

**W. DAVID LUCE, MD PC**

**NOTICE OF PRIVACY PRACTICES**

Effective date: 08/15/2013

**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.**

If you have any questions regarding this notice, you may contact our privacy officer at:

Address: 885 Arapahoe Avenue  
Attention: Privacy Officer  
Boulder, CO 80302  
Telephone: 303-444-5689  
Fax: 303-449-2933

This Notice of Privacy Practices describes how we may use and disclose your protected health information to carry out treatment, payment or health care operations and for other purposes that are permitted or required by law. It also describes your rights to access and control your protected health information.

We are required to abide by the terms of this Notice of Privacy Practices. We may change the terms of this notice at any time. A current Notice of Privacy Practices will be available in our office and on our website at any time. You may obtain a revised version by accessing our website, calling our office or picking one up at your next appointment.

**I. YOUR PROTECTED HEALTH INFORMATION**

Generally speaking, your protected health information is any information that relates to your past, present or future physical or mental health or condition, the provision of health care to you, or payment for health care provided to you that individually identifies you or reasonably can be used to identify you. Your medical and billing records at our practice are examples of information that usually will be regarded as your protected health information.

Protected health information excludes health information of persons who have been deceased for more than fifty (50) years.

**II. USES AND DISCLOSURES OF YOUR PROTECTED HEALTH INFORMATION**

Your protected health information may be used and disclosed by your physician, our office staff and others outside of our office who are involved in your care and treatment for the purpose of providing health care services to you. Your protected health information may also be used and disclosed to pay your health care bills and to support the operation of your physician's practice.

**A. Treatment, payment, and health care operations**

This section describes how we may use and disclose your protected health information for treatment, payment, and health care operations purposes. The descriptions include examples of the types of uses and disclosures that may be made by our office. Not every possible use or disclosure for treatment, payment, and health care operations purposes will be listed.

## **1. Treatment**

We may use and disclose your protected health information to help us with your treatment. We may also release your protected health information to help other health care providers treat you. Treatment includes the provision, coordination, or management of health care services to you by one or more health care providers. Some examples of treatment uses and disclosures include:

- During an office visit, practice physicians and other staff involved your care may review your medical record and share and discuss your medical information with each other.
- We may share and discuss your medical information with an outside physician to whom we have referred you for care.
- We may share and discuss your medical information with an outside physician with whom we are consulting regarding you.
- We may share and discuss your medical information with an outside laboratory, radiology center, or other health care facility where we have referred you for testing.
- We may share and discuss your medical information with an outside home health agency, durable medical equipment agency, or other health care provider to whom we have referred you for health care services and products.
- We may share and discuss your medical information with a hospital or other health care facility where we are admitting or treating you.
- We may share and discuss your medical information with another health care provider who seeks this information for the purpose of treating you.
- We may contact you to provide appointment reminders.

## **2. Payment**

We may use and disclose your protected health information for our payment purposes, as well as the payment purposes of other health care providers and health plans. Payment uses and disclosures include activities conducted to obtain payment for the care provided to you or so that you can obtain reimbursement for that care. Some examples of payment uses and disclosures include:

- Sharing information with your health insurer to determine whether you are eligible for coverage or whether proposed treatment is a covered service.
- Submission of a claim to your health insurer.
- Providing supplemental information to your health insurer so that your health insurer can obtain reimbursement from another health plan under a coordination of benefits clause in your subscriber agreement.

- Sharing your demographic information (for example, your address) with other health care providers who seek this information to obtain payment for health care services provided to you.
- Mailing you bills in envelopes with our practice name and return address.
- Provision of a bill to a family member or other person designated as responsible for payment for services rendered to you.
- Providing medical records and other documentation to your health insurer to support the medical necessity of a health service.
- Allowing your health insurer access to your medical record for a medical necessity or quality review audit.
- Providing consumer reporting agencies with credit information
- Providing information to a collection agency or our attorney for purposes of securing payment of a delinquent account.
- Disclosing information in a legal action for purposes of securing payment of a delinquent account.

