

# **BONE & JOINT CLINIC OF BATON ROUGE, INC.**

## **PRIVACY POLICIES AND PROCEDURES**

These Policies and Procedures are adopted to ensure that BONE & JOINT CLINIC OF BATON ROUGE, INC., collectively hereinafter referred to as “The Clinic”, fully complies with all federal and state privacy protection laws and regulations, in particular, the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Protection of patient privacy is of utmost importance to The Clinic. Violations of any of these provisions will result in disciplinary action which may include termination of employment and possible referral for criminal prosecution.

These policies and procedures shall become effective as of April 14, 2003, and shall remain in effect until it is either amended or cancelled.

### **DEFINITIONS**

For the purposes of these Policies and Procedures, the following defined terms shall have the following definitions:

A. “HIPAA” shall mean the Health Insurance Portability and Accountability Act of 1996;

B. “Policies and Procedures” shall mean the privacy Policies and Procedures adopted by The Clinic in accordance with HIPAA;

C. “HHS” shall mean the United States Department of Health and Human Services;

D. “Protected Health Information” or “PHI” shall mean, certain individually identifiable protected health information, as defined in 45 C.F.R. § 164.501 of the Privacy Standards;

E. “Employee” or “Employees” shall mean all employees of The Clinic, including but not limited to physicians, nurses, medical assistants, x-ray technologists, MRI technologists, administrative staff, support staff or other individuals, who in the performance of their work are under the direct control or administration of The Clinic.

F. “Designated Record Set” shall mean a group of records maintained by or for a covered entity that is (1) The medical records and billing records about individuals maintained by or for a covered health care provider; (2) The enrollment, payment, claims adjudication, and case or medical management record system maintained by or for a health plan; or (3) Used, in whole or in part by or for the covered entity to make decisions about individuals.

G. “Notice of Privacy Practices” shall mean the notice of privacy practices given to individuals in accordance with HIPAA regulations.

H. “Privacy Officer” shall mean the privacy officer appointed by The Clinic to be responsible for the coordination, development and implementation of these Policies and Procedures and any breach thereof.

I. “Board of Directors” shall mean the Board of Directors of The Clinic.

J. “De-identified” shall mean PHI that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual.

K. “Business Associate” shall mean any other person other than an employee of The Clinic who performs or assists in the performance of any function or activity involving the use or disclosures of individually identifiable PHI.

## **I. GENERAL POLICIES**

1.1 These policies shall apply to all Employees.

1.2 It is the policy of The Clinic that all employees will be trained on the Policies and Procedures with respect to PHI.

### **PROCEDURES**

a. All employees shall receive a copy of these Policies and Procedures, as well as a copy of the Notice of Privacy Practices, and will be trained on said Policies and Procedures;

b. All training of employees will be documented on the Employee Training Certification Form and such certification will be retained for a period of six (6) years by The Clinic.

## **II. POLICY ON PRIVACY OFFICER**

It is the policy of The Clinic that a Privacy Officer shall be appointed to be responsible for the coordination, development and implementation of these Policies and Procedures. This officer shall be responsible for receiving and addressing complaints concerning the Policies and Procedures and any breach thereof.

### **PROCEDURE**

The privacy officer shall be designated by The Clinic’s Board of Directors, and indicated on a resolution adopted by The Clinic’s Board of Directors.

## **III. POLICY ON DOCUMENTATION**

3.1 It is the policy of The Clinic that the following documentation shall be retained for a period of six (6) years from the date of its creation:

A. Copy of minimum necessary assessment;

B. Designated record set of patients;

- C. Disclosures of PHI subject to access by the patient including the date of the disclosure, recipient, basic description of disclosure(s) made and the purpose of the disclosure;
- D. Copy of any accepted restrictions;
- E. Copy of any PHI accounting;
- F. Copy of any restriction, amendment or accounting of PHI which has been denied, along with the reason for denial;
- G. The names and titles of all persons or offices responsible for processing patient's request for restrictions, amendment, access and accounting relating to the patient's PHI;
- H. Copy of any signed consent, notice or authorization;
- I. Copy of any complaint, disposition of said complaint, and sanctions applied as a result of any non-compliance with HIPAA; and
- J. Copy of any waiver or authorization concerning the use or disclosure of PHI for research or any other use or disclosure of PHI made without the patient's authorization.

#### **IV. POLICY ON NOTICE OF PRIVACY PRACTICES**

4.1 It is the policy of The Clinic that privacy practices must be published and that all uses and disclosures of PHI are done in accordance with this organization's privacy policies. The Clinic reserves the right to amend its Notice of Privacy Practices at any time in the future and will provide a copy of such amendment to the patient upon their next visit to The Clinic. It is also the policy of The Clinic that whenever there is a change in the law or a change in the privacy practices and procedures, The Clinic shall amend said Notice of Privacy Practices and implement said policy and procedures.

#### **PROCEDURES**

If there is a change in law or privacy practices, The Clinic shall take the following actions:

- a. The Policies and Procedures of The Clinic shall be amended to reflect the said change in law or privacy practices;
- b. The Notice of Privacy Practices shall be amended to reflect the said change in law or privacy practices;
- c. All revisions to the Policies and Procedures, as well as the Notice of Privacy Practices, shall be given to all employees of The Clinic;

d. All employees shall receive training on all revisions, deletions, additions or other changes to the Policies and Procedures of The Clinic;

e. A copy of said revised Notice of Privacy Practices shall be provided to the patient upon request or upon their next visit to The Clinic.

