

**BERKSHIRE HEALTH SYSTEMS
HIPAA NOTICE OF PRIVACY PRACTICES**

Effective September 23, 2013

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

OUR PLEDGE REGARDING MEDICAL INFORMATION

We understand that medical information about you and your health is personal. We are committed to protecting medical information about you. We create a record of the care and services you receive in order to provide you with quality care and to comply with certain legal requirements.

This notice applies to all of your health information generated or gathered by us, whether recorded in your medical record, invoices or payment forms, or in any other way. Berkshire Health Systems (BHS), its hospitals Berkshire Medical Center (BMC) and Fairview Hospital (FVH), the employed and independent physicians of their Medical Staffs (including your physician), and other related health care providers have agreed, as permitted by law, to share your health information among themselves solely for purposes of treatment, payment and health care operations. This enables us to better address your health care needs in a clinically integrated setting.

Your personal physician may have other policies or notices regarding the physician's use and disclosure of your medical information created in the physician's office or clinic.

This notice will tell you about the ways in which we may use and disclose medical information about you. It also describes your rights and certain obligations we have regarding the use and disclosure of medical information.

We are required by law to:

- ensure that medical information that identifies you is kept private;
- give you this notice of our legal duties and privacy practices with respect to medical information about you;
- follow the terms of the notice that is currently in effect; and
- notify you in the event that there is a breach of your unsecured protected health information.

The medical information or "protected health information" (PHI) that is referred to in this notice includes any information that makes you identifiable, including your name,

address, social security number, insurance information, diagnosis, and any clinical information included in your medical record.

HOW WE MAY USE AND DISCLOSE MEDICAL INFORMATION ABOUT YOU

In some circumstances we are permitted or required to use or disclose your health information, without obtaining your prior authorization and without offering you the opportunity to object. These circumstances include:

- **Treatment:** We may use and disclose your PHI to provide, coordinate, or manage your health care and any related services. This includes the coordination or management of your health care with other providers of care. For example, we may disclose your PHI, as necessary, to a home health agency that provides care to you. We may also disclose PHI to a physician to whom you have been referred to ensure that the physician has the necessary information to diagnose or treat you. Similarly, we may disclose your PHI to another physician or health care provider (e.g., a specialist or laboratory) who, at the request of your physician, becomes involved in your care.
- **Payment:** Your PHI will be used, as needed, to obtain payment for your health care services. This may include certain review activities that your health insurance plan may undertake before it approves or pays for the health care services we recommend for you, such as making a determination of eligibility or coverage for insurance benefits. We may also need to give information to an individual who helps pay for your care.
- **Health Care Operations:** We may use and disclose, as needed, your PHI for the purpose of day-to-day operations. For example, we may use and disclose medical information to:
 - review our treatment and services and to evaluate the performance of our staff in caring for you;
 - combine medical information about many hospital patients to decide what additional services the hospital should offer, what services are not needed, and whether certain new treatments are effective;
 - doctors, nurses, technicians, students, and other BHS personnel for review and learning purposes;
 - contact you with appointment reminders or information about treatment alternatives or other health-related benefits that may be of interest to you; and
 - establish a sign-in sheet at the registration desk and call you by name in the waiting room.

We may also share your PHI with outside entities that perform various activities (e.g., transcription services) for us, but in those cases, we will have a written contract with that

outside entity in order to limit and protect the use of your PHI. We may also use and disclose your PHI for fundraising activities. In addition, we may use your PHI to communicate with you about our products or services that may relate to your treatment, case management, or care coordination or to recommend alternative therapies, health care providers, or settings of care. We may also communicate with you face-to-face for the marketing of products or services offered by us or third-parties and we may provide you with a promotional gift of nominal value. You have the right to opt out of receiving any fundraising or marketing communications at any time. You may contact our Privacy Officer at (413) 447-2932 or Privacy Coordinator at (413) 447-2114, Ext. 5040, to request that these materials not be sent to you.

- Hospital Directory: We may include certain limited information about you in the hospital directory while you are a patient at either of the hospitals. This information may include your name, location in the hospital, your general condition (e.g., fair, stable, etc.) and your religious affiliation. The directory information, except for your religious affiliation, may also be released to people who ask for you by name. Your religious affiliation may be given to a member of the clergy, such as a priest or rabbi, even if they do not ask for you by name. You will have the opportunity to request that some or all of that information not be listed in the directory when you are admitted. In an emergency treatment situation where you are unable to make your wishes known, we will include this information in the directory if we think that it is in your best interest. We will not include information in the directory if you have been admitted to the hospital before and requested that it not be shared.
- Individuals Involved in Your Care: Unless you object, we may disclose to a member of your family, other relative, a close friend or any other person you identify, your PHI that directly relates to that person's involvement in your health care. If you are unable to agree or object to such a disclosure, we may disclose such information as necessary if we determine that it is in your best interest based on our professional judgment. We may use or disclose your PHI to notify or assist in notifying a family member, personal representative or any other person that is responsible for your care of your location, general condition or death. We may use or disclose your PHI to an authorized public or private entity to assist in disaster relief efforts and to coordinate uses and disclosures to family or other individuals involved in your health care. We may use or disclose your PHI in an emergency treatment situation. If this happens, your health care provider shall try to obtain your consent as soon as reasonably practical.
- Research: We may disclose your PHI to researchers when your authorization is not required by federal or state law and the study has been approved by an institutional review board that has reviewed the research proposal and established protocols to ensure the privacy of your PHI.
- Required By Law or Public Policy: We may disclose your PHI:

