

Patient Right to Request a Restriction on Uses and Disclosures of PHI

Purpose

To establish guidelines for reviewing a patient's request to a restriction on Alexandria Oral Surgery's uses and disclosures of protected health information ("PHI").

Policy

I. Requests to Restrict Uses and Disclosures

- A. Alexandria Oral Surgery must permit a patient to request that Alexandria Oral Surgery restrict:
 - i. Uses or disclosures of PHI about the patient to carry out treatment, payment or health care operations; and
 - ii. Disclosures to a family member, a close personal friend of the patient or any other person identified by the patient relating to such person's involvement in the patient's care or payment or to notify, or assist in the notification of, such person about the patient's location, general condition or death.
- B. Unless otherwise required by applicable law, Alexandria Oral Surgery is not obligated to agree to any restriction that a patient requests, except if:
 - i. The request relates to the use or disclosure is for the purpose of carrying out treatment, payment or health care operations and is not otherwise required by law; and
 - ii. The PHI pertains solely to a health care item or service for which the patient (or person other than the health plan on behalf of the patient) has paid Alexandria Oral Surgery in full.
- C. If Alexandria Oral Surgery agrees to any requested restriction, Alexandria Oral Surgery will not use or disclose any PHI in violation of the restriction, except to the extent such PHI is necessary to provide emergency treatment to the patient or as required by law.

Procedure

I. Responding to a Request for Restriction

- A. An Alexandria Oral Surgery workforce member receives a patient's written request to restrict the use or disclosure of PHI. If a patient orally requests a restriction, the workforce member will provide the patient with a form for requesting a restriction.
- B. The workforce member will deliver the request to the Privacy Officer, who will review such request and inform the patient whether Alexandria Oral Surgery has agreed to or denied the requested restriction.
- C. Alexandria Oral Surgery will only grant the request in the event the request relates to the disclosure of PHI for the purpose of carrying out payment or health care operations and is not otherwise required by law, and the PHI pertains solely to the health care item or service for which the patient (or person other than the health plan on behalf of the patient) has paid Alexandria Oral Surgery in full.
- D. If the request is granted, the Privacy Officer will file the restriction appropriately, including placing a copy of the request in the patient's record.
- E. If the request is granted, Alexandria Oral Surgery may not disclose any PHI in violation of the

Patient Right to Request a Restriction on Uses and Disclosures of PHI

restriction to which it agreed, except that PHI may be disclosed to a health care provider if it is necessary to render emergency treatment to the patient and the health care provider receiving the PHI agrees not to further disclose the PHI.

- F. Alexandria Oral Surgery will not comply with a patient request for restrictions on disclosures, except as described herein and as may otherwise be required by law.
- G. If the request is denied, the Privacy Officer will retain the request on file and will provide a written denial to the patient within 60 days of determination, which includes:
 - i. The basis for the denial;
 - ii. A statement of the patient's review rights, including a description of how the patient may exercise such rights; and
 - iii. The Privacy Officer's contact information.

II. Documentation

- A. All requests for restriction and corresponding documentation of approval and denials should be maintained in the patient's record for a minimum of 6 years.

References

Sources:

I. 45 C.F.R. § 164.510

Version No.1.0

Date revised:

Physical Security of PHI Policy

Purpose

To ensure that Protected Health Information* ("PHI") maintained by **Alexandria Oral Surgery** is stored in a physically secure location.

Policy

Alexandria Oral Surgery will implement reasonable physical safeguards to ensure that PHI maintained by Alexandria Oral Surgery may only be accessed by authorized individuals.

Procedure

I. Discussing PHI

- A. PHI should be discussed for work-related purposes.
- B. When discussing PHI, workforce members should keep their voices at a low volume.
- C. When discussing PHI on the telephone, workforce members should take reasonable steps to ensure their conversation cannot be heard by unauthorized individuals.
- D. Workforce members should not use the speakerphone function when discussing PHI on the telephone.
- E. Workforce members should not leave voicemail messages discussing PHI on answering machines.

II. Employee Access to PHI

- A. Workforce members will be informed that they are only permitted to access PHI that is necessary to perform their job duties.
- B. Workforce members are only permitted to access the minimum amount of PHI that is necessary to perform their duties.
- C. Workforce members are only permitted to access PHI when working at Alexandria Oral Surgery. Workforce members may not access PHI when "off duty."

III. Physical Location of PHI

- A. Alexandria Oral Surgery will enact physical safeguards to ensure that documents containing PHI are not accessible to unauthorized individuals.
 - i. For example, records containing PHI shall be stored in locked rooms or locking cabinets.
- B. Fax machines, printers, and photocopy machines shall be located in a secure area that may only be accessed by authorized individuals.
- C. When physical records containing PHI are in use, workforce members will enact appropriate physical safeguards to ensure that PHI cannot be accessed by unauthorized individuals.
 - i. Such physical safeguards include:
 - a. Never leaving physical records with PHI unattended;
 - b. Closing a file folder to ensure that unauthorized individuals cannot read information within the file; and
 - c. Shielding documents containing PHI from the view of others.
- D. Alexandria Oral Surgery will maintain PHI files in locked cabinets when not in use.
- E. Storage rooms containing PHI should be locked when not in use.

