

NOTICE OF PRIVACY PRACTICES FOR HEMAL J SHAH, MD PC

Effective 3-1-2013

2013 HIPAA FINAL OMBINUS RULE: Expanded Applicability and New Obligations

THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. THIS NOTICE ALSO EXPLAINS THE LEGAL DUTIES AND PRIVACY PRACTICES WITH RESPECT TO PROTECTED HEALTH INFORMATION (PHI) AND THE INDIVIDUAL'S RIGHTS CONCERNING PROTECTED HEALTH INFORMATION (PHI.) PLEASE REVIEW CAREFULLY.

The Health Insurance Portability & Accountability Act of 1996 (HIPAA) requires all health care records and other individually identifiable health information (protected health information) used or disclosed to us in any form, whether electronically, on paper, or orally, be kept confidential. This federal law gives you, the patient, significant new rights to understand and control how your health information is used. HIPAA provides penalties for covered entities that misuse personal health information. As required by HIPAA, we have prepared this explanation of how we are required to maintain the privacy of your health information and how we may use and disclose your health information.

Without specific written authorization, we are permitted to use and disclose your health care records for the purpose of treatment, payment, and health care operations.

- Treatment means providing, coordinating, or managing health care and related services by one or more health care providers. Examples of treatment would include surgeries, follow-up care, administering medication, etc.
- Payment means such activities as obtaining reimbursement for services, confirming coverage, billing or collection activities, and utilization review. An example of this would be billing your medical health plan for your medical services.
- Health Care Operations include the business aspects of running our practice, such as conducting quality assessment and improvement activities. Auditing functions, cost-management analysis, and customer service. An example would include a periodic assessment of our documentation protocols, etc.

HIPAA FINAL OMNIBUS RULE REQUIRES COVERED ENTITIES TO INCLUDE THE FOLLOWING STATEMENTS:

- Most uses and disclosures of psychotherapy notes (where appropriate), uses and disclosures of PHI for purpose of marketing and disclosures that constitute sale of PHI **require** authorization;
- If Hemal J Shah, MD PC (the covered entity) intends to contact a patient (the individual) to raise funds for the covered entity, PHI may be used and disclosed for fundraising communications, and an individual has the right to opt out of receiving such communications;
- Patients have a right to restrict certain disclosures of PHI to a health plan where the individual pays out of pocket IN FULL for the healthcare item or service.
- Affected individuals have a right to be notified following a breach of unsecured PHI. The Office for Civil Rights (OCR) clarified that this simple statement suffices for purposes of addressing the breach notification rule; and
- The covered entity is prohibited from using or disclosing PHI that contains generic information for underwriting purposes.

In addition, your confidential information may be used to remind you of an appointment (by phone or mail) or provide you with information about treatment options or other health-related services including release of information to friends and family members that are directly involved in your care who assist in taking care of you. We will use and disclose your protected health information when we are required to do so by federal, state or local law. We may disclose your protected health information to public health authorities that are authorized by law to collect information, to a health oversight agency for activities authorized by law included but not limited to: response to a court or

administrative order, if you are involved in a lawsuit or similar proceeding, response to a discovery request, subpoena, or other lawful process by another party involved in the dispute, but only if we have made an effort to inform you of the request or to obtain an order protecting the information the party has requested. We will release your protected health information if requested by a law enforcement official for any circumstance required by law. We may release your protected health information to a medical examiner or coroner to identify a deceased individual or to identify the cause of death. If necessary, we also may release information in order for funeral directions to perform their jobs. We may release protected health information to organizations that handle organ, eye, or tissue procurement or transplantation, including organ donation banks, as necessary to facilitate organ or tissue donation and transplantation if you are an organ donor. We may use and disclose your protected health information when necessary to reduce or prevent a serious threat to your health and safety or the health and safety of another individual or the public. Under these circumstances, we will only make disclosures to a person or organization able to help prevent the threat. We may disclose your protected health information if you are a member of U. S. or foreign military forces (including veterans) and if required by the appropriate authorities. We may disclose your protected health information to federal officials for intelligence and national security activities authorized by law. We may disclose protected health information to federal officials in order to protect the President, other officials or foreign heads of state, or to conduct investigations. We may disclose protected health information to correctional institutions or law enforcement officials if you are an inmate or under the custody of law enforcement.

Disclosure for these purposes would be necessary:

- For the Institution to provide health care services to you;
- For the safety and security of the institution, and/or
- To protect your health and safety or the health and safety of other individuals or the public.

We may release your protected health information for workers' compensation and similar programs.

Any other uses and disclosures will be made only with your written authorization. You may revoke such authorization in writing and we are required to honor and abide by that written request, except to the extent that we have already taken actions relying on your authorization.

You have certain rights in regards to your protected health information, which you can exercise by presenting a written request to our Privacy Officer at Hemal J Shah, MD PC – 476 7th Street, Brooklyn, NY 11215.

- The right to request restrictions on certain uses and disclosures of protected health information, including those related to disclosures to family members, other relatives, close personal friends, or any other person identified by you. We are, however, not required to agree to a requested restriction. If we do agree to a restriction, we must abide by it unless you agree in writing to remove it.
- The right to request to receive confidential communications of protected health information from us by alternative means or at alternative locations.
- The right to access, inspect and copy your protected health information.
- The right to request an amendment to your protected health information.
- The right to receive an accounting of disclosures of protected health information outside of treatment, payment and health care operations.
- The right to obtain a paper copy of this notice from Hemal J Shah, MD PC upon request.

