

SHAE Medical, PLLC Patient Access to Protected Health Information Policy and Procedures

Introduction

SHAE Medical, PLLC has adopted this Patient Access to Protected Health Information Policy and Procedure to comply with our responsibility to protect individually identifiable health information and the system components that such data resides in under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as modified by the Health Information Technology for Economic and Clinical Health Act (“HITECH Act”) (hereinafter HIPAA); the Department of Health and Human Services (“DHHS”) security and privacy regulations implementing HIPAA; other federal and state laws protecting confidentiality of health information; and business associate contracts that we have entered into. All personnel of SHAE Medical, PLLC must comply with this Patient Access to Protected Health Information Policy and Procedure. Demonstrated competence in the requirements of this Patient Access to Protected Health Information Policy and Procedure is an important part of every SHAE Medical, PLLC employee’s responsibilities.

Assumptions

This Patient Access to Protected Health Information Policy and Procedure is based on the following assumptions:

- SHAE Medical, PLLC has a duty to protect individually identifiable health information and the system components that such data resides in under HIPAA, among other laws, rules, and regulations.
- SHAE Medical, PLLC has a duty to provide patients access to their protected health information (“PHI”) under HIPAA, among other laws, rules, and regulations.
- Failure to provide patients proper access not only may be harmful to patients but also may result in liability for SHAE Medical, PLLC, including, among others, civil money penalties.

Definitions

The following definitions apply to this Patient Access to Protected Health Information Policy and Procedure:

- **Abstract (summary):** Summary on SHAE Medical, PLLC letterhead of the essential information as requested on a proper form.
- **Designated record set:** Group of any records under the control of a covered entity from which PHI is retrieved by the name of the individual or by identifying number.
- **Direct access:** In-person review of the medical record and/or obtaining a copy of the record.
- **Disclosure of PHI summary:** Accounting of disclosures of PHI (in paper or electronic format) containing the following: date of disclosure; name and address of the organization or person that received the PHI; brief description of the information disclosed; and purpose for which the PHI was disclosed.
- **Electronic health record:** Electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.
- **Licensed health care professional:** Clinician that has been licensed by the appropriate licensing agency in North Carolina. Such professionals may be licensed physicians, psychologists, licensed clinical social workers, nurses, therapists, counselors, physician assistants, nurse practitioners, and psychiatrists.
- **Patient:** Any individual that has received or is receiving services from SHAE Medical, PLLC.

- **Personal representative:** Person with a court order appointing that person as guardian or with a valid power of attorney signed by the patient specifying the authority to review and make decisions regarding medical, psychiatric, therapy treatment, or habilitation counseling concerns.
- **Protected health information (“PHI”):** Individually identifiable health information, including demographic information, collected from an individual that—
 - Is created or received by a health care provider, health prescription plan, employer, or health care and pharmacy clearinghouse; and
 - Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual, and
 - Identifies the individual, or
 - With respect to which, a reasonable basis exists to believe that the information can be used to identify the individual.

Policy

- The policy of SHAE Medical, PLLC is to protect individually identifiable health information and the system components that such data resides in under HIPAA, among other laws, rules, and regulations.
- The policy of SHAE Medical, PLLC is to provide patients access to their protected health information (“PHI”) under HIPAA, among other laws, rules, and regulations.

Procedure

- **Request for Access to PHI**
 - A patient that has or is receiving services from SHAE Medical, PLLC or a personal representative or legal guardian of a patient should request in writing for access to inspect or receive copies of PHI except in those instances covered by federal regulations and outlined in the SHAE Medical, PLLC Notice of Privacy Practices acknowledged at admission and must further specify the exact information requested for access. This policy does not mean that a SHAE Medical, PLLC provider cannot give a patient a copy of the patient’s test results, preventive measures, care instructions, or information to assist the patient’s understanding of the diagnosis during the delivery of health care without a written release.
 - The *Access to Protected Health Information Request Form* will be provided to facilitate the process. SHAE Medical, PLLC personnel may assist in initiating the process requesting access to PHI.
 - All requests by patients and their legal representatives for PHI must be forwarded to your immediate supervisor for action.
 - If it is acceptable after discussion with the patient, SHAE Medical, PLLC may provide a summary of the PHI to the patient. If the summary is acceptable, SHAE Medical, PLLC shall determine the appropriate staff to provide that explanation to the patient. The patient’s agreement to a summary shall be documented in writing in the record as a check in the appropriate box in the *Access to Protected Health Information Request Form*. The patient’s agreement to any costs associated with the summary shall be documented in the record. The form will be filed in the patient’s medical record.
 - This request will be processed in a timely manner according to established time frames but not more than thirty (30) days after receipt of the request. If the record cannot be accessed within the thirty (30) days, the time frame may be extended once for no more than an additional thirty (30) days with notification in writing to the individual outlining reasons for the delay and the date that the request will be concluded.