IV. Destruction of PHI

- A. Alexandria Oral Surgery's workforce members will only destroy PHI as permitted in the document destruction policy. See Document Destruction Policy and Procedure.

V. Violation of this policy may result in disciplinary action.

Physical Security of PHI Policy

References

Sources:

- I. 45 C.F.R. §§ 164.310(a)(2)(iv), 164.312(e)(1), 164.502(b).

Forms:

None

Version No. 1.0

Date Revised:

Patient Access to PHI Policy

Purpose

To establish guidelines for reviewing PATIENT or PATIENT's personal representative's requests for access to Protected Health Information* ("PHI").

Policy

I. Procedure for Providing Access to PHI

- A. Upon admission, PATIENTS will receive a copy of Alexandria Oral Surgery's Notice of Privacy Practices, which provides general information on PATIENT's rights to access PHI.
- B. All requests by a PATIENT or a PATIENT's personal representative for access to PHI must be in writing, and mailed or delivered to the HIPAA Privacy Officer.
 - i. A PATIENT who requests access to their PHI shall be given a copy of the form PATIENT Request for Access to Protected Health Information. Form A – Request for Access to Protected Health Information. Alexandria Oral Surgery may accept a written request submitted in an alternative form.
 - ii. The PATIENT's request must be clear, conspicuous and specific. If Alexandria Oral Surgery workforce members have questions, they should confirm with the PATIENT.
 - iii. The PATIENT does not need to specify the reason they wish to see their record.
 - iv. Alexandria Oral Surgery may refuse an oral request to access or inspect PHI on the basis that such request is oral and not written.
 - v. If the PATIENT's request for access directs Alexandria Oral Surgery to transmit the PHI to another person designated by the PATIENT, the PATIENT's written request must clearly identify the designated recipient.
- C. The HIPAA Privacy Officer will review all PATIENT requests for access to PHI.
- D. Timing of Response to Request for Access to PHI
 - i. The HIPAA Privacy Officer will act on a request for access to PHI that is maintained on-site at Alexandria Oral Surgery no later than thirty (30) days after receipt of the written request.
 - ii. The HIPAA Privacy Officer may respond to a request for access to PHI which is maintained by Alexandria Oral Surgery in an off-site location within sixty (60) days.
 - iii. The HIPAA Privacy Officer may extend the time for response to access to PHI by no more than thirty (30) days if unable to comply with the timing requirements listed above, so long as:
 - a. Alexandria Oral Surgery provides the individual with a written statement of the reason for the delay within thirty (30) days for records maintained on-site, and within sixty (60) days for records maintained off-site; and
 - b. Alexandria Oral Surgery may only have one such extension for time to act on requests.
- E. The HIPAA Privacy Officer may deny a PATIENT access to inspect or obtain a copy of PHI in the following circumstances:
 - i. The individual is requesting access to PHI that does not belong to them;
 - ii. A Licensed Alexandria Oral Surgery workforce member has determined, in the exercise of his or her professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person;
 - iii. The PHI makes reference to another person (who is not a health care provider) and a Licensed Alexandria Oral Surgery workforce member has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person; or
 - iv. The request for access is made by the individual's personal representative and a Licensed Alexandria Oral Surgery workforce member has determined, in the exercise of professional

Patient Access to PHI Policy

judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the individual or another person.