Access of Patients to Electronic PHI per Omnibus Final Rule:

The Final Rule amends the Privacy Rule by providing that, if a patient requests an electronic copy of PHI that is maintained electronically in one or more designated record sets, Hemal J Shah, MD PC must provide the patient with access to the PHI in the electronic form and format requested by the patient, if it is readily producible in such form and format, or if it is not, in a readable electronic form and format as agreed to by Hemal J Shah, MD PC and the patient. The Office for Civil Rights states that a covered entity is not required to purchase new software or systems in order to accommodate an electronic copy request for a specific format that the covered entity cannot readily

produce at the time of the request. If a patient does not accept any of the electronic formats that are readily producible by Hemal J Shah, MD PC therefore we may fulfill the patient request by providing hard copy as an option.

The Office for Civil Rights clarifies that, if a patient requests that a copy of his or her PHI be sent by encrypted email, Hemal J Shah, MD PC is permitted to send the email, so long as TVA representative has advised the patient of the security risk and the patient still wants to receive the unencrypted email.

The Final Rule allows Hemal J Shah, MD PC to charge a reasonable cost-based labor fee for copying electronic PHI, which can include time spent to create and copy the electronic file, such as compiling, extracting, scanning, and burning PHI to media, and distributing the media. The Final Rule also allows Hemal J Shah, MD PC to charge for the cost of supplies for creating the paper copy or electronic media (example: CD or USB Flash Drive), if a patient requests that the electronic copy be provided on portable media. Furthermore, the Final Rule allows a covered entity to charge for the cost of postage, if the individual requests that the portable media be sent by mail or courier. Importantly, however, the Final Rule does not allow Hemal J Shah, MD PC to charge any retrieval fee related to an individual's request.

Designation of Third Party to receive Protected Health Information (PHI)

The Final Rule provides that, if requested by a patient, Hemal J Shah, MD PC must transmit a copy of the patient's PHI to another person designated by the patient, so long as the patient's request is in writing, signed by the patient, and clearly identifies the designated person and where to send the copy of PHI. This requirement applies to PHI in paper and electronic form.

Research

The Final Rule allows an authorization for the use or disclosure of PHI for a research study to be combined with another authorization for the same research study, with an authorization for the creation or maintenance of a research database or repository, or with a consent to participate in research. The Final Rule requires that a covered healthcare provider conditioned the provision of research-related treatment on one of the authorizations, any compound authorization must clearly differentiate between the conditioned and unconditioned components and provide the patient with an opportunity to opt in to the research activities described in the unconditioned authorization.

Protected Health Information (PHI) of Decedents (deceased person)

The Privacy Rule requires covered entities to protect the privacy of the decedent's PHI indefinitely and generally in the same manner and to the same extent that is required for PHI of living individuals. The Final Rule limits the period of protection of a decedent's PHI to 50 years after his or her death; this limitation only sets the outer limit of HIPAA protection for this PHI and does not, by itself, require that PHI be retained for 50 years after death. Also, the Final Rule allows covered entities to disclose a decedent's PHI to family members, friends, and others who were involved in the care or payment for care of the decedent prior to death, unless doing so is inconsistent with any prior preference of the decedent that is known to Hemal J Shah, MD PC

Student Immunization Records

The Final Rule permits Hemal J Shah, MD PC to disclose to a school proof of immunization of a student or prospective student if: (1) the school is required by law to have proof of immunization; and (2) the covered entity obtains and documents that the student (if an adult or emancipated minor), or the parent or guardian, agreed orally or in writing to the disclosures.

Right to Restrict Disclosures to a Health Plan

Under the Final Rule, healthcare providers, upon request from a patient, must agree to restrict disclosure of PHI about the individual to a health plan if:

1. The disclosure would be for the purpose of carrying out payment or healthcare operations, and is not otherwise required by law; and
2. The PHI pertains solely to a healthcare item or service for which the patient, or person acting on the patient's behalf (other than the health plan), has paid the covered entity in full. To avoid payment issues, a healthcare provider may require payment in full at the time of the patient's request for a restriction.

Hemal J Shah, MD PC is required by law to maintain the privacy of your protected health information and to provide you with the notice of our legal duties and privacy practices with respect to protected health information.

Hemal J Shah, MD PC is required to abide by the term of the Notice of Privacy Practices currently in effect. We have the right to change the terms of our Notice of Privacy Practices to make the new notice provisions effective for all protected health information that we maintain. Revisions to our Notice of Privacy Practices will be posted on the effective date and you may request a written copy of the Revised Notice from Hemal J Shah, MD PC.

You have the right to file a formal, written complaint with use at the address listed below, or with the Department of Health & Human Services, Office of Civil Rights, in the event you feel your privacy have been violated. Hemal J Shah, MD PC will not retaliate against you for filing a complaint.

For more information about our Privacy Practices, please do not hesitate to ask us.

For more information about HIPAA or to file a complaint:

The U. S. Department of Health & Human Services – Office of Civil Rights

200 Independence Avenue, S. W. Washington, D.C. 20201

Toll Free Number: (877) 696-6775

HEMAL J SHAH, MD PC

476 7th Street

Brooklyn, NY 11215

(718) 788-3126

NOTICE OF PRIVACY PRACTICES

PATIENT ACKNOWLEDGEMENT

Patient Name: _____

Date of Birth: _____

I have received and understand Hemal J Shah, MD PC Notice of Privacy Practices written in plain language. The notice provides in detail the uses and disclosures of my protected health information that may be made by this practice, my individual rights, how I may exercise these rights, and Hemal J Shah, MD PC legal duties with respect to my information.

I understand that Hemal J Shah, MD PC reserves the right to change the terms and its Notice of Privacy Practices, and to make changes regarding all protected health information resident at, or controlled by, this practice. If changes to the policy occur, this practice will provide me a revised Notice of Privacy Practices upon request.

Patient Signature:

Date Signed: