

HIPAA Privacy

Training Handbook/ Quick Reference



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FEDERAL HIPAA PRIVACY REGULATION

The U.S. Government wants to protect patients and give them rights regarding their health information. The HIPAA Privacy Regulations were created to provide patients with these rights. HIPAA stands for Health Insurance Portability and Accountability Act. This law came out in 1996 dealing with the portability of health insurance. HIPAA has expanded to include privacy regulations, security regulations, and others. Healthcare providers have been required to comply with HIPAA Privacy rules since April 14, 2003.

METHODIST LE BONHEUR HEALTHCARE'S COMMITMENT TO HIPAA PRIVACY

Methodist Le Bonheur Healthcare supports the HIPAA Privacy Regulations. Methodist Le Bonheur Healthcare (MLH) has a responsibility to maintain the confidentiality and privacy of patients' health information. It is important that MLH Associates, and those working on behalf of MLH, understand how to follow HIPAA Privacy Regulations and MLH policies and procedures relating to the rules. Methodist Le Bonheur Healthcare has a system-wide HIPAA Privacy Compliance Program to aid in preventing and detecting HIPAA privacy violations.

Confidentiality Statement

The Associate Handbook, given to all Associates, contains a Confidentiality/ HIPAA Privacy Statement, which states that MLH supports the right of all patients to have their protected health information secure from unauthorized viewing, use and disclosure. MLH further believes that all Associates should have the same right of confidentiality regarding their personal health information. The Confidentiality/HIPAA Privacy Statement is to be signed by all Associates.

Protected health information (PHI) is essentially patient information created or received by MLH that relates to the physical or mental condition of an individual, or relates to the provision of health care or payment for the provision of healthcare to an individual. Some examples of protected health information are name, address, social security number, fingerprints, full-face photographs, and diagnosis.

Use of Training Handbook/Quick Reference Guide

This handbook provides the general HIPAA Privacy training for Methodist Le Bonheur Healthcare's workforce members. It also summarizes the basics of the policies and procedures at MLH concerning privacy. Workforce is defined as employees, volunteers, trainees, and other persons who are doing work for MLH and are under the direct control of MLH. Workforce personnel do not have to be paid by Methodist Le Bonheur Healthcare.

METHODIST LE BONHEUR HEALTHCARE CORPORATE COMPLIANCE DEPARTMENT

The following is contact information for the staff members of the Corporate Compliance Department:

Contact Information for the Chief Compliance Officer:

Loretta M. Hinton, Assistant General Counsel, Chief Compliance Officer, Privacy Officer
Methodist Le Bonheur Healthcare
1211 Union Avenue, Suite 700
Memphis, TN 38104
Office: (901) 516-0560 Fax: (901) 516-0569
E-mail: Loretta.Hinton@mlh.org

Contact Information for the Corporate Compliance Department:

Linda Maners, Director, Corporate Compliance
Office: (901) 516-0735 Fax: (901) 516-0569
E-mail: Linda.Maners@mlh.org

Kim Baltz, Privacy Auditor
Office: (901) 516-0868 Fax: (901) 516-0569
E-mail: Kim.Baltz@mlh.org

Address: Methodist Le Bonheur Healthcare
 Corporate Compliance Department
 1211 Union Avenue, Suite 700
 Memphis, TN 38104

SINGLE AFFILIATED COVERED ENTITY

Methodist Le Bonheur Healthcare (“Methodist”) is a large organization with many legally separate companies under its control, such as the different hospitals. Together these entities at Methodist are defined as a Single Affiliated Covered Entity for the purposes of following the HIPAA Privacy Regulations. Covered entity is defined as a health plan, healthcare clearinghouse, or healthcare provider who transmits health information in electronic form to carry out financial or administrative activities related to healthcare.

HIPAA Privacy Regulations require that we designate the parts of MLH that are included in the Single Affiliated Covered Entity. If you need to know what components are in the Single Affiliated Covered Entity, call the Corporate Compliance Department. The Corporate Compliance Department retains the designation documentation as required by the HIPAA Privacy Regulations. This designation is important as it allows information to flow within MLH as one organization. When businesses are added or deleted from MLH or if management agreements are signed with other companies, notify the Corporate Compliance Department of the change in order to keep the HIPAA Privacy entity analysis up-to-date.

MEDICAL STAFF

Methodist Le Bonheur Healthcare, along with its medical staff, functions as an organized healthcare arrangement (OHCA) as defined in the HIPAA Privacy Regulations. MLH and its staff physicians are still distinct separate entities. An organized healthcare arrangement simply means MLH and its medical staff are seen as a clinically integrated care team working in a setting where patients typically receive healthcare from more than one healthcare provider. Organized healthcare arrangements allow MLH and its medical staff to share patient information for healthcare operations of the OHCA without a Business Associate Agreement. Medical staff members are generally not considered workforce members of MLH. The exception is medical staff employed by MLH. Medical staff members are still expected to follow MLH privacy policies and procedures when practicing at a MLH location.

PRIVACY POLICIES AND PROCEDURES

Methodist Le Bonheur Healthcare HIPAA Privacy policies and procedures apply to exempt and non-exempt Associates, contracted clinical staff, volunteers, students, vendors, and other agents. The MLH HIPAA Privacy policies and procedures are intended to complement, not replace other MLH policies. While the policies are followed system-wide, specific processes used to implement the policies and procedures may differ from company to company, as well as from department to department, to meet specific needs of the company or department. Each department and Associate must be familiar with system privacy policies and determine how the policies specifically affect the department.