### **3. Health care operations**

We may use and disclose your protected health information for our health care operation purposes as well as certain health care operation purposes of other health care providers and health plans. Some examples of health care operation purposes include:

- Quality assessment and improvement activities.
- Population based activities relating to improving health or reducing health care costs.
- Reviewing the competence, qualifications, or performance of health care professionals.
- Conducting training programs for medical and other students.
- Accreditation, certification, licensing, and credentialing activities.
- Health care fraud and abuse detection and compliance programs.
- Conducting other medical review, legal services, and auditing functions.
- Business planning and development activities, such as conducting cost management and planning related analyses.
- Sharing information regarding patients with entities that are interested in purchasing our practice and turning over patient records to entities that have purchased our practice.
- Other business management and general administrative activities, such as compliance with the federal privacy rule and resolution of patient grievances.

### **B. Uses and disclosures for other purposes**

We may use and disclose your protected health information for other purposes. This section generally describes those purposes by category. Each category includes one or more examples.

Not every use or disclosure in a category will be listed. Some examples fall into more than one category – not just the category under which they are listed.

### **1. Individuals involved in care or payment for care**

We may disclose your protected health information to someone involved in your care or payment for your care, such as a spouse, a family member, or close friend. For example, if you have surgery, we may discuss your physical limitations with a family member assisting in your post-operative care.

### **2. Notification purposes**

We may use and disclose your protected health information to notify, or to assist in the notification of, a family member, a personal representative, or another person responsible for your care regarding your location, general condition, or death. For example, if you are hospitalized, we may notify a family member of the name and address of the hospital and your general condition. In addition, we may disclose your protected health information to a disaster relief entity, such as the American Red Cross, so that it can notify a family member, a personal representative, or another person involved in your care regarding your location, general condition, or death.

### **3. Required by law**

We may use and disclose protected health information when required by federal, state, or local law. For example, we may disclose protected health information to comply with mandatory reporting requirements involving births and deaths, child abuse, disease prevention and control, vaccine-related injuries, medical device-related deaths and serious injuries, gunshot and other injuries by a deadly weapon or criminal act, driving impairments, and blood alcohol testing.

### **4. Other public health activities**

We may use and disclose protected health information for public health activities, including:

- Public health reporting, for example, communicable disease reports.
- Child abuse and neglect reports.
- FDA-related reports and disclosures, for example, adverse event reports.
- Public health warnings to third parties at risk of a communicable disease or condition.
- OSHA requirements for workplace surveillance and injury reports.

### **5. Victims of abuse, neglect, or domestic violence**

We may use and disclose protected health information for purposes of reporting of abuse, neglect, or domestic violence in addition to child abuse, for example, reports of elder abuse to the Department of Aging or abuse of a nursing home patient to the Department of Public Welfare.

## **6. Health oversight activities**

We may use and disclose protected health information for purposes of health oversight activities authorized by law. These activities could include audits, inspections, investigations, licensure actions, and legal proceedings. For example, we may comply with a Drug Enforcement Agency inspection of patient records.

## **7. Judicial and administrative proceedings**

We may use and disclose protected health information disclosures in judicial and administrative proceedings in response to a court order or subpoena, discovery request or other lawful process. For example, we may comply with a court order to testify in a case at which your medical condition is at issue.

## **8. Law enforcement purposes**

We may use and disclose protected health information for certain law enforcement purposes including to:

- Comply with a legal process, for example, a search warrant.
- Comply with a legal requirement, for example, mandatory reporting of gun-shot wounds.
- Respond to a request for limited information for identification/location purposes.
- Respond to a request for information about a crime victim.
- Report a death suspected to have resulted from criminal activity.
- Provide information regarding a crime on the premises.
- Report a medical emergency when suspected to have resulted from criminal activity.

## **9. Coroners and medical examiners**

We may use and disclose protected health information for purposes of providing information to a coroner or medical examiner for the purpose of identifying a deceased patient, determining a cause of death, or facilitating their performance of other duties required by law.

## **10. Funeral directors**

We may use and disclose protected health information for purposes of providing information to funeral directors as necessary to carry out their duties.

## **11. Organ and tissue donation**

For purposes of facilitating organ, eye, and tissue donation and transplantation, we may use and disclose protected health information to entities engaged in the procurement, banking, or transplantation of cadaveric organs, eyes, or tissue.

## **12. Threat to public safety**

We may use and disclose protected health information for purposes involving a threat to public safety, including protection of a third party from harm and identification and apprehension of a criminal. For example, in certain circumstances, we are required by law to disclose information to protect someone from imminent serious harm.

