

HIPAA Policy No. 6

Patient Complaints

Policy:

6.1 Receiving Complaints

The Practice's Privacy Officer will be responsible for receiving all patient complaints regarding the Practice's privacy policies or alleged breaches of the privacy policies. The Privacy Officer will also be responsible for investigating all complaints and recommending whether disciplinary actions should be taken against employees as appropriate.

To determine whether a "Breach" has occurred which requires notification under the Breach Notification Rule, the Privacy Officer will refer to HIPAA Policy No. 9 (Breach Notification Policy).

6.2 No Intimidation, Retaliation, or Request to Waive Rights

Patients have a right to file complaints with the Privacy Officer and with the government. Employees of the Practice must act cooperatively with patients who wish to file a complaint. The Practice cannot intimidate, threaten, coerce, or take any retaliatory acts against the patient for filing a complaint with the Practice or with the government. For example, employees or providers cannot try to persuade a patient not to file a complaint. The Practice cannot treat patients who file complaints differently than other patients.

The Practice cannot ask patients to waive their right to complain to the government or to the Practice.

The Practice cannot retaliate against patients or any other individuals (including employees) who file a complaint, assist a patient to file a complaint, cooperate or testify in an investigation or oppose a practice that violates HIPAA.

6.3 Duty to Mitigate

If the Practice learns that there has been a breach of its privacy policies or that any HIPAA requirement has not been met, it must try to reduce the harmful effects caused by the breach (for example, if an employee wrongfully discloses patient information to a third party, the third party should be notified and asked to stop using or disclosing the information).

6.4 Complaints Against a Business Associate

The Practice must also take complaints from patients regarding the privacy practices or alleged violations by the Practice's business associates. The Privacy Officer must

investigate all such complaints. If, upon investigation of a complaint, the Privacy Officer identifies that the business associate has materially violated a term of its agreement with the Practice with respect to protection of patient privacy, the business associate must be contacted and asked to stop or correct the activity involved. If the business associate does not respond to these requests, the Practice must take steps to terminate the contract as discussed in HIPAA Policy No. 7 (Business Associate Policy).

6.5 Documentation of Complaints

The Privacy Officer will be responsible for documenting all patient complaints and the disposition of the complaints. This documentation must be kept for a period of at least six years.

Procedure:

1. If a patient approaches an employee about filing a complaint regarding a privacy issue, the patient will be referred to the Privacy Officer.
2. The Privacy Officer is responsible for documenting the patient's complaint. The disposition of the complaint should also be noted and the complaint/disposition kept for a period of at least six (6) years.
3. The Privacy Officer is responsible for investigating the patient's complaint and for educating and recommending discipline of workforce members as necessary. The Privacy Officer is also responsible for determining what steps need to be taken to mitigate harmful effects to the patient and for taking these steps in a timely fashion and for determining what actions must be taken in accordance with the Breach Notification Policy (HIPAA Policy No. 9).
4. If the complaint involves a business associate, the Privacy Officer is responsible for addressing the issue with business associate in accordance with the Business Associate Policy (HIPAA Policy No. 7).

Authorities:

45 CFR §164.530