SECTION I

PATIENT PRIVACY RIGHTS

Privacy Notice

Methodist Le Bonheur Healthcare patients have a right to know how MLH will use or disclose their protected health information. These rights are stated in a Privacy Notice. MLH provides the privacy notice to patients that have a direct treatment relationship with MLH. The Privacy Notice is provided the first day that healthcare is delivered to the patient. If a patient has already received the current version of a privacy notice from MLH, then another privacy notice does not have to be distributed.

In an emergency situation, the Privacy Notice may be delivered as soon as reasonably practicable. Delivery of the Privacy Notice should not hinder the treatment given to the patient.

MLH will make a good faith effort to collect a written acknowledgment from the patient about receiving the privacy notice. If a written acknowledgment is not obtained, MLH must document its good faith efforts of trying to obtain it and the reason(s) why it was not obtained. Acknowledgment forms must be maintained for 6 years. The patient acknowledgment is included on the General Conditions of Admissions form for most areas of MLH. Any area not using the General Conditions of Admissions form must document patient acknowledgment on another form.

Privacy notices are posted throughout MLH in clear and prominent locations where patients are able to read the notice. The privacy notice is also on the MLH web site. MLH will abide by the terms of the Privacy Notice and promptly revise the Privacy Notice if there is a material change to the uses and disclosures of protected health information.

Facility Directory

Methodist Le Bonheur Healthcare is required to provide patients the opportunity to agree or object to the use of their patient information in a facility directory. MLH may only use the patient information if the patient has been informed about his or her right to opt out and has not objected to the use of the information. The hospital Privacy Notice informs patients of this right. Patients may also be informed verbally of this right. MLH hospitals have a General Condition of Admissions form where the patient's choice of being listed in the facility directory may be documented.

HIPAA Privacy regulations allow Associates to continue assisting patients' visitors and callers. If a caller or visitor asks for a patient by name, MLH may continue to disclose the patient's location at MLH, and the patient's condition described in general terms, such as "serious" or "good", as long as the disclosure does not communicate specific medical information about the individual. Patients' religious affiliation may not be disclosed except to members of the clergy. Information about the patient may not be disclosed if the patient or legal guardian, on the patient's behalf, has opted out of the facilities directory, which is considered "no publication" or "confidential".

If the patient came in under emergency circumstances, then it is possible that the patient/legal guardian has not had the opportunity to agree or object to being in the facility directory. In this case, Associates may disclose information consistent with prior expressed preference of the patient, if known, and if through the use of professional judgment it is determined to be in the best interest of the patient. MLH must inform the patient of the facility directory and the right to opt out as soon as it is practical to do so.

Disclosure to News Media

If the news media calls, contact the Methodist or Le Bonheur Marketing/ Communications Department. Methodist Le Bonheur Healthcare has a *Media Relations Policy* which must be followed. The media must ask for the patient by name, then the policy allows a one word description of the general condition of the patient. Patient information may not be disclosed without a patient authorization if the patient has opted out of the facility directory.

Disclosure to Clergy

Clergy may still call the hospital and ask for parishioners of their church. HIPAA allows us to give the name, location, and general condition of the patient. Information in the Methodist Le Bonheur Healthcare facility directory may be disclosed to members of the clergy if the patient has not opted out of being in the facility directory. HIPAA Privacy regulations allow religious affiliation to be disclosed to members of the clergy. If requested by a patient, a representative from MLH will call the patient's church to let the clergy know the patient is in the hospital. Patients have a right to keep this information private and MLH will abide by the wishes of the

patient. In the event of an emergency, and MLH is unable to obtain the patient's wishes, HIPAA Privacy allows us to use our best judgement or past knowledge of the patient's wishes.

Disclosure to Personal Representatives

If, under Tennessee Law, a person has authority to make decisions related to healthcare on behalf of a patient who is an adult or an emancipated or unemancipated minor, Methodist Le Bonheur Healthcare must treat the person as the personal representative. Tennessee State laws must also be followed in the designation of personal representative of a deceased individual. MLH is allowed to disclose patient information to the personal representative as if the personal representative was the patient.

Health Information Management at each of the hospitals and the Administrative Directors/ Directors at Affiliated Services can assist in the appropriate disclosure of information in regard to minors. MLH entities operating in Tennessee must follow Tennessee State laws on the scope of access a personal representative may have. Entities in Mississippi must follow Mississippi State laws.

Disclosure to Patient Family Member, Other Relative or Close Friend for Identification Purposes

Clinicians at the hospital or other Methodist Le Bonheur Healthcare entity may disclose patient information to a patient's family member, other relative, close personal friend, or other person identified by the patient that is assisting in the care of the patient. These disclosures relate to the times that the patient is in-house and the family member is present or on the telephone in the capacity of a caregiver to the patient. If the patient is present, one of the following 3 things should occur in order to disclose protected health information:

- 1) Obtain the patient's agreement,
- 2) Provide an opportunity for a patient to object to the disclosure, or
- 3) If possible, using professional judgment, make a reasonable inference from the circumstances that the patient does not object to the disclosure.