## V. POLICY ON USES AND DISCLOSURES

5.1 It is the policy of The Clinic that a patient's PHI may only be disclosed as outlined in its Notice of Privacy Practices unless a specific restriction has been placed on such use or disclosure:

A. Treatment; The Clinic may collect information from a patient regarding their past medical history, present medical problems and/or complaints, as well as any diagnostic and/or medical treatment at The Clinic. This information may be transmitted to various departments within The Clinic or their affiliates. The Clinic may also disclose a patient's PHI to the ordering physician, other physicians who are involved with their treatment, nursing staff, nurse practitioners, physician assistants, radiology personnel, and other such entities or persons as are deemed related to treatment, payment, and health care operations, as determined by The Clinic and their respective agents,

B. Payment; The Clinic will collect billing information from patients such as their address, social security number, date of birth, health insurance carrier, policy number and other related billing information. The Clinic as a part of its payment operations may disclose a patient's PHI for payment purposes to The Clinic's billing personnel, billing agents, management company, patient's health insurance provider, Medicare and Medicaid, or any other payor of health care claims the minimum amount necessary of the patient's PHI in order to process their health insurance claim.

C. Health care Operations; The Clinic will disclose a patient's PHI to their physicians, nurses, radiological technologists, physician assistants, MRI technologists, billing clerks, administrative staff and other employees involved in the patient's healthcare treatment.

5.2 Voice Mail Message. It is the policy of The Clinic that a voice mail or answering machine message may be left at a patient's home or other number the patient provides to The Clinic regarding appointments, billing or payment issues, or other PHI, related to treatment, payment or health care operations.

5.3 No Objection from Patient. It is the policy of The Clinic that a patient's PHI may be discussed with any person who accompanies a patient to a visit or procedure or is present with a patient when the provider is present. If the patient is able and available to agree or object, we will give the patient the opportunity to object prior to discussing this information. If the patient is unable or unavailable to agree or object, The Clinic's health professionals will use their best judgment regarding communication with the family and other individuals who accompany the patient to a visit or procedure.

5.4 Patient Authorization. Patient has authorized the release of said PHI;

5.5 As Required by Law. It is the policy of The Clinic, that a patient's PHI may be provided to certain public law enforcement agencies or health authorities without the express written consent or authorization of the patient for purposes of preventing or controlling disease, injury or disability, reporting child abuse or neglect, reporting domestic violence, reporting to the Food and Drug Administration any problems with products and reactions to medications and reporting disease or infection exposure. If said release of PHI is made, The Clinic will provide the patient with an opportunity to agree or object to the release of said information.

**PROCEDURE**

If a release of PHI is made to public health authorities, The Clinic will inform the patient that said release may be made as follows:

- a. To report a communicable disease, prevent or control a disease and/or to prevent an injury or disability;
- b. To report a birth or death;
- c. To report neglect or child abuse;
- d. To report adverse effects of dietary supplements or food;
- e. To report problems and/or defects with a biologic product;
- f. To report defective products, enable recalls, repair or replacements of products;
- g. To comply with the requirements of the Food and Drug Administration to follow up with the use of products; or
- h. To investigate a work-related illness or injury.

5.6 Victim of Abuse, Neglect or Domestic Patient Violence. It is the policy of The Clinic that if it believes that a patient is a victim of abuse, neglect or domestic violence, the patient's PHI will be provided to the appropriate government authority, social service agency, protective service agency or any other agency which is authorized by law to receive reports or complaints of such abuse, neglect or domestic violence.

**PROCEDURE**

- a. The Clinic will inform the patient that a release of said information will be made to the appropriate agency authorized to receive said reports of abuse, neglect or domestic violence and when such release will be made.
- b. The patient can refuse to consent to the reporting of said abuse, neglect or domestic violence made.
- c. If it is determined by The Clinic that it is necessary to report said abuse, neglect or domestic violence, in order to prevent serious harm to the patient or other

potential victims or to comply with applicable law, The Clinic may overrule the patient's refusal to have the report made.

d. If The Clinic believes that a patient's personal representative is responsible for the abuse, neglect or injury of a patient, the personal representative will not be notified of the report of abuse, neglect or other injury.

5.7 Health Oversight Agencies. It is the policy of The Clinic that a patient's PHI may be released to health oversight agencies for the purpose of audits, civil, administrative or criminal investigations, inspections, licensure, disciplinary actions or other activities necessary for the health care operations or The Clinic.

5.8 Administrative or Judicial Proceeding. It is the policy of The Clinic that a patient's PHI may be disclosed in the course of any administrative or judicial proceeding as follows:

A. Court Order. In response to a court order. Only the PHI requested in the court order will be released;

B. Subpoena, Discovery Request or other Legal Process. In response to a subpoena, discovery request or other legal process. The PHI will only be released after the patient has been informed that the information has been requested, pursuant to state law.

5.9 Law Enforcement Official. It is the policy of The Clinic that a patient's PHI may be disclosed to a law enforcement official for purposes such as identifying or locating a suspect, fugitive, material witness or missing person, or to comply with a court order, subpoena or for other law enforcement purposes.