- when required by federal, state or local law (i.e., we are required by the Commonwealth of Massachusetts to submit information about all newly diagnosed cases of cancer and about victims of abuse or neglect);
- for public health purposes;
- for health oversight activities, such as audits, inspections, licensure or civil, administrative or criminal investigations;
- in judicial or administrative proceedings and for law enforcement purposes;
- for workers' compensation purposes, as permitted by law;
- to provide proof of immunization to a school, as permitted by law; or
- to avert a serious threat to health or safety.

SPECIAL SITUATIONS

- **End of Life:** We may release PHI to a coroner or medical examiner for (1) identification purposes; (2) determining cause of death; or (3) them to perform other duties authorized by law. We will also release PHI to funeral directors as necessary for them to carry out their duties. We may disclose such information in reasonable anticipation of death. PHI will be used and disclosed for organ, eye or tissue donation purposes. Your family may be contacted upon your death by an organization that handles organ procurement, as required by Massachusetts law.
- **Military, Veterans and National Security:** If you are a member or veteran of the U.S. Armed Forces, when the appropriate conditions apply, we may use or disclose your PHI for (1) activities deemed necessary by appropriate military command authorities as permitted by law or (2) purposes of a determination by the Department of Veterans Affairs of eligibility for benefits. If you are a member of a foreign military service, we may disclose your PHI to the appropriate foreign military authority as permitted by law. We may also disclose your PHI to authorized federal officials for conducting national security and intelligence activities, including for the provision of protective services to the President or others legally authorized.
- **Public Health Risks:** We may disclose your PHI for public health activities and purposes to a public health authority that is permitted by law to collect or receive the information. These activities generally include the following:
 - to prevent or control disease, injury or disability (e.g., we participate in data submission to the National Cancer Data Base);
 - to report births and deaths;
 - to report child abuse or neglect;
 - to report reactions to medications or problems with products (e.g., we report all cases of product injury to the Consumer Product Safety Commission and/or Federal Drug Administration);
 - to notify people of recalls of products they may be using;

- to notify a person who may have been exposed to a disease or may be at risk for contracting or spreading a disease or condition;
 - to notify the appropriate government authority if we believe a patient has been the victim of abuse, neglect or domestic violence. We will only make this disclosure if you agree or when required or authorized by law.
- Inmates: If you are an inmate of a correctional institution or under the custody of a law enforcement official, we may disclose PHI about you to the correctional institution or a law enforcement official. This release may be necessary (1) for the institution to provide you with health care; (2) to protect your health and safety or the health and safety of others; or (3) for the safety and security of the correctional institution.

SPECIAL RESTRICTIONS ON USES OR DISCLOSURES OF PHI

Some PHI that may be contained in your medical record is considered by state and federal law to be highly confidential, such as medical records related to substance abuse treatment programs, psychotherapy notes and certain other mental health records, AIDS/HIV testing and genetic counseling. This type of information is subject to greater protection from disclosure, and, in most cases, requires your written authorization.

Most uses and disclosures for marketing purposes, including treatment communications subsidized by a third party, require your prior authorization, except in limited circumstances permitted by law, such as those described above in the section entitled “How We May Use and Disclosure Medical Information about You”.

We will not sell your PHI without your prior authorization except in limited circumstances permitted by law.

Uses and disclosures not described in this Notice will be made only with your authorization.

YOUR RIGHTS REGARDING MEDICAL INFORMATION ABOUT YOU

You have the following rights regarding medical information we maintain about you:

- Right to Inspect and Copy: You have the right upon written request to inspect and obtain a paper or electronic (to the extent that the requested PHI is maintained electronically) copy of your PHI that is contained in a designated record set for as long as we maintain this record. You may also direct us to transmit a copy of the PHI directly to another person designated by you. Such request must be in writing, signed by you and clearly identify the designated person and the address to which the PHI should be sent. A "designated record set" contains medical and billing records and any other records that we use for making medical or billing decisions about you. We may charge a fee for the costs of copying, mailing or other supplies associated with your request. Under federal law, you do not have

the right to inspect or copy the following records; (1) psychotherapy notes; (2) information compiled in reasonable anticipation of, or use in, a civil, criminal, or administrative action or proceeding, and (3) PHI that is subject to law that prohibits its access. If your request is denied, we will explain the reasons in writing and advise you of what rights you have, if any, to a review of the denial.

- Right to Amend: If you believe that any PHI in a designated record set created by us is inaccurate or incomplete, you have the right to request that we amend the record for as long as we maintain this record. Such request must be made in writing and provide the reason why the change is being requested. We have 60 days to respond to your request. If we are unable to act on the request within the 60-day period, we may extend the response time by 30 days and will provide you with a notice explaining the delay and providing you with a new date by which to expect a response. In certain cases, we may deny your request for an amendment. If we deny your request, we will provide you with a written statement setting forth the reasons for the denial and what other steps are available to you. If we grant your request for amendment, we will ask you to provide us with the names of the persons or organizations you want to receive the amendment and you must agree to our notifying them along with other providers who received the record prior to amendment who may have relied on incomplete or incorrect information to provide you with treatment.
- Right to an Accounting of Disclosures: You have the right to request an accounting of disclosures that we have made of your PHI. Such request must be made in writing and shall specify the period for which the accounting is being requested. Such period may cover the six-year period prior to the date of your request. The accounting will include the date, name, and address (if known) of the person or organization who received the information, as well as a brief description of the information given and a brief statement as to why the information was disclosed. Your right to an accounting does not apply to disclosures of PHI made:
 - for purposes of treatment, payment or health care operations as described in this notice;
 - with your written permission;
 - through one of our hospital's patient directories;
 - to you or persons involved in your care; or
 - for national security or intelligence purposes or to correctional institutions or law enforcement officials who have custody of you.

We have 60 days to respond to your request. If we are unable to act on the request within the 60-day period, we may extend the response time by 30 days and we will provide you with a notice explaining the delay and providing you with a new date by which to expect a response. Your first request for an accounting in any 12-month period is free. For any subsequent request in a 12-

month period, we will notify you of the cost involved and you may choose to withdraw or modify your request at that time before any costs are incurred.

- Right to Request Restrictions: You have the right to request restrictions on the use or disclose of your PHI for treatment, payment or health care operations purposes. You may also request that any part of your PHI not be disclosed to family members or friends who may be involved in your care or for notification purposes (e.g. appointment reminders). We are not required to agree to a restriction that you may request. If we believe it is in your best interest to permit use and disclosure of your PHI or if restriction would interfere with treatment, payment or healthcare operations, your PHI will not be restricted. If we do agree to the requested restriction, we must put the restriction in writing and may not use or disclose your PHI in violation of that restriction unless it is needed to provide emergency treatment. Your request must state the specific restriction requested and to whom you want the restriction to apply, for example, disclosures to your spouse. You may not ask us to restrict uses or disclosures of information that we are legally required to make.

A special rule applies to requests you may make to restrict disclosure of PHI to your health plan. When you pay for a service or product in full (out of pocket) at the time you receive the service or product, we will agree to a request by you that we not share information pertaining only to that service or product with your health plan except if such disclosure is otherwise required by law.

- Right to Request Confidential Communications: You may request to receive confidential communications from us by alternative means or at an alternative location. We will accommodate reasonable requests. We may also condition this accommodation by asking you for information as to how payment will be handled or specification of an alternative address or other method of contact. We will not request an explanation from you as to the basis for the request.
- Right to Complain if You Believe Your Privacy Rights Have Been Violated. If you believe that we may have violated your privacy rights, you may file a complaint by contacting the Privacy Officer at (413) 447-2932 or Privacy Coordinator at (413) 447-2114, Ext. 5040. You may also send a written complaint to the U.S. Department of Health and Human Services at the following address: Regional Manager, Office for Civil Rights, U.S. Department of Health and Human Services, Government Center, J.F.K. Federal Building, Room 1875, Boston, Massachusetts 02203, voice phone (800) 368-1019 and e-mail OCRComplaint@hhs.gov. If you file a complaint, your care will not be affected in any way and we will take no retaliatory action against you.

RETENTION OF MEDICAL RECORDS

We maintain hospital medical records for at least 20 years after your discharge or after your final treatment; other records are maintained in accordance with state and federal regulations.

COPIES OF THIS NOTICE

Copies of this notice are posted at the hospitals and are available at the offices of our physicians. You may also ask for a paper copy of this notice at any time from the contact listed in the “Further Information” section at the end of this notice, even if you agreed to receive this notice by email. This notice is posted on BHS’s website (www.berkshirehealthsystems.org) and the website contains a link that will allow you to download this Notice in pdf format.

CHANGES TO THIS NOTICE

- We reserve the right to change our privacy practices and the terms of this notice at any time. We reserve the right to make the revised or changed notice effective for PHI that we already have about you, as well as any information that we receive in the future.
- In the event of a change to this notice, we will post the new notice in the hospitals, on our website (www.berkshirehealthsystems.org) and in our physician offices. The amended notice will include the effective date on its first page.

FURTHER INFORMATION

If you would like further information regarding our privacy practices or have any questions regarding this notice, please contact the Privacy Officer at (413) 447-2932 or Privacy Coordinator at (413) 447-2114, Ext. 5040