If the patient is not present, then it is appropriate to use professional judgement to determine if disclosure is in the best interest of the patient and if so, then only disclose protected health information directly relevant to the person's involvement with the patient's care or payment of care.

MLH must inform the patient in advance of possible disclosures and give the patient an opportunity to agree to or prohibit or restrict the use or disclosure. MLH informs the patient through the hospital privacy notice given to the patient. Patients may agree or object at any time during their stay at or treatment by MLH. The patient's wishes must be documented in the medical record/ nurses' notes so that others may know of the patient's wishes and follow those wishes. An oral agreement or oral objection may be obtained, and documentation is not required by the regulations.

A patient's request for opting out of disclosure to a family member, etc. will only be honored during the specific inpatient stay/ or episode of care given to the patient. The request will not be valid for future episodes of care. If the patient wants to permanently request no disclosure to a

family member or other person taking care of the patient then the request would be considered a “request for restriction”.

Disclosure for Disaster Relief Purposes

Methodist Le Bonheur Healthcare is required to provide patients the opportunity to agree or object to the use of their patient information to assist in disaster relief efforts as long as it does not interfere with the ability to respond to the emergency circumstances. MLH may only use the patient information if the patient has been informed about his or her right to opt out and has not objected to the use of the information. The hospital Privacy Notice informs patients of this right. Patients may also be informed verbally of this right.

Right to Request Restriction

Methodist Le Bonheur Healthcare’s privacy notice informs patients of their right to request a restriction on how their information is used for treatment, payment, or healthcare operations. Restriction requests will be decided on a case-by-case basis, and decisions will be based on MLH’s ability to fulfill the request after determining the potential impact on treatment, payment, and healthcare operations. Restriction requests do not have to be granted. However, if MLH agrees to grant the patient’s restriction request, MLH may not violate the agreement unless the information is needed to provide emergency treatment to the individual. Departments impacted by the restriction must be notified. Granted restriction requests must be documented and the documentation maintained for 6 years from the date it is last in effect. The Health Information Management Department will process the patient request for restriction for each hospital. The Administrative Directors/ Directors at Affiliated Services will process the patient request for restrictions for Affiliated Services.

Right to Request Confidential Communications

Methodist Le Bonheur Healthcare patients have a right to request an alternative means of receiving their information from MLH. Patients are notified of this right through the Privacy Notice. Reasonable requests, which includes having information sent to an alternative fax number, alternative address, or alternative telephone number, will be honored. The patient will continue to receive information at the alternative location until the patient requests another change. Patient Access/ Admissions will process the patient requests at the hospitals. The Administrative Directors/ Directors at Affiliated Services will process the patient request for confidential communications for Affiliated Services. Associates should check to see if the patient has requested confidential communications prior to sending patient information to a patient.

Right to Access, Inspect, and Copy

Patients of Methodist Le Bonheur Healthcare have a right to access, inspect, and receive a copy of their medical record. This access must be provided in a timely fashion and MLH may charge a fee. There are a few exceptions to this rule due to state regulations. The Health Information Management Department (HIM) will be able to further clarify the exceptions. Under some circumstances, patients’ requests may be denied and if so, patients have a right to have denials reviewed. HIM at the hospitals will process patient requests to access, inspect, or copy medical records. The Administrative Directors/ Directors at Affiliated Services will process patient requests for Affiliated Services’ records.

Right to Request Amendment

Patients of Methodist Le Bonheur Healthcare have a right to request an amendment to their medical record. These requests will be received in the Health Information Management Departments at the various Methodist Le Bonheur Healthcare hospitals. At Affiliated Services, the Administrative Directors / Directors will receive the amendment requests and will forward the requests to the appropriate location. MLH may review the request and then accept or deny the patient's request. MLH must make a decision no later than 60 days from the receipt of the request.

Right to an Accounting of Disclosures

With every disclosure, 2 questions should be asked. The first question is, "Is it permissible for me to make this disclosure?" If it is, then the next question to ask is, "Do I need to track this disclosure?" Tracking disclosures depends on the purpose of the disclosure and not necessarily based on where the patient information was sent.

Disclosures That Do Not Require Tracking

The following disclosures do not need to be tracked for HIPAA Privacy purposes, no matter the recipient of the information:

- Disclosures to carry out treatment
- Disclosures to carry out payment
- Disclosures to carry out healthcare operations for Methodist Healthcare
- Incidental disclosures
- Disclosures made according to a HIPAA compliant patient authorization
- Disclosures made from the facility directory or for other notification purposes
- Disclosures made to persons involved in the patient's care
- Disclosures made for national security or intelligence purposes
- Disclosures made to correctional institutions or law enforcement officials for custodial situations
- Disclosures made as part of a limited data set.

Disclosures That Require Tracking

Usually the following must be tracked:

- Disclosures to comply with required laws such as reporting wounds or other physical injuries.
- Disclosures to public health authorities to report disease, injury, birth, death, child abuse or neglect, and adverse event to FDA. (Examples are coroner, funeral director, Birth Registry/Certificate, Occupational Safety and Health Administration, etc.)
- Disclosures to government authority, including a social service or protective service agency, authorized by law to receive reports of abuse, neglect, or domestic violence, law enforcement agencies, or other public official authorized to receive the report.
- Disclosures to law enforcement officials such as to disclose information about an individual who is or is suspected to be a victim of a crime, or information that constitutes evidence of criminal conduct.
- Disclosures to organ procurement organizations.
- Disclosures for research purposes that do not have a patient authorization.

The following lists the types of agencies where a disclosure by MLH will most likely be documented in the PHI disclosures tracking log. Disclosures to these agencies may not have to be tracked if the purpose/reason for the disclosure falls under the exemption list.

Adoption Services	Drug Enforcement Administration
Adult Protective Services	Environmental Protection Agency
Birth Defects Registry	FBI
Bureau of Vital Statistics	Food and Drug Administration
Centers for Disease Control	Immigration
Centers for Medicare and Medicaid	Organ Procurement Banks
Child Protective Services	Poison Control
Consulates and Embassies	Police and Other Law Enforcement
County Public Health Departments	Probate Courts
Department of Justice	Tennessee Department of Health
Department of Public Safety	Tennessee Cancer Registry
Disclosures made in error, such as a misdirected fax	Trauma Registry
Clinical licensing boards such as Board of Medical Examiners, Board of Nursing Examiners, Pharmacy Board	

Accounting of Disclosures

Patients have a right to know when, where, and to whom Methodist Le Bonheur Healthcare disclosed their protected health information if the disclosure is out of the ordinary. MLH is required to give an accounting of disclosures to patients who request a list from MLH. HIPAA Privacy regulations allow us to exempt many disclosures from being listed, so few patients have requested an accounting. Patients may request a list going back 6 years, but not disclosures made before April 14, 2003.

HIPAA Privacy requires certain elements to be in the accounting of disclosures that MLH gives to patients, when requested. These elements are to be tracked in order for our accounting to comply with regulations. For each disclosure that requires tracking, document the following information:

- Patient name
- Patient medical record number
- Patient date of birth
- Facility name making the disclosure
- Department making the disclosure
- Department telephone number
- Entity or name of person receiving the patient information
- Address of entity or person receiving the patient information
- Brief description of information disclosed
- Brief statement of the purpose of the disclosure.

Patients requesting an account of disclosures from Methodist Le Bonheur Healthcare hospitals should be directed to the hospital HIM Department. At Affiliated Services, the Administrative Directors / Directors will be able to direct the patient request for accounting to the appropriate location. MLH must act on the patient request no later than 60 days. MLH may request a 30-day

extension if necessary. The first accounting of disclosures within a 12-month period must be free of charge to the patient.

SECTION II

APPROPRIATE USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION

Minimum Necessary

Methodist Le Bonheur Healthcare Associates must limit the amount of protected health information that is used, disclosed or requested to the least amount of information needed to accomplish the purpose requiring the protected health information. Simply put, information should only be used on a “need to know” basis.

Each MLH department must identify categories of workforce members who require access to protected health information to do their jobs as stated in the *Minimum Necessary Disclosure and Determination Policy*. Departments must then identify the categories of protected health information each category of workforce members requires. Efforts must be made to limit the access to protected health information and give information only to the people that need the information. This includes information that is in oral, written, or electronic format.

The following uses and disclosures are exempt from minimum necessary requirements by the HIPAA Privacy Regulations:

1. Disclosures to or requests by a healthcare provider for treatment
2. Uses or disclosures made to the patient
3. Uses or disclosures which are permitted because of a valid, signed and dated Patient Authorization
4. Disclosures made to the Secretary of Health and Human Services for compliance reviews
5. Uses or disclosures that are required by law
6. Uses or disclosures that are required to comply with HIPAA Privacy Regulations.

Incidental Use or Disclosure of Protected Health Information

Incidental use or disclosure means that protected health information is accidentally seen or overheard during appropriate uses or disclosures of information. The information is still considered private information and **must not be repeated**. It is permissible for incidental uses or disclosures to occur as long as Methodist Le Bonheur Healthcare complies with minimum necessary standards and has appropriate physical safeguards in place to shield the patient information from unauthorized use or disclosure.

Physical Safeguards

Physical safeguards deal with the actual facility, processes, and personnel that come into contact with PHI. These requirements are flexible to allow implementation at reasonable costs. Certain adjustments might need to be made to minimize access such as isolating or locking file cabinets or record rooms. Facility redesign is not specifically required and physical security should not impede giving healthcare to an individual. Verify that your work environment has reasonable physical safeguards by reviewing and implementing the following where appropriate:

1. Patient information is not easily accessible to the general public.
2. White boards or chalkboards with patient information, any electronic device used to display patient information, etc. are not out in open public areas.
3. Patient sign-in sheets only ask for the minimum necessary information.
4. In patient care and patient interview areas, auditory and visual privacy is maintained.
5. Areas that contain patient information are secured when no Methodist Le Bonheur Healthcare workforce members are present.
6. Computer screens or monitors, that display patient information, are situated to minimize inadvertent viewing by unauthorized individuals.
7. Departmental keys or file cabinet keys are not left out in the open.
8. Patient information is discarded appropriately.
9. Patient information is not left unprotected on printers, copiers, or fax machines.

Use and Disclosure for Treatment, Payment, and Healthcare Operations

Methodist Le Bonheur Healthcare may use or disclose protected health information for treatment, payment, and healthcare operations of MLH. A patient authorization is not required by the HIPAA Privacy Regulations for MLH to use protected health information for its own treatment, payment, or healthcare operations. Associates may disclose information to another healthcare provider for that provider's treatment of a patient and for payment purposes. Disclosures for healthcare operations must follow minimum necessary requirements.

If MLH is providing patient information to another healthcare provider for the sake of the other organization's healthcare operations, there are limitations. MLH may provide PHI to another healthcare provider for the healthcare provider's operational purposes, only if the other organization/ provider has or had a relationship with the patient, and the disclosure is for the purpose of following healthcare operations:

1. Conducting quality assessment and improvement activities, including outcomes evaluation and the development of clinical guidelines, provided that the obtaining of general knowledge is not the primary purpose
2. Population-based activities relating to improving health or reducing healthcare costs
3. Protocol development
4. Case management and care coordination
5. Contacting of healthcare providers and patients with information about treatment alternatives
6. Reviewing or evaluating the competence, performance or qualifications of healthcare professional or health plans
7. Conducting training programs in which students, trainees, or practitioners in areas of healthcare learn under supervision to practice or improve their skills as healthcare providers
8. Training of non-healthcare professionals
9. Accreditation, certification, licensing, or credentialing activities
10. Healthcare fraud and abuse detection or compliance

Patient authorization is required to disclose patient information for any other healthcare operation activities of the non-Methodist Le Bonheur Healthcare provider.

Use and Disclosure for Marketing Purposes

Methodist Le Bonheur Healthcare must obtain a patient authorization to use PHI for marketing purposes, as HIPAA Privacy Regulations define marketing, except if the communication is in the form of a face-to-face encounter or a promotional gift of nominal value provided by MLH. HIPAA Privacy authorization forms are very specific and have required elements and statements. The system wide policy, *Uses and Disclosures of Patient Information Requiring a HIPAA Privacy Authorization*, explains the elements required. Signed patient forms must be maintained for 6 years from the last day it is in effect. The department responsible for keeping the authorization form for 6 years is the department initiating the activity requiring an authorization.

HIPAA Privacy Regulations define marketing as MLH making a communication to patients about a product or service that encourages them to purchase or use the product / service and the service is not provided by MLH or in MLH's plan of benefits. A communication is not considered marketing if the communication is made for treatment of the patient, case management, care coordination of the patient, or to direct or recommend alternative treatments, therapies, healthcare providers or settings of care to the patient. An example of HIPAA Marketing would be MLH sending a brochure to a patient about Meals on Wheels or the Memphis Zoo. A patient authorization would have to be obtained in order to mail the Memphis Zoo brochure. An authorization would not be necessary if a Methodist Associate gave the patient the Memphis Zoo brochure during a face-to-face encounter.

Use and Disclosure for Fundraising

For fundraising, Methodist Le Bonheur Healthcare must obtain a patient's authorization if using more than a patient's demographic information or dates of service. Patient authorization must be obtained if using any patient information for fundraising purposes benefiting organizations outside the Methodist System. Fundraising material sent to patients must have a description of how an individual may opt out of receiving future fundraising communications. The department initiating the distribution of fundraising material is responsible to follow requests by patients who indicate they do not want to receive further fundraising communications. Solicitations of donations or sponsorships for events or activities from vendors and others may not be made except through the Methodist Foundation or with prior agreement and coordination of the Foundation.

Use and Disclosure for Research

Methodist Le Bonheur Healthcare may use or disclose protected health information for research with a valid authorization or an IRB approval of a waiver of authorization. Contact the MLH IRB Department for more information on obtaining a waiver of authorization.

Use and Disclosure of Psychotherapy Notes

Methodist Le Bonheur Healthcare must obtain an authorization for any use or disclosure of psychotherapy notes except for the following:

1. To carry out treatment, payment, or healthcare operations
2. Use or disclosure for MLH's training programs
3. Use or disclosure required by the Secretary of Health and Human Services, required by law, or for health oversight activity

4. To a coroner or medical examiner to identify a deceased person, or to determine a cause of death
5. To prevent a serious threat to the health or safety of a person or the public.

Use and Disclosure of Deceased Individual's PHI

Protected health information of a deceased person is still covered under the HIPAA Privacy guidelines. The information must be protected. The following disclosures are permissible without a patient authorization as authorized by TN law:

1. Disclosure to law enforcement
2. Disclosure to a coroner or medical examiner
3. Disclosure to a funeral director
4. Disclosure to organ procurement organizations.

Use and Disclosure of PHI for Military and Veteran Activities

Associates may disclose patient information of Armed Forces personnel or foreign military personnel for activities deemed necessary by military command authorities to assure the proper execution of a military mission if a notice has been published in the Federal Register. The notice will state the appropriate military command authority and the purpose of the patient information. A patient authorization is not required for this disclosure. If the disclosure is for national security or intelligence purposes, then the disclosure does not have to be tracked. Otherwise, the disclosure will have to be tracked.

Use and Disclosure of PHI for Health Oversight Activity

Methodist Le Bonheur Healthcare Associates may disclose protected health information without patient authorizations for health oversight activities authorized by law. Patients are notified of this type of disclosure through the MH Privacy Notices. Health oversight activities include audits, investigations, inspections, licensure, or other activities for appropriate oversight of all or parts of MLH.

Health and Human Services may conduct compliance reviews to determine the level of compliance by MLH, and MLH will cooperate with those reviews. Contact the Corporate Compliance Department or the Legal Department if Health and Human Services or any outside agency contacts you for a compliance review.

Use and Disclosure of PHI for Public Health Activity

Methodist Le Bonheur Healthcare Associates may disclose protected health information for public health activities without the patient's authorization. Patients are notified of this type of disclosure through the MLH Privacy Notices. Public health activities may include but are not limited to reporting of disease, injury, birth or death, child abuse or neglect, product defects to the Food and Drug Administration (FDA), or workplace medical surveillance. When MLH, as a healthcare provider, provides healthcare to a patient and discloses the information related to medical surveillance of the workplace and work-related illnesses and injuries to the patient's employer, then MLH must provide a written notice to the patient about the disclosure. A copy of the notice may be provided to the patient or it may be posted at the location the healthcare is provided as long as the healthcare is provided on the work site of the employer.

Use and Disclosure of PHI for Worker's Compensation

Methodist Le Bonheur Healthcare Associates may disclose protected health information for worker's compensation as authorized by federal and state laws. Disclosures required by law do not require a patient authorization and must follow minimum necessary requirements. If more information is to be disclosed, a patient authorization is required. Patients do not have a right to request a disclosure restriction for worker's compensation purposes when the law requires the disclosure.

HIPAA Privacy regulations do not apply to MLH workers' compensation insurers, workers' compensation administrative agencies, or as the employer except to the extent that MLH is the healthcare provider.

Disclosure to Law Enforcement by MLH Associate Who is a Victim of a Crime

Methodist Le Bonheur Healthcare Associates who are victims of a criminal act may disclose protected health information to law enforcement agents. The information disclosed must be about the suspect of the crime and the information limited to the following: name and address, date and place of birth, social security number, blood type, type of injury, date and time of treatment, date and time of death, and description of physical characteristics such as height, weight, gender, race, hair and eye color, scars, tattoos, and presence or absence of facial hair.

Disclosure about Victims of Abuse, Neglect, or Domestic Violence

Associates may disclose information for victims of abuse, neglect, or domestic violence as required by law. Methodist Le Bonheur Healthcare hospitals' social work department has procedures in place on handling such disclosures. HIPAA Privacy regulations require that the patient be informed of the disclosure as long as informing the patient does not place the patient at risk of serious harm. A HIPAA Privacy patient authorization is not required for this type of disclosure. This disclosure will have to be tracked unless the disclosure is related to the treatment of the victim.

Disclosure of PHI in Response to a Subpoena

Associates should contact the Methodist Le Bonheur Healthcare Legal Department when responding to a subpoena or disclosing protected health information for any judicial or administrative proceedings. Associates may disclose information when responding to a subpoena; however, specific guidelines must be followed. The guidelines deal with receiving satisfactory assurance that efforts have been made to notify the patient of the information being sought or to seek a qualified protective order. Conducting and arranging for legal services falls under the definition of healthcare operations, so generally these disclosures will not have to be tracked.

Disclosure to Law Enforcement Required by TN Law

Methodist Le Bonheur Healthcare Associates must disclose protected health information that is required by federal or state law. The disclosure must be limited to the relevant information that is required by law. Tennessee law requires the reporting of certain types of wounds or other physical injuries inflicted by means of a knife, pistol, gun, or other deadly weapon, or by other means of violence, or suffering from the effects of poison, or suffocation. This information should be disclosed to law enforcement and state the name, residence, employer of the patient,

patient's location, the place the injury occurred, and the character and extent of the injuries. Generally, these disclosures are to be tracked for the accounting of disclosures because the disclosure is not for treatment, payment, or healthcare operations, and a HIPAA compliant patient authorization is not obtained.

Disclosure to Identify or Locate a Suspect, Fugitive, Material Witness or Missing Person

Associates may disclose protected health information to a law enforcement agent when law enforcement is requesting information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person. Only the following information may be disclosed unless otherwise required by state law: name and address, date and place of birth, social security number, blood type, type of injury, date and time of treatment, date and time of death, and description of physical characteristics such as height, weight, gender, race, hair and eye color, scars, tattoos, and presence or absence of facial hair.

Disclosure of PHI Regarding a Suspected Victim of a Crime

Associates may disclose to law enforcement protected health information about a patient who is suspected to be a victim of a crime. If the disclosure is not required by state or federal law, then the patient must agree to the disclosure. If the patient is unable to agree because of incapacity or other emergency circumstance, information may be disclosed if the law enforcement official represents that the information is needed to determine if the law has been violated, and the information is not to be used against the patient. The information may also be disclosed if the law enforcement official represents that immediate law enforcement activity will be affected negatively if they have to wait until the patient is able to agree to the disclosure, and the disclosure is in the best interest of the patient as determined by Methodist Le Bonheur Healthcare.

Disclosure for Suspicious Death

Associates may disclose to a law enforcement official, protected health information about an individual who has died, for the purpose of alerting law enforcement of the death of the individual if there is suspicion that such death may have resulted from criminal conduct. Tennessee law requires that any person having knowledge of a death of a person from sudden violence or by casualty or by suicide, or suddenly when in apparent health, or when found dead, or in any suspicious, unusual, or unnatural manner shall immediately notify law enforcement.

Disclosure to Law Enforcement when there is Criminal Conduct on MLH Premise

Associates may disclose to law enforcement officials, protected health information that is believed to be evidence of criminal conduct that occurred on the premises of Methodist Le Bonheur Healthcare. Patient authorization is not required. The belief should be based upon MLH's actual knowledge or in reliance on a credible representation by a person with apparent knowledge or authority.

Disclosure to Alert Law Enforcement of a Crime

When responding to a medical emergency and providing emergency healthcare not on the premise of Methodist Le Bonheur Healthcare, a healthcare provider may disclose protected health information to law enforcement. The disclosure should be to alert law enforcement of the commission and nature of the crime, location of the crime or the victim of the crime, and the identity, description, and location of the perpetrator of the crime.

Disclosure of PHI to Avert Serious Threat to Health or Safety

Associates may disclose protected health information, if in good faith, he or she believes the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public, and the disclosure is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat. A disclosure may also be made if it is necessary for law enforcement to identify or apprehend an individual because of a statement by the individual admitting participation in a violent crime that has caused serious physical harm to the victim, or where it appears from all circumstances that the individual has escaped from jail. A disclosure made about an individual admitting participation in a violent crime shall contain only the statement of the admission and the following: name and address, date and place of birth, social security number, blood type, type of injury, date and time of treatment, date and time of death, and description of physical characteristics such as height, weight, gender, race, hair and eye color, scars, tattoos, and presence or absence of facial hair.

The disclosure may not be made if the information is learned in the course of treatment to affect the natural inclination to commit the crime that is the basis for counseling or therapy. A disclosure may not be made if the individual has requested a referral for treatment, counseling, or therapy to affect the propensity to commit the crime.

Disclosure for the Conduct of National Security and Intelligence Activities

Associates may disclose protected health information to authorized federal officials for the conduct of lawful intelligence, counterintelligence, and other national security activities authorized by the National Security Act and implementing authority such as the National Security Council or Central Intelligence.

Disclosure to Protect the President of the United States and Others

Associates may disclose protected health information to authorized federal officials for the provision of protective services to the President, the Vice President, the President –elect, and the Vice President-elect, or the immediate families of any of those previously listed. Methodist Le Bonheur Healthcare may also disclose protected health information to authorized federal officials for the provision of protective services to foreign heads of state, official representatives of a foreign government, and other distinguished visitors to the United States or for the conduct of investigations for threats against the President of the United States and successors to the Presidency.

Disclosure for Law Enforcement Custodial Situations

Associates may disclose protected health information to law enforcement having lawful custody of an inmate or other individual, if the law enforcement represents that such information is needed for the following:

1. Provision of healthcare to the patient
2. Health and safety of the patient or other inmates
3. Health and safety of officers, employees, or others at the correctional institution
4. Health and safety of the patient and officers/persons responsible for transporting/ transferring the inmate

5. Administration and maintenance of the safety, security, and good order of the correctional institution.

Disclosure by Fax and Telephone

Disclosures made by fax or telephone must follow the same policies as all other disclosures; that is, if it is not permissible to disclose information to an individual, then it is not permissible to disclose the information by fax, telephone, or any other means. However, if it is permissible to disclose information to an individual, then it is up to the discretion of the department to decide the most secure and efficient means of delivering the information, whether it is through fax, telephone, or mail.

The identity of the person on the telephone should be verified if the person is unknown to the Methodist Le Bonheur Healthcare Associate. In addition, only the minimum necessary information should be shared on the telephone. Verification may be achieved in various ways. One way is to ask detailed questions to see if the caller knows the patient's birth date, full name, social security number, or address. If a physician's office is requesting patient information, verification can be done by having the office fax their request on office letterhead with a call back number.

Messages for patients may be left on answering machines or with someone who answers the telephone unless the patient has specifically requested that we not. If the patient requests reasonable confidential communications, then we should abide by the patient's wishes, if we are able to do so. Messages left on answering machines must be discreet and must not compromise the privacy of the individual. The message should be kept to a minimum. Make sure the message is left on the correct answering machine or correct telephone number. An example of a discreet message would be, "Hello, this is Ms. Jones from Methodist Le Bonheur Healthcare. Please call us back at 726-xxxx." If MLH has a known relationship with a patient and knows that the patient does not mind having more details left on the machine then the message could be as detailed as, "Hello, this is Ms. Jones from Methodist Le Bonheur Healthcare. I'm just calling to remind you of your doctor's appointment on Tuesday morning at the North Surgery Center. Call us at 516-xxxx if you have any questions." Some departments require more sensitivity than others (i.e., HIV clinic) and the department name should not be used. Use professional judgement so that disclosures are in the best interest of the patient. Some departments (i.e., Health Information Management, Patient Access) have departmental policies due to the nature of how information is used and requests received, and these policies should be reviewed as necessary.

Every department discloses different patient information to different recipients for different purposes. Thus, the MLH system policy for disclosures by fax machine is a minimum standard to encompass the various requirements throughout MLH. Faxes related to patient information should have a cover sheet that alerts the receiver that the information being faxed is considered confidential. MLH fax machines used to send or receive confidential information should be in secure locations. Associates should take reasonable precautions to make sure faxed patient information is sent to secure locations and to verify fax numbers and receipt of fax. If patient information is received in error, notify the sending facility and shred the fax or mail back to sender.