### **PROCEDURE**

a. If a law enforcement agency requests PHI, The Clinic may release said information if the law enforcement agency has followed all appropriate legal requirements to acquire such information.

b. The Clinic may release PHI concerning certain types of wounds or other physical injuries, when presented with a court order, court ordered warrant, subpoena, summons, grand jury subpoena, civil investigative demand or other similar legal process when it is determined that the PHI is relevant and material to the investigation or to comply with the mandatory reporting laws of the State of Louisiana.

c. The following PHI may be provided to a law enforcement officer or agency for the purpose of identifying or locating a suspect, fugitive, material witness or missing person:

(i) Name and address of the patient;

(ii) Date and place of birth;

- (iii) Social Security Number;
- (iv) Blood type and rh factor;
- (v) Type of injury of patient;
- (vi) Date and time healthcare services were rendered;
- (vii) If applicable, date and time of death; and

(viii) Description of distinguishing physical characteristics, including but not limited to, height, weight, gender, race, hair color, eye color, presence of facial hair, scars and tattoos.

5.10 Patient Victim of Crime. It is the policy of The Clinic that PHI may be released to a law enforcement official if the patient is suspected of being a victim of a crime and agrees to the release of said information. If the patient is incapacitated or is otherwise not in a position to agree to the release of said information, The Clinic may release the PHI if the release of said information is in the best interest of the patient, or if the investigation would be adversely affected by waiting for the patient to release said information or if the information will not be used against the patient.

5.11 Law Enforcement-Deceased Patient. It is the policy of The Clinic that a deceased patient's PHI may be released to a law enforcement official if The Clinic suspects that the death may have been the result of criminal activity or if there is evidence of criminal conduct on the premises of The Clinic.

5.12 Coroners, Medical Examiners and Funeral Directors. It is the policy of The Clinic that a patient's PHI may be disclosed to coroners, medical examiners and funeral directors.

5.13 Procuring, Banking or Transplanting Organs and Tissues. It is the policy of The Clinic that a patient's PHI may be disclosed to organizations involved in procuring, banking or transplanting organs and tissues.

5.14 Prevent or Lessen a Serious and Imminent Threat. It is the policy of The Clinic that a patient's PHI may be disclosed to appropriate persons in order to prevent or lessen a serious and imminent threat to health or safety of a particular person or the general public. This information may be provided to the person(s) who are the target of a threat or for the identification or apprehension of an individual making the threat.

5.15 Law Enforcement Agency or Correctional Institution- Inmate Matters. It is the policy of The Clinic that a patient's PHI may be disclosed to a law enforcement agency or correctional institution as follows:

- A. When it appears that the patient has escaped from a correctional institution or lawful custody;

B. To provide healthcare to the inmate, to ensure the health and safety of the patient and/or other inmates, to ensure the health and safety of the officers, employees or others at the correctional institution, to ensure the health and safety of individuals responsible for transporting the inmate, to ensure the health and safety of law enforcement officers or personnel on the premises of the institution and to maintain the safety and security of the facility.

5.16 It is the policy of The Clinic that a patient's PHI may be disclosed as follows:

A. Armed Forces. To the Armed Forces to ensure proper execution of a military mission if a notice has appeared in the Federal Register stating the military command authority and the purpose for acquiring the PHI;

B. Veterans Affairs. To the Department of Veterans Affairs, for a patient who is a member of the Armed Forces upon separation or discharge from the military service for the purpose of determining eligibility of benefits administered by the Secretary of Veteran Affairs;

C. Federal Officials-National Security. To federal officials to conduct intelligence, counter-intelligence or other national security activities authorized by the National Security Act;

D. Federal Officials- Protective Services. To federal officials to provide protective services to the President, foreign heads of state or for the conduct of investigations.

E. Department of State. To the Department of State to make medically suitability determinations for security clearance or for mandatory service abroad.

5.17 Worker's Compensation. It is the policy of The Clinic that a patient's PHI may be disclosed as necessary to comply with worker's compensation laws.

5.18 Treatments or Health Related Benefits. It is the policy of The Clinic that a patient's PHI may be disclosed to inform the patient about other treatments or health-related benefits and services that may be of interest to them.

5.19 Transfer Ownership. It is the policy of The Clinic that a patient's PHI may be disclosed to transfer ownership of a patient's record in the event that The Clinic is sold or merges with another provider or organization.

5.20 DNA. It is the policy of The Clinic that it is not permitted to release a patient's PHI concerning DNA, DNA analysis, dental records or samples, typing or analysis of body tissues or fluids without a written authorization from the patient.

5.21 Psychotherapy Notes. It is the policy of The Clinic that a patient's Psychotherapy notes may not be used or disclosed without a written authorization except under the following conditions:

A. The notes are needed for treatment, payment or health care operations;



- B. To the originator of the notes;
- C. If the notes are to be used in the course of training students, trainees or practitioners in mental health;
- D. To defend a legal action or any other legal proceeding brought forth by the patient; or
- E. To be used by a medical examiner or coroner.

## **VI. POLICY ON RESTRICTIONS**

6.1 It is the policy of The Clinic that serious consideration must be given to all requests for restrictions on uses and disclosures of PHI as published in its Notice of Privacy Practices.

6.2 It is furthermore the policy of The Clinic that if a particular restriction is agreed to, then The Clinic will notify the patient of said acceptance of the restriction; The Clinic is bound by that restriction; The Clinic must ensure that its Employees and Business Associates abide by said restrictions. If a restriction is denied, The Clinic shall notify the Patient in writing outlining the reasons for the denial.

6.3 Restrictions may be terminated upon written notice by the Patient or by The Clinic upon providing the Patient with written notice that such termination is only effective for PHI created from the point of termination.

### **PROCEDURE**

The following procedure will be followed upon receipt of a request for restriction from a Patient:

- a. Restriction request will be reviewed by the Privacy Officer;
- b. If a restriction request is granted, the patient will be notified in writing, stating acceptance of said restriction and effective date thereof;
- c. If a restriction request is denied, the patient will be notified in writing, outlining the reasons why said restriction request was denied;
- d. Notice of said restrictions shall be placed on patient's account and a copy of the restriction request shall be placed in the patient's chart; and
- e. All Business Associates shall be notified of a restriction that has been agreed to by The Clinic.

## **VII. POLICY ON MINIMUM NECESSARY DISCLOSURE**

7.1 It is the policy of The Clinic that it shall make reasonable efforts to limit the disclosures of PHI to the minimum amount of information needed to accomplish the purpose of the disclosure unless a specific exception applies. It is also the policy of The Clinic that requests for PHI must be limited to the minimum amount of information needed to accomplish the purpose of the request.

### **PROCEDURE**

a. The Clinic will identify by job description all Employees and staff members that need access to PHI in order to carry out their job duties and functions and will categorize the PHI to which access is needed along with any conditions that might be relevant to such access.

b. The Clinic will develop standard operating protocols which will limit the disclosed PHI to that which is reasonably necessary to meet the purpose of the request or disclosure. These protocols will outline the types of PHI to be disclosed, individuals who are to receive the PHI and under what conditions such disclosures should be made.

c. The Clinic will develop certain criteria, based on each department within The Clinic, which will be used by the Privacy Officer to verify that the PHI disclosed and/or requested is only the minimum amount of information needed to accomplish the disclosure or request.

d. The minimum necessary requirement **will not** apply to the following:

(i) Disclosures to The Clinic Employees and staff for purposes of treatment;

(ii) Uses or disclosures made to the patient who is the subject of the PHI;

(iii) Uses or disclosures made pursuant to a valid authorization which has been executed by the patient;

(iv) Disclosures to the Secretary of the Department of Health and Human Services;

(v) Any use or disclosure that is required by law, court order or subpoena; or

(vi) Any use or disclosure that is required under HIPAA for compliance including implementation specifications for conducting standard data transactions.

e. The Clinic will not disclose a patient's entire medical records unless there is documented justification for such disclosure as to the amount that is reasonably necessary to accomplish the intended purpose for such disclosure or one of the exceptions as outlined in Subparagraph "d" of Section 7.1 hereinabove. Any disclosure of the entire medical record that is not documented as being justified or one of the exceptions as

outlined in Subparagraph “d” hereinabove will be a presumed violation of The Clinic’s Policies and Procedures.

f. The Clinic may rely on a request for disclosure as being the minimum necessary for the stated purpose under the following circumstances:

(i) When making disclosures to public officials, if they represent that the information they are requesting is the minimum amount necessary for the stated purpose.

(ii) When a request is received from another covered entity.

(iii) When a request is received from an Employee of The Clinic who is not involved in the treatment of a patient or a Business Associate of The Clinic for the purpose of providing professional services to The Clinic.

(iv) When the information is requested for research purposes and the individual requesting the information has provided verification or documentation to The Clinic verifying such intended purpose.

## **VIII. ACCESS TO PROTECTED HEALTH INFORMATION**

8.1 **Patient’s Right to Inspect and Copy** It is the policy of The Clinic that access to PHI must be granted to the person who is the subject of such information when such access is requested. It is also the policy of The Clinic that the identity of all persons who request access to PHI be verified before such access is granted.

### **PROCEDURE**

a. **Patient’s Access Via Telephone.** Before the existence of an account, billing record, or other PHI can be released by an Employee of The Clinic to an alleged patient via telephone, the patient must provide the Employee with the following:

(i) Patient’s name;

(ii) Patient’s last four (4) digits of Social Security Number; or

(iii) Patient’s date of birth;

b. **Patient’s Access in Person.** Before the existence of a account, billing record, or other PHI can be released by an Employee of The Clinic to a patient, the patient must present his/her driver’s license or other identification to the Employee and also complete The Clinic’s form entitled “Request for Inspection of Protected Health Information”. This form will request the following information:

(i) Patient’s name;

- (ii) Patient's last four (4) digits of Social Security Number;
- (iii) Patient's date of birth;
- (iv) Patient's driver's license number or other picture ID number; and
- (v) Name of The Clinic Employee receiving the form and the date received.

Upon completion and signature of said form, the Employee may release the requested information to the requesting patient.

## 8.2 **Granting or Denying a Patient's Request to Inspect and/or Copy PHI.**

A. The decision to grant the request to inspect and/or copy a patient's PHI may be granted or denied;

B. The decision to grant or deny a request must be made within fifteen (15) days of the receipt of the request;

C. If the patient agrees, a summary of the PHI may be provided in lieu of an actual copy of the records;

D. If The Clinic can not provide the requested PHI within the allotted time frame, The Clinic shall notify the patient in writing of the delay, giving them the date such information will be available;

E. The Clinic may charge the patient a reasonable fee for the cost of copying the PHI, including but not limited to labor to prepare the copies, postage, and preparation of any summary, if the patient agrees to a summary and is notified that there will be a charge for the preparation of the summary;

F. If a request to review and copy is granted, The Clinic shall arrange a time convenient to the patient and The Clinic to review the records. If no inspection of the records is needed, The Clinic shall copy the records and forward copies of the records to the patient;

G. In the event that The Clinic denies the Request to Inspect and Copy the PHI, The Clinic shall notify the patient in writing within fifteen (15) days from the date of the request, outlining the reasons for the denial, and provide information on how the patient may file a complaint which shall include the Privacy Officer's name, address and telephone number;

H. The patient does not have a right to inspect and copy his/her PHI if it contains the following:

- (i) Psychotherapy notes;

(ii) PHI compiled in anticipation of, or for the use in any civil, criminal, administrative action or proceeding;

(iii) PHI regarding a patient who is an inmate of a correctional institution;

(iv) PHI created or obtained in the course of research that includes treatment as long as the research is still in progress;

(v) PHI which would be deniable under HIPAA regulations;

(vi) PHI which has been obtained by an individual (other than the patient or a healthcare provider) who has been assured of confidentiality and access that would likely reveal the source of information.

I. A patient's request to inspect and/or copy may be denied for the following reasons:

(i) If it is determined that the patient's life or physical safety may be in jeopardy if such access to his/her PHI is granted;

(ii) If it is determined that another person's life or physical safety may be in jeopardy if such access to his/her PHI is granted;

(iii) The PHI contains reference to another person and this information could cause harm to that person;

(iv) The request to inspect and/or copy PHI is made by a patient's personal representative and The Clinic has determined that granting such request for inspections and/or copying could result in harm to the patient or another person; or

(v) If The Clinic does not possess the information requested. In that event, The Clinic, shall if able, direct the patient to the proper entity in possession of such information.

J. The patient may request and receive a review of the denial if the denial was not based on one of the conditions outlined hereinabove in Subsection I (i) through (v) of this Section. If a portion of a patient's request for PHI is granted, The Clinic shall give the patient access to said portion.

K. The review of a denial must be made by a licensed health care professional, as designed by The Clinic, as their reviewing official and must be an individual who did not participate in the original decision of The Clinic to deny the request.

8.3 **Personal Representative's Access** It is the policy of The Clinic that access to PHI must be granted to a patient's designated personal representative as specified by the patient

when such access is requested. This designation must be made in writing by completing The Clinic's form entitled "Designation of Personal Representative."

### **PROCEDURE**

a. **Receipt of Designation of Personal Representative Form.** Upon receipt of a Designation of Personal Representative Form by an Employee of The Clinic, the following should be noted on the patient's account:

- (i) Patient's name;
- (ii) Patient's last four (4) digits of Social Security Number;
- (iii) Patient's date of birth;
- (iv) Representative's name;
- (v) Representative's last four (4) digits of Social Security Number;
- (vi) Representative's date of birth; and
- (vii) Representative's driver's license number or other picture ID number.

b. Completed and signed forms should be entered on the patient's account(s) in the order noted above and the paper document placed within the patient's chart.

c. **Designated Personal Representative's Access Via Telephone.** Before the existence of an account, billing record, or other PHI can be released by an Employee of The Clinic, the Employee must verify that the patient has in fact designated a personal representative by reviewing the patient's account and the Employee must have the representative confirm the following information:

- (i) Patient's name;
- (ii) Patient's last four (4) digits of Social Security Number;
- (iii) Patient's date of birth;
- (iv) Representative's name
- (v) Representative's last four (4) digits of Social Security Number;
- (vi) Representative's date of birth; or
- (vii) Representative's driver's license number or other picture ID number;

d. If a Designation of Personal Representative Form is not on the patient's account with The Clinic, the Employee must inform the caller of such HIPAA requirement indicating forms are available in the office, by fax or by mail, and the form should be completed before the release of any information can be made.

e. **Designated Personal Representative's Access in Person.** Before the existence of an account, billing record, or other PHI can be released by an Employee of The Clinic to an alleged representative, the representative must provide the following information to the Employee:

- (i) Patient's name;
- (ii) Patient's last four (4) digits of Social Security Number;
- (iii) Patient's date of birth;
- (iv) Representative's name
- (v) Representative's last four (4) digits of Social Security Number
- (vi) Representative's date of birth; or
- (vii) Representative's driver's license number or other picture ID number.

f. The Employee will then verify that a Designation of Personal Representative form is on the patient's account.

g. Upon verification, the Employee will then have the representative complete The Clinic's form entitled "Request for Inspection and or copy of Protected Health Information" which will be kept on file by The Clinic. The patient's PHI will then be released to the representative.

8.4 **Power of Attorney** It is the policy of The Clinic that access to PHI requested by an individual having Power of Attorney for a patient shall be made as follows:

#### **PROCEDURE**

a. Before the existence of an account, billing record, or other PHI can be released by an Employee of The Clinic to an alleged individual having Power of Attorney of a patient, the individual must provide the following information to the Employee:

- (i) Patient's name;
- (ii) Patient's last four (4) digits of Social Security Number;
- (iii) Patient's date of birth; and

(iv) Copy of the Power of Attorney.

b. The Employee will then have the patient's "Agent" complete The Clinic's form entitled "Request for Inspection and/or Copy of Protected Health Information" which will be kept on file by The Clinic. The patient's PHI will then be released to the Agent.

8.5 **Deceased Individuals.** It is the policy of The Clinic that privacy protections extend to information concerning deceased individuals. All requests for information concerning a deceased patient shall be forwarded to The Clinic's Administrator for proper handling and processing. Such information shall be released to the deceased patient's surviving spouse, parents, children, executor or administrator of his/her estate upon completion of The Clinic's form entitled "Request for Inspection and/or Copy of Protected Health Information" and upon presentation of the appropriate documentation establishing requestor's affiliation to the deceased patient, such as Obituary Notice, Death Certificate, Last Will and Testament, Letters Testamentary, or Letters of Administration, and upon providing the following information:

- A. Deceased patient's name;
- B. Deceased patient's last four (4) digits of Social Security Number; and
- C. Deceased patient's date of birth;

8.6 **Emancipated Minors.** All requests from emancipated minors concerning their PHI shall be forwarded to The Clinic's Administrator for proper handling and processing. Before the existence of an account, billing record, or other PHI can be released by an Employee of The Clinic to an alleged emancipated minor, the said minor must provide the following:

- A Judgment of Emancipation;
- B. Emancipated minor's name;
- C. Emancipated minor's last four (4) digits of Social Security Number; and
- D. Emancipated minor's date of birth.

The Employee will then have the patient complete The Clinic's form entitled "Request for Inspection and/or Copy of Protected Health Information" which will be kept on file by The Clinic. The patient's PHI will then be released.

8.7 **Insurance Companies.** Before the existence of an account, billing record, or other PHI can be released by an Employee to any insurance provider, Medicare and Medicaid, or any other payor of health care claims, such payor must provide the following information to the Employee:

- A Patient's name;
- B. Patient's last four (4) digits of Social Security Number;



- C. Patient's date of birth; and
- D. Patient's policy number.

8.8 **Attorneys.** Before the existence of an account, billing record, or other PHI pertaining to a patient can be released by an Employee to an attorney, an authorization signed by the patient for the release of medical records must be on file. All requests from a patient's attorney for the release of medical records should be forwarded to the Medical Records Coordinator. Said release should contain the following information and should be addressed to the appropriate covered entity.

- A. Patient's name;
- C. Patient's last four (4) digits of Social Security Number;
- D. Patient's date of birth; and
- E. Specific dates and location of services.

All requests and/or subpoenas from other attorney's shall be handled in accordance with the applicable Federal and Louisiana state laws.

## **IX. AMENDMENT TO PROTECTED HEALTH INFORMATION**

9.1 It is the policy of The Clinic that PHI maintained by this organization may be amended only by the patient and/or his/her personal representative completing The Clinic's form entitled "Request for Amendment of Protected Health Care Information". The Clinic will review the request and will either grant the request or will explain the reason why said request will not be granted. In the event that the said amendment is not granted, the patient has a right to submit a statement of disagreement that will accompany the information in question for all future disclosures.

- 9.2 The Clinic may deny a patient's request for amendment for the following reasons:
- A. If the PHI or record was not created by The Clinic;
  - B. If the individual who created the information that the patient is requesting to be changed is no longer an Employee of The Clinic;
  - C. If the information that the patient wants changed has nothing to do with the current medical record and treatment; or
  - D. If the information is correct and complete.

### **PROCEDURES**

- a. Patient shall complete The Clinic's form entitled "Request for Amendment of Protected Health Information".

- b. Said request shall be reviewed by the Privacy Officer who will either accept or deny the said changes.
- c. If the changes are accepted, The Clinic shall take the following steps:
  - (i) Make the requested changes;
  - (ii) Inform the patient that the changes have been accepted;
  - (iii) Obtain the names of individuals that need to be notified of the change;
  - (iv) Attempt to reach those individuals who need the changed information; and
  - (v) Contact other pertinent individuals or Business Associates, notifying them of the changes that have been made;
- d. If the request to amend a patient's information is denied, The Clinic shall take the following actions:
  - (i) Notify the patient in writing that the request is being denied outlining the reasons for the denial;
  - (ii) Explain the steps the patient can take to request additional review of The Clinic's decision;
  - (iii) Explain that if the patient does not agree with The Clinic's decision, that they can request that their request for amendment, along with The Clinic's denial of said request for amendment, accompany any future release of the disputed PHI.
  - (iv) Explain how the patient can file a formal complaint with The Clinic. This explanation should include the name of Privacy Officer, address and telephone number;
  - (v) Explain that the patient can send a written statement disagreeing with the denial of part or all of the request for amendment along with the reason for the amendment; If so desired, The Clinic may limit the length of this statement;
  - (vi) Explain that The Clinic may prepare a written statement of rebuttal to the patient's statement of disagreement and that The Clinic will provide the patient with a copy of such statement of rebuttal;
  - (vii) Explain that The Clinic will identify the information that the patient has requested to be amended and that The Clinic will attach to this request for changes, The Clinic's denial of such request, the patient's statement of

disagreement and The Clinic's written rebuttal to the patient's statement of disagreement;

(viii) Explanation that a patient's request for amendment and The Clinic's denial to make these amendments will be attached to any future releases of the subject information if the patient has not submitted a written statement of disagreement.

## **X. CONFIDENTIAL COMMUNICATIONS CHANNELS**

10.1 It is The Clinic's policy that confidential communications channels can be used to communicate with the patient within the reasonable capabilities of The Clinic (i.e. "do not call me at work, call me at home") as requested by the patient.

### **PROCEDURE**

a. A patient may request that confidential communication channels be used by completing The Clinic's form entitled "Request for Confidential Communication Channels".

b. The Clinic shall accept any reasonable request for a patient to be contacted at an alternate telephone number, address, location, or through an alternate method of communication.

c. Upon receipt of a patient's request for confidential communication channels, such request shall be noted on the patient's account.

## **XI. POLICY ON ACCOUNTING OF DISCLOSURES**

11.1 It is The Clinic's policy that an accounting of disclosures of PHI made by The Clinic is given to a patient whenever such an accounting is properly requested in writing. A request for an accounting of disclosures may be made by the patient or his/her designated personal representative completing The Clinic's form entitled "Request for Accounting of Disclosures". Such written request for an accounting shall be forwarded to The Clinic's Privacy Officer for proper handling.

11.2 The Clinic does not have to comply with this policy if the information was:

- A. Used for patient treatment, payment or health care operations;
- B. Provided to the patient at their request;
- C. Used for directory purposes;
- D. Disclosed to Employees of The Clinic for a patient's care;
- E. Provided to a U.S. national security or intelligence agency;
- F. Provided to a correctional facility or to a law enforcement official;

G. Disclosed prior to the date of this policy.

11.3 The Clinic may suspend a patient's right to an accounting of disclosures that has been released to a health oversight agency or law enforcement agency if the agency or official provides a written request that the patient is likely to impede the agency's or official's activities. This request shall outline a time period for the suspension.

11.4 If The Clinic receives a verbal request to temporarily suspend a patient's right to receive an accounting of disclosures that has been made to a health oversight agency or law enforcement agency or official, The Clinic shall document the statement made, the name of the individual requesting the suspension, and temporarily suspend the patient's right to such a disclosure. This suspension shall be no longer than thirty (30) days unless a written request is received.

### **PROCEDURE**

Except as otherwise stated within Sections 11.1 through 11.3 hereinabove, The Clinic, may release to a patient an accounting of disclosures outlining the times confidential PHI has been released over the last six (6) years. Such accounting shall contain the following:

- a. The date of the release of PHI;
- b. The name of the individual or entity that the information was released to;
- c. A description of the information that was released;
- d. Purpose for releasing information or a copy of the written request for the information;
- e. If multiple requests have been made by the same individual or entity, The Clinic will provide the frequency of such requests, number of times the information has been released and the date of the last release during the time period requested by the patient;
- f. The Clinic shall act upon the patient's request for an accounting of disclosures within sixty (60) days after receiving the request;
- g. If The Clinic is unable to provide the patient with the accounting, The Clinic will communicate with the patient, outlining the reasons why The Clinic has been unable to prepare the accounting within the allotted time. Further, The Clinic will communicate to the patient the date on which the accounting will be available. This accounting must be completed within thirty (30) additional days;
- h. The Clinic shall provide the patient with the first accounting of disclosures within any 12-month period at no charge. A reasonable cost-based fee for each future request within any given 12-month period will be assessed to the patient. The patient will be notified in advance of the fee to be charged and the patient will be given the chance to

withdraw or modify the request for an accounting to avoid or reduce the fees to be incurred; and

i. The Clinic will document the patient's request for an accounting, a copy of the information provided to the patient and the name of the Privacy Officer responsible for receiving and processing the request by the patient.

## **XII. POLICY ON PROHIBITED ACTIVITIES**

12.1 It is The Clinic's policy that no Employee may engage in any intimidating or retaliatory acts or actions against persons who file complaints or otherwise exercise their rights under HIPAA regulations. It is also the policy of The Clinic that no disclosure of PHI will be withheld as a condition of payment or to prompt other action from the patient.

### **PROCEDURE**

a. All Employees of The Clinic shall be notified during their training sessions that it will not tolerate any form of intimidating or retaliatory acts or actions against any person(s) who file complaints or otherwise exercise their rights under HIPAA regulations.

b. A formal warning shall be issued against any Employee of The Clinic who engages in such intimidation or retaliatory acts or actions. The warning shall outline the date the act or actions were discovered and shall be signed and dated by the Privacy Officer and the Employee committing the violation. A copy of said warning shall be kept in the Employee's personnel file.

c. If an additional offense or violation occurs, The Clinic will consider the suspension or termination of the Employee.

## **XIII. POLICY ON MITIGATION**

13.1 It is the policy of The Clinic that the effects of any unauthorized use or disclosure of PHI be mitigated (to decrease the damage caused by the action) to the extent possible.

## **XIV. POLICY ON SANCTIONS**

14.1 It is the policy of The Clinic that it will establish and apply appropriate sanctions against its Employees who are found to be in violation of its privacy Policies and Procedures. The sanctions that are imposed will be appropriately handled according to the severity of the violation.

### **PROCEDURE**

a. The Privacy Officer of The Clinic shall receive and investigate all complaints of violations and shall prepare a summary of his/her findings.

b. If the Privacy Officer determines that an Employee has committed an unintentional violation, the Privacy Officer shall provide additional training to the Employee on the first offense.

c. If the Privacy Officer determines that an Employee has committed an additional unintentional violation, the Privacy Officer shall issue a warning to the Employee.

d. If the Privacy Officer determines that any Employee has committed an intentional violation or a third unintentional violation, the Privacy Officer shall recommend to the Administrator or Board of Directors of The Clinic that the Employee be terminated.

e. The Administrator or the Board of Directors shall determine whether to terminate any Employee of The Clinic for violation of these Policies and Procedures.

f. If the Administrator or the Board of Directors determine that an Employee has committed an intentional violation, the Board of Directors shall determine whether to report said Employee to the appropriate authorities.

## **XV. POLICY ON BUSINESS ASSOCIATES**

16.1 It is the policy of The Clinic that Business Associates must be contractually bound to protect PHI in the manner established herein and in The Clinic's Notice of Privacy Practices.

### **PROCEDURE**

A Business Associates Agreement outlining the use and disclosure of PHI, will be obtained prior to the release of any PHI to a Business Associate.

## **XVI. POLICY ON MARKETING AND FUNDRAISING**

16.1 It is the policy of The Clinic that any direct marketing communication with a patient shall require an authorization by the patient except when the communication is as follows:

- A. A “face to face” communication between The Clinic and a patient;
- B. A promotions gift of nominal value such as a pen, calendar, etc.

16.2 If an authorization is required and the marketing involves direct or indirect payment to The Clinic from a third party, the authorization will disclose that fact.

16.3 It is the policy of The Clinic that when engaging in fundraising activities on their own behalf, The Clinic may disclose, without an individual’s authorization, demographic information about a patient to a Business Associate of The Clinic or to an institutional or governmental entity.

## **XVII. POLICY ON RESEARCH**

17.1 It is the policy of The Clinic that PHI related to research activities may be used or disclosed as follows:

- A. The patient has signed an authorization form agreeing to the use or disclosure of PHI; or
- B. The Clinic obtains verification that an Institutional Review Board or the Board of Directors of The Clinic has approved a wavier or alteration of the patient’s authorization. Such waiver or alteration shall contain the following:
  - 1. Statement which identifies the Board of Directors and the date alteration or waiver of authorization was approved.
  - 2. Statement that the Board of Directors has determined that the alteration or waiver satisfies the requirements of HIPAA.
  - 3. Description of the PHI used or accessed which the Board of Directors has determined to be necessary.
  - 4. Statement that the waiver has been approved by the Board of Directors under normal or expedited review procedures.
  - 5. Signature of the chairman of the Board of Directors, or other person designated by the chairman, Institutional Review Board or the Board of Directors.

## **XVIII. POLICY ON DISCLOSURES MADE BY WHISTELBLOWERS**

18.1 It is the policy of The Clinic that it is not considered to have violated the requirements of its privacy policy if an Employee or one of its Business Associates discloses relevant PHI to a proper agency if the Employee, in good faith, believes that The Clinic has engaged in conduct or has committed a violation that is unlawful or violates its professional, clinical or privacy standards or that endangers patients or others.

### **PROCEDURES**

a. An Employee and/or Business Associate may disclose the minimum PHI necessary to address a violation of professional, clinical or privacy standards or other violations committed by The Clinic.

b. Such disclosure may only be made to an appropriate health oversight agency, health authority, health care accreditation organization, attorney retained by the Employee or Business Associate or any other agency authorized to receive such PHI.

## **XIX. POLICY ON PREEMPTION OF STATE LAW**

19.1 It is the policy of The Clinic that the federal privacy regulations are the minimum standard to be used regarding the privacy of a patient's PHI. If the laws of the State of Louisiana are more stringent in certain areas, the state laws in these areas shall prevail. In all other areas, the federal privacy regulations shall prevail.

### **PROCEDURES**

a. The Clinic shall keep apprised of the state laws and/or regulations that may address issues contained in the federal HIPAA regulations;

b. If a state law is more stringent than a federal HIPAA regulation, The Clinic shall abide by the state law.

c. If The Clinic is unable to decide which law shall prevail, it shall seek the advice of its legal counsel on the matter.

## **XX. POLICY ON COMPLAINTS**

20.1 It is The Clinic's policy that all complaints by Employees, patients, providers or other entities relating to the protection of PHI be investigated and resolved in a timely fashion. Complaints about these policies, Notices of Privacy Policy or how The Clinic handles PHI should be directed to:

Privacy Officer  
BONE & JOINT CLINIC OF BATON ROUGE, INC.  
7777 Hennessy Blvd, Suite 7000  
Baton Rouge, Louisiana 70808



If a patient is not satisfied with the manner in which The Clinic handles a complaint, they may submit a formal complaint to:

Department of Health and Human Services  
Office of Civil Rights  
Hubert H. Humphrey Bldg.  
200 Independence Avenue, S.W.  
Room 509F HHH Building  
Washington, DC 20201

20.2 The Clinic shall cooperate fully with any investigations by the Secretary of the Department of Health and Human Services and will permit access to information requested by the investigative officer or official. Any complaint filed directly with the Secretary shall be made in writing, must identify The Clinic by name, must describe the acts or omissions complained about and must be filed within 180 days of the time the individual becomes aware of, or should have been aware of, the violation.

### **PROCEDURE**

a. The Clinic shall provide the name of the Privacy Officer to any person who wishes to file a complaint with The Clinic.

b. If a complaint is made against The Clinic, the Privacy Officer shall complete The Clinic's form entitled "Log of Complaints". The officer will then take the following steps:

(i) Determine whether the complaint is well founded.

(ii) If the complaint is well founded, determine what discipline should be assessed to the responsible individual(s) pursuant to The Clinic's sanction policy.

(iii) Determine if new or additional policies or procedures shall be implemented in order to prevent the reoccurrence of a violation.

(iv) If new or additional policies are needed, the Privacy Officer shall prepare the proposed policies and procedures and present them to the appropriate Board of Directors of The Clinic to be acted upon.

## **XXI. COOPERATION WITH PRIVACY OVERSIGHT AUTHORITIES**

21.1 It is the policy of The Clinic that all Employees shall cooperate with oversight agencies, such as the Office for Civil Rights of the Department of Health and Human Services in their efforts to ensure the protection of PHI within The Clinic. It is also the policy of The Clinic that all personnel cooperate fully with all privacy compliance reviews and investigations.