## **13. Specialized government functions**

We may use and disclose protected health information for purposes involving specialized government functions including:

- Military and veterans activities.
- National security and intelligence.
- Protective services for the President and others.
- Medical suitability determinations for the Department of State.
- Correctional institutions and other law enforcement custodial situations.

## **14. Workers' compensation and similar programs**

We may use and disclose protected health information as authorized by and to the extent necessary to comply with laws relating to workers' compensation or similar programs, established by law that provide benefits for work-related injuries or illness without regard to fault. For example, this would include submitting a claim for payment to your employer's workers' compensation carrier if we treat you for a work injury.

## **15. Inmates**

We may use or disclose your information if you are an inmate of a correctional facility and your physician created or received your protected health information in the course of providing care to you.

## **16. Business associates**

Certain functions of the practice may be performed by a business associate that could involve the use or disclosure of protected health information. A business associate is defined as a person or entity who creates, receives, maintains, or transmits protected health information on behalf of the practice. Examples include but are not limited to: billing companies, accounting firms, law firms, consultants, patient safety organizations, personal health record vendors, and health information organizations. We may disclose protected health information to our business associates and allow them to create, receive, maintain or transmit protected health information on our behalf. For example, we may share with our billing company information regarding your care and payment for your care so that the company can file health insurance claims and bill you or another responsible party.

A business associate may delegate a function, activity, or service to another business associate or subcontractor who may obtain access to your protected health information to perform that function. We make every effort to obtain reasonable assurances that our

business associates safeguard your health information and also require their business associates to safeguard your health information, as required by law.

#### **17. Creation of de-identified information**

We may use protected health information about you in the process of de-identifying the information. For example, we may use your protected health information in the process of removing those aspects which could identify you so that the information can be disclosed to a researcher without your authorization.

#### **18. Food and Drug Administration**

We may disclose your protected health information to a person or company required by the Food and Drug Administration for the purpose of quality, safety, or effectiveness of FDA-regulated products or activities including, to report adverse events, product defects or problems, biologic product deviations, to track products; to enable product recalls; or to make repairs or replacements, as required.

#### **19. Incidental disclosures**

We may disclose protected health information as by-product of an otherwise permitted use or disclosure. For example, other patients may overhear your name being paged in the waiting room.

#### **20. Enforcement agencies**

We may disclose protected health information to various enforcement agencies regarding activities associated with HIPAA complaint investigations and compliance reviews. For example, possible criminal HIPAA violations may be investigated by the Department of Justice.

### **C. Opportunity to agree or object**

There are permitted uses and disclosures to which you may agree or object. We may discuss or disclose information to a family member, friend or other person involved in your care unless you object. We may disclose proof of immunization to a school for admission with oral or written agreement from a parent/guardian, other person acting in *loco parentis*, or directly from the individual if an adult or emancipated minor.

### **D. Uses and disclosures with written authorization**

For all other purposes that do not fall under a category listed under sections II.A, II.B and II.C, we will obtain your written authorization to use, disclose or sell your protected health information. Most uses and disclosures of protected health information for marketing purposes or clinical research (unless de-identified) require written authorization. If applicable, most uses or disclosures or psychotherapy notes also require your written authorization. Your authorization can be revoked at any time. If you revoke your authorization, we will no longer use or disclose your protected health information for the reasons covered by your written authorization.

However, we are unable to retract any disclosures already made with your authorization prior to the date of the revocation.

### **III. PATIENT RIGHTS**

#### **A. Further restriction on use or disclosure**

You have a right to request that we further restrict use and disclosure of your protected health information to carry out treatment, payment, or health care operations, to someone who is involved in your care, the payment for your care, or for notification purposes.

We are not required to agree to a request for a further restriction with one exception. We must agree to a request not to disclose your protected health information to a health plan for payment or health care operations purposes if the information pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full.

To request a further restriction, you must submit a written request to our privacy officer. The request must tell us: (a) what information you want restricted; (b) how you want the information restricted; and (c) to whom you want the restriction to apply.

#### **B. Confidential communication**

You have a right to request that we communicate your protected health information to you by a certain means or at a certain location. For example, you might request that we only contact you by mail or at work. We will accommodate reasonable requests for confidential communications.

To make a request for confidential communications, you must submit a written request to our privacy officer. The request must tell us how or where you want to be contacted. In addition, if another individual or entity is responsible for payment, the request must explain how payment will be handled.