- F. The PATIENT has the right to access PHI that Alexandria Oral Surgery maintains in the PATIENT's designated record set, except for the following types of information:
- i. Psychotherapy notes;
 - ii. Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding; or
 - iii. PHI that is subject to the Clinical Laboratory Improvement Amendments of 1988.
 - iv. Alexandria Oral Surgery is not required to provide copies of X-rays or tracings derived from electrocardiography, electroencephalography, or electromyography to the PATIENT or the PATIENT's personal representative.
- G. If the HIPAA Privacy Officer grants the PATIENT's request, in whole or in part, Alexandria Oral Surgery will provide the PATIENT with access to the PHI, a copy of the PHI, or both. The HIPAA Privacy Officer will complete the appropriate portion of the Response to PATIENT Request for Access to PHI form to notify the PATIENT of his or her decision. Form B – Response to Request for Access to PHI.
- i. Time and Manner of Access – Alexandria Oral Surgery will provide access as requested within five (5) days of approving the request, including arranging with the PATIENT for a convenient time and place to inspect or obtain a copy of the PHI, or mailing the copy of the PHI at the PATIENT's request. If the PATIENT requested in writing that the PHI be transmitted to a third party, Alexandria Oral Surgery will provide a copy of the PHI to that third party.
 - ii. Form of Access:
 - a. Alexandria Oral Surgery will provide the PATIENT with access to the PHI in the form requested by the PATIENT if it is readily producible in such format. If it is not readily producible in the format requested, Alexandria Oral Surgery will provide the PATIENT with a readable hard copy or other format as agreed to by Alexandria Oral Surgery and the individual.
 - b. If Alexandria Oral Surgery keeps the records in electronic format, the PATIENT may choose to receive PHI in electronic format if it is readily producible in that format and may direct the provider to transmit a copy directly to another entity or person. If the PHI is not readily producible in electronic format, it will be provided in an alternative readable electronic format as agreed to by Alexandria Oral Surgery and PATIENT.
 - c. Duplicate Information – If the same information is in more than one location or more than one designated record set, Alexandria Oral Surgery will only produce the information once per request.
 - d. Summary of Information -
 - i. Alexandria Oral Surgery may provide the PATIENT with a summary of the PHI requested in lieu of providing access to the PHI, or may provide an explanation of the PHI if:
 - 1. The PATIENT agrees in advance to such a summary or explanation; and
 - 2. The PATIENT agrees in advance to the fees imposed, if any, by Alexandria Oral Surgery for such summary or explanation.
 - ii. If a summary is to be provided, it should be provided within ten (10) days of the request, and shall contain a list of current medications prescribed, including dosage, and any sensitivities or allergies to medications recorded by the

Patient Access to PHI Policy

provider. It should also include the following information for each injury, illness, or episode:

1. Chief complaint(s) and pertinent history;
2. Findings from consultations and referral to other healthcare providers;
3. Diagnosis, where determined;
4. Treatment plan and regimen including medications prescribed;
5. Progress of the treatment;
6. Prognosis including significant continuing problems or conditions;
7. Pertinent reports of diagnostic procedures and tests and all discharge summaries; and
8. Objective findings from the most recent physical examination, such as blood pressure, weight, and actual values from routine laboratory tests.

e. Fees –

- i. If the PATIENT requests a copy of the PHI or agrees to a summary of the PHI, Alexandria Oral Surgery may impose a reasonable, cost-based fee, providing the fee includes only the cost of copying the PHI (including labor costs), postage when the PATIENT has requested the copy be mailed, and preparing an explanation or summary of the PHI if agreed to by the individual. The fee for copying the records shall not exceed twenty-five cents (\$0.25) per page or fifty cents (\$.50) per page for records copied from microfilm.
- ii. If a summary of the PATIENT's medical record is provided, Alexandria Oral Surgery charge a reasonable fee based on actual time and cost for the preparation of the summary. The cost shall be based on a computation of the actual time spent preparing the summary for availability to the PATIENT or the PATIENT's representative.

f. Requests for Access to Medical Record for a Public Benefit Program

- i. If the PATIENT or PATIENT's representative is requesting copies of his or her medical record for the purpose of supporting an appeal regarding eligibility for a public benefit program (including Medi-Cal, Social Security Disability Insurance benefits, or Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled), Alexandria Oral Surgery will provide the PATIENT with one copy of his/her medical record free of charge.
- ii. If the request for records for a public benefit program appeal is submitted by the PATIENT's private attorney, Alexandria Oral Surgery may impose a reasonable, cost-based fee, providing the fee includes only the cost of copying the PHI (including labor costs), postage when the PATIENT has requested the copy be mailed, and preparing an explanation or summary of the PHI if agreed to by the individual. The fee for copying the records shall not exceed twenty-five cents (\$0.25) per page. A "private attorney" means an attorney who is not employed by a nonprofit legal services entity.

H. If the HIPAA Privacy Officer denies the request, in whole or in part, the PATIENT will be provided with a timely, written denial by completing the appropriate portion of the form Response to PATIENT Request for Access to PHI. Form B – Response to Request for Access to PHI.

- i. If the HIPAA Privacy Officer denies the PATIENT's request to PHI only in part, Alexandria Oral Surgery will provide the PATIENT with access to the PHI that has been approved for

Patient Access to PHI Policy

access, according to the procedures set forth in Section I(G) above.

- I. If Alexandria Oral Surgery does not maintain the PHI requested by the PATIENT, but it knows where the requested information is maintained, Alexandria Oral Surgery will inform the PATIENT where to direct the request for access.