- **Denial of Access**

- SHAE Medical, PLLC may deny the patient access to PHI if the information requested makes reference to someone other than the patient and a health care professional has determined that the access requested is reasonably likely to cause death or serious bodily harm to that other person.
- SHAE Medical, PLLC may deny a request to receive a copy or inspect PHI by a personal representative of the patient if the facility has a reasonable belief that the patient has been or may be subjected to domestic violence, abuse, or neglect by such person; or treating such person as the personal representative could endanger the individual; and the facility, exercising professional judgment, decides that it is not in the best interest of the patient to treat that person as the patient's personal representative.
- SHAE Medical, PLLC may deny the patient access to PHI if the information requested makes reference to someone other than the patient and a health care professional has determined that the access requested is reasonably likely to cause death or serious bodily harm to that other person.
- Requests for access to PHI may be denied provided that the individual is given a right to have the denial reviewed, except those requests for access to PHI may be denied without a right to review as follows:
 - If the information conforms to one of the following categories:
 - HIV testing information.
 - Information compiled for use in civil, criminal, or administrative actions or proceedings.
 - Information that would be prohibited from use or disclosure under the Certified Laboratory Information Act ("CLIA") laws and regulations.
 - If the patient is participating in research-related treatment and has agreed to the denial of access to records for the duration of the study.
 - If access is otherwise precluded by law.
 - If the information 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.
 - If the facility has been provided a copy of a court order from a court of competent jurisdiction that limits the release or use of PHI.
 - If a licensed health care professional based on an assessment of the particular circumstances, determines that the access requested is reasonably likely to endanger the life or physical safety of the patient or another person.
- Upon denial of any request for access to PHI, in whole or in part, a written letter shall be sent to the patient or other valid representative making the request for access stating in plain language the basis for the denial.
- If the patient has a right to a review of the denial, the letter shall contain a statement of how to appeal the denial, including the name, title, address, and telephone number of the person to whom an appeal should be addressed.
- This letter shall also address the steps to file a complaint with the Secretary of DHHS.
- If SHAE Medical, PLLC does not maintain the information requested, but it is known where the patient may obtain access, SHAE Medical, PLLC must inform the patient where to direct the request for access. The patient is to have access to records from another health care provider that are maintained in the current facility's record.

- **Appeal and Review of Denial of Requests**

- A patient or guardian of a patient has the right to appeal the decision to withhold portions or all of the record for safety or confidentiality reasons.
- The appeal shall be submitted in writing to the clinical director, who will designate a licensed health care professional to review the denial of access.
- The designated licensed health care professional that did not participate in the original decision to deny access shall review the record and the request for access to the patient's record. The reviewer must determine whether access meets an exception as described above.
- If the reviewer determines that the initial denial was appropriate, the patient must be notified in writing, using plain language that the review resulted in another denial of access. The notice must include the reasons for denial and must describe the process to make a complaint to SHAE Medical, PLLC's complaint official and/or to the Secretary of DHHS.
- If the denial was not appropriate, the licensed health care professional who acts as the reviewer shall refer the request to the SHAE Medical, PLLC Privacy Officer or designee for action.
- If access is denied to any portion of the PHI, access must still be granted to those portions of the PHI that are not restricted.
- SHAE Medical, PLLC is bound by the decision of the reviewer.

- **Provision of Access and Fees**

- If SHAE Medical, PLLC provides a patient or legal representative access, in whole or in part, to protected PHI, SHAE Medical, PLLC must comply with the specifications as outlined in federal regulations to the extent of SHAE Medical, PLLC capabilities and as identified in SHAE Medical, PLLC's Notice of Privacy Practices.
- Requested information must be provided in designated record sets.
- If the requested information is maintained in more than one designated record set or in more than one location, SHAE Medical, PLLC needs to produce the information only one time in response to the request.
- SHAE Medical, PLLC may provide a summary or explanation of the requested PHI if:
 - The patient agrees in advance to the summary or explanation in place of the record.
 - The patient agrees in advance to any fees imposed for the summary or explanation.
- If the requested information is maintained electronically and the patient requests a copy or faxed copy, SHAE Medical, PLLC should accommodate the request if possible and explain the risk to security of the information when transmitted as requested.
- **If the requested information is in electronic format, SHAE Medical, PLLC must supply the patient an electronic copy if requested.**
- If the information is downloaded to computer disk, the patient should be advised in advance of any charges for the disk and mailing the disk.
- If the information is not available in the format requested, SHAE Medical, PLLC must produce a hard copy document or other format agreed upon by the patient and SHAE Medical, PLLC.
- SHAE Medical, PLLC shall provide the access requested in a timely manner and arrange for a mutually convenient time and place for the patient to inspect the PHI or obtain copies, unless access by another method has been requested by the patient and agreed to by SHAE Medical, PLLC as set forth above. Any requests for accommodations shall be sent or given in writing to the clinical director.
- The fee charged will be in compliance with the current North Carolina state statute and federal law. The Privacy Rule requires that any fee be reasonable and cost-based. A state fee schedule is presumed to be reasonable and cost based.

- Unless the patient agrees otherwise, third-party documents maintained in the patient chart or other designated record set must be released along with documents created by SHAE Medical, PLLC even if stamped “not for re-release.” The only grounds for denial of access are those specified above.
- **Release of PHI of a Deceased Patient.** Upon request to obtain information, the Privacy Officer shall ask for a copy of the probate court order, letters of administration, or other necessary documentation appointing the requester executor or administrator of the estate. [If state law permits disclosure to the next-of-kin, verify that the requester is the next-of-kin.]
- Privacy Officer is responsible for maintaining records of all requests for access to and/or copies of PHI and the action taken thereon for six (6) years from the date of the request.
- If the patient has been deceased for 50 years or more, SHAE Medical, PLLC may release the patient’s records regardless of the foregoing limitations.

Enforcement

Workforce members of SHAE Medical, PLLC **must** adhere to this policy, and all supervisors are responsible for enforcing this policy. SHAE Medical, PLLC will not tolerate violations of this policy. Violation of this policy is grounds for disciplinary action, up to and including termination of employment, criminal and/or professional sanctions in accordance with SHAE Medical, PLLC’s medical information sanction policy and personnel rules and regulations.