#### **C. Accounting of disclosures**

You have a right to obtain, upon request, an "accounting" of certain disclosures of your protected health information. This right applies to disclosures for purposes other than treatment, payment or health care operations as described in this Notice of Privacy Practices. It excludes disclosures we may have made to you if you authorized us to make the disclosure, for a facility directory, to family members or friends involved in your care, or for notification purposes, for national security or intelligence, to law enforcement (as provided in the privacy rule) or correctional facilities, as part of a limited data set disclosure. You have the right to receive specific information regarding these disclosures that occur after April 14, 2003. This right is subject to limitations and in limited circumstances we may charge you for providing the accounting. To request an accounting, you must submit a written request to our privacy officer. The request should designate the applicable time period.

#### **D. Inspection and copying**

You have a right to inspect and obtain a copy of your protected health information that we maintain in a designated records set. Generally, this includes your medical and billing records.



This right is subject to limitations and we may impose charges for costs involved in providing copies, such as labor, supplies and postage, as permitted by law. If your records are maintained electronically, you have the right to specify that the records you requested be provided in electronic form. We have the right to refuse unreasonable requests for electronic copies.

Under federal law, you may not inspect or copy psychotherapy notes, information compiled in reasonable anticipation of, or use in, a civil, criminal, or administrative action or proceeding; and laboratory results that are subject to law that prohibits access to protected health information.

To exercise your right of access, you must submit a written request to our privacy officer. The request must: (a) describe the health information to which access is requested; (b) state how you want to access the information, such as inspection, pick-up of copy, mailing of copy; (c) specify any requested form or format, such as paper copy or an electronic means; and (d) include the mailing address, if applicable.

You may also request that your protected health information be transmitted to another person or entity. To exercise this right, you must submit a written request to our privacy officer. The request must: (a) be signed by you or your personal representative; (b) clearly identify the designated person or entity to whom the information will be provided; and (c) clearly identify where the information will be sent.

#### **E. Right to amendment**

You have a right to request that we amend protected health information that we maintain about you in a designated records set if the information is incorrect or incomplete. This right is subject to limitations. To request an amendment, you must submit a written request to our privacy officer. The request must specify each change that you want and provide a reason to support each requested change. In certain cases, we may deny your request for an amendment. If we deny your request for amendment, we will provide you with a written explanation for the denial.

#### **F. Copy of privacy notice**

You have a right to receive a copy of our Notice of Privacy Practices. Copies are available in our office, on our website or by contacting our privacy officer. The Notice will be provided to you in other formats if you require special accommodations by contacting our privacy officer.

#### **G. Notification of breach**

You have a right to receive timely written notification of a breach of your unsecured protected health information. Generally, paper records that have not been shredded are considered to be unsecured. Electronic records that are not password protected, electronically encrypted or irretrievably destroyed are also generally considered to be unsecured. A breach is generally defined as any use or disclosure of your unsecured protected health information not permitted by this notice.

### **IV. CHANGES TO THIS NOTICE**

We reserve the right to change this notice at any time. We further reserve the right to make any change effective for all protected health information that we maintain at the time of the change – including information that we created or received prior to the effective date of the change.

We will post a copy of our current notice in the waiting room for the practice. At any time, patients may review the current notice by contacting our privacy officer.

## V. COMPLAINTS

If you believe that we have violated your privacy rights, you may submit a complaint to us or the Office for Civil Rights. We will not retaliate against you for filing a complaint.

Our privacy officer who may be contacted at:

Address: W. David Luce, MD  
Attention: Privacy Officer  
885 Arapahoe Avenue, Boulder, CO 80302  
Telephone: 303-444-5689  
Fax: 303-449-2933

The Office of Civil Rights may be contacted at:

Office of Civil Rights  
US Department of Health and Human Services  
150 S. Independence Mall West, Suite 372  
Public Ledger Building  
Philadelphia, PA 19106-9111  
**Main Line: (800) 368-1019**  
Fax: (215) 861-4431  
TDD: (215) 861-4440

## VI. LEGAL EFFECT OF THIS NOTICE

This notice is not intended to create contractual or other rights independent of those created in the federal privacy rule.

*These materials provide general legal information. They are not intended as legal advice. Laws and procedures change frequently and are subject to differing interpretations. Physicians should consult their personal attorney if they are in need of legal guidance on a specific situation. Example forms and policies and procedures contained in the materials should not be used without consideration of the practice's specific needs and circumstances.*