II. Review of Denial of Access to PHI

- A. If the HIPAA Privacy Officer denies a PATIENT access to inspect or obtain a copy of PHI, on the basis of a Reviewable Ground for Denial (as explained in Section II(C) below), the PATIENT has the right to have the denial reviewed. If the HIPAA Privacy Officer denies a PATIENT access to inspect or obtain a copy of PHI on the basis of a Non-Reviewable Ground for Denial, Alexandria Oral Surgery is not required to provide the individual with a right to review the denial.
- B. Alexandria Oral Surgery will designate a Licensed Health Care Professional to act as a reviewing official. This individual must not have participated in the HIPAA Privacy Officer's original decision to deny access.
 - i. The HIPAA Privacy Officer will promptly refer a request for review of denial to the designated reviewing official.
- C. The designating reviewing official will determine, within a reasonable period of time, whether to deny the access requested based on the following standards:
 - i. The denial of access to PHI is reviewable if:
 - a. A Licensed Health Care Professional has determined, in the exercise of his or her professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the PATIENT or another person; or
 - b. The PHI makes reference to another person (who is not a health care provider) and a Licensed Health Care Professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person; or
 - c. The request for access is made by the PATIENT's personal representative and a Licensed Health Care Professional has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the PATIENT or another person.
 - ii. The denial of access to PHI is not reviewable if:
 - a. The PHI is exempted from the right of access as described in I(F) above;
 - b. Alexandria Oral Surgery is acting under the discretion of a correctional institution, receives a request from an inmate for a copy of PHI, and providing such copy would jeopardize the health, safety, security, custody, or rehabilitation of the individual, other inmates, or the safety of an officer, employee or other person at the correctional institution;
 - c. A PATIENT's access to PHI created or obtained in the course of research which includes treatments that may be temporarily suspended while the research is in progress; or
 - d. A PATIENT's access to PHI that is contained in records subject to the Privacy Act (i.e. maintained in a system of records by federal agencies) if the denial of access would meet requirements of the Privacy Act; or
 - e. If the PHI was obtained from someone other than Alexandria Oral Surgery under a promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information.

Patient Access to PHI Policy

- D. Alexandria Oral Surgery will provide or deny access in accordance with the determination of the reviewing official.
- E. Alexandria Oral Surgery will promptly provide the PATIENT with written notice of the designated reviewing official's determination, and will take action to carry out the determination pursuant to Section I(G) or I(H) above.

III. Documentation

- A. Alexandria Oral Surgery will document the following information on Form C – Log of Requests for Access to PHI, and retain such information in for a period of ten years:
 - i. The date of the PATIENT or PATIENT's personal representative's request for access to PHI;
 - ii. The name and title of Alexandria Oral Surgery employee addressing the request;
 - iii. The date of Alexandria Oral Surgery's response;
 - iv. The action taken by Alexandria Oral Surgery in response to the request; and
 - v. Whether the PATIENT asked for a review of Alexandria Oral Surgery's initial response.

Procedure

I. Discussing PHI

- A. PHI should be discussed for work-related purposes.
- B. When discussing PHI, workforce members should keep their voices at a low volume.
- C. When discussing PHI on the telephone, workforce members should take reasonable steps to ensure their conversation cannot be heard by unauthorized individuals.
- D. Workforce members should not use the speakerphone function when discussing PHI on the telephone.
- E. Workforce members should not leave voicemail messages discussing PHI on answering machines.

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- C. Workforce members are only permitted to access PHI when working at Alexandria Oral Surgery. Workforce members may not access PHI when "off duty."

III. Physical Location of PHI

- A. Alexandria Oral Surgery will enact physical safeguards to ensure that documents containing PHI are not accessible to unauthorized individuals.
 - i. For example, records containing PATIENT PHI shall be stored in locked rooms or locking cabinets.
- B. Fax machines, printers, and photocopy machines shall be located in a secure area that may only be accessed by authorized individuals.
- C. When physical records containing PHI are in use, workforce members will enact appropriate physical safeguards to ensure that PHI cannot be accessed by unauthorized individuals.
 - i. Such physical safeguards include:
 - a. Never leaving physical records with PHI unattended;
 - b. Closing a file folder to ensure that unauthorized individuals cannot read information within the file; and
 - c. Shielding documents containing PHI from the view of others.
- D. Alexandria Oral Surgery will maintain PHI files in locked cabinets when not in use.
- E. Storage rooms containing PHI should be locked when not in use.

IV. Destruction of PHI

A. Alexandria Oral Surgery's workforce members will only destroy PHI as permitted in the document destruction policy. See Document Destruction Policy and Procedure.

V. Violation of this policy may result in disciplinary action.

References

Sources:

- I. 45 C.F.R. §§ 164.502, 164.524, 164.530(j) Cal. Health & Safety Code §§ 123105(d), 123110, 123115, 123130. Cal. Civ. Code § 56.101

Forms:

Form A – Request for Access to Protected Health Information

Form B – Response to Request for Access to Protected Health Information

Form C – Log of Request for Access to Protected Health Information

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