosure. An authorization for disclosure may be made in written or electronic form or in oral form if it is documented in writing.
3. Sample wording to be included in NPP or posted separately: NOTICE AND AUTHORIZATION FOR ELECTRONIC DISCLOSURE OF PROTECTED HEALTH INFORMATION;
  - a. Waco ENT shall provide notice to an individual for whom it creates or receives PHI if the individual's PHI is subject to electronic disclosure. Waco ENT will provide general notice by:
    - i. posting a written notice in its place of business;
    - ii. posting a notice on its website; or
    - iii. posting a notice in any other place where individuals whose PHI is subject to electronic disclosure are likely to see the notice.
  - b. Waco ENT may not electronically disclose an individual's PHI to any person without a separate authorization from the individual or the individual's legally authorized representative for each disclosure. An authorization for disclosure may be made in written or electronic form or in oral form if it is documented in writing by the practice.
  - c. The authorization for electronic disclosure of PHI described in Texas law is not required if the disclosure is made to another covered entity, or by Insurance Code, for the purpose of: (A) treatment; (B) payment; (C) health care operations; or (D) performing an insurance or health maintenance organization function or as otherwise authorized or required by state or federal law.