Verification of Identity for Use and Disclosure Requests

It is important to take steps to verify the identity and authority of unknown individuals who are requesting patient information. Public health officials must present a government issued agency badge or other proof of government status and if the request is in writing, the request needs to be accompanied by a written statement on government letterhead that the person is acting under government authority. Law enforcement must present a badge and a government issued ID and a warrant, subpoena, or other legal process authorized under law. Researchers must present a photo ID and a completed and signed Medical Record Research Request form from the Methodist Healthcare Institutional Review Board (IRB). Researchers approved by U.T. IRB must present a photo ID and an IRB document indicating a patient authorization has been obtained or a patient authorization has been waived.

You may require the requester of patient information to submit the request in writing for validation purposes. When the identity and legal authority of a person requesting patient information cannot be verified, Associates will refrain from disclosing the patient information and report the case to management.

Departments should follow similar procedures for physician offices' requests for patient information for the purposes of continuation of treatment as the procedures written in the hospital's Health Information Management, *Release of Information Policy*. The requests are honored as long as a "relationship" can be established between the physician and the patient.

Associate Health Plan

The Methodist Healthcare Associate Health Plan is also required to keep Associates' health information protected by following HIPAA Privacy Regulations. Associate Services has policies and procedures in place so that those who have influence or authority over hiring, termination, compensation, or similar employment decision have no access to the individual health information of any Methodist Associate. MLH is committed to protecting Associate health information from unauthorized use or disclosure.

SECTION III

OTHER REQUIREMENTS RELATED TO USE AND DISCLOSURE OF PHI

De-identification

De-identification is the process to make sure information does not identify an individual. Methodist Le Bonheur Healthcare will occasionally use de-identified data for various purposes such as utilization review or submitting a summary report to an agency. De-identification may be achieved in two different ways. A person with knowledge of statistics may determine that the risk of identifying the patient is small. Another means is to remove the **18** identifiers of the individual or of relatives, employers, or household members of the individual (i.e., name, address, telephone number, fax number, e-mail address, social security number, etc.). Refer to the *De-identification of Protected Health Information Policy* for the full list of patient identifiers that must be removed. Once information is de-identified, it is exempt from the HIPAA Privacy Regulations, provided that the code to identify the information is not disclosed. Once the code is disclosed, the information is no longer considered de-identified and must follow HIPAA Privacy Regulations. An example of a de-identified health information is a report to the Health

Department stating that we had 5 cases of measles, 9 cases of reported abuse, and 3 patients with a rare disease. This report does not identify any patients although health information is being disclosed.

Limited Data Set

HIPAA Privacy Regulations allow Methodist Le Bonheur Healthcare to use or disclose a limited amount of information about a patient in the form of a limited data set if the information is only used for research, public health, or healthcare operations. A limited data set is very similar to de-identified information. A limited data set has **16** patient identifiers removed instead of 18. MLH must enter into a data use agreement with the recipient on the limited data set. The data use agreement must be documented and the documentation retained for 6 years from the last date it was in effect. Contact the Legal Department for assistance with the Limited Data Use Agreement.

SECTION IV

ORGANIZATIONAL REQUIREMENTS RELATED TO USES AND DISCLOSURES

Business Associates

A business associate of Methodist Le Bonheur Healthcare is a person/ company that performs a function on behalf of MLH, but not in the context of a MLH workforce member, and has access to, uses or discloses protected health information from MLH. Some examples of these functions include claims processing, data analysis, administration/management, utilization review, quality assurance, billing, practice management, pricing, de-identification of data, accounting, consulting, data aggregation, accreditation, or financial services. Physician groups treating patients at MLH do not need a business associate agreement with MLH to treat their patients.

To disclose patient information to a business associate, a business associate agreement must be in place. All contracts being renewed or executed should be reviewed by the Legal Department to verify its need for a business associate agreement. Also, if you receive a business associate agreement from vendors, clients and others, please forward these to the Legal Department for review prior to execution. Documentation of business associate contracts must be maintained for 6 years from the date it was last in effect.

MLH also has confidentiality agreements for vendors that do not receive patient information but may accidentally see patient information. Contracted Environmental Services companies would fit into this category. Contact the Legal Department for a confidentiality agreement.

Preemption of State Law

Besides HIPAA Privacy Regulations governing uses and disclosures of patient information, Methodist Le Bonheur Healthcare must also follow state laws. HIPAA Privacy Regulations will sometimes be contrary to state laws. The general rule is to follow the more stringent law giving the patient more rights to privacy. For example, HIPAA Privacy Regulations allow 30 days to respond to a patient request for access to medical records. However, Tennessee State law gives physicians/ providers 10 days from a written request to furnish a copy or summary of the medical record to the patient. The state law is more stringent, so the physician would follow the state

law. Keep state laws in mind when reading through the Methodist Healthcare Privacy policies and procedures because your department may be required to follow specific state laws that are more stringent than the MLH HIPAA Privacy policies and procedures (i.e., behavioral health, labs, emergency department, etc.).

SECTION V

HIPAA PRIVACY ADMINISTRATIVE REQUIREMENTS

Workforce Training

All members of Methodist Le Bonheur Healthcare's workforce must be trained on MLH's HIPAA Privacy policies and procedures as necessary to carry out their roles at MLH.

Training must be documented and maintained for 6 years. New Associates receive general HIPAA Privacy training at New Associate Orientation. Individual departments must train on specific procedures that affect the department, and document that the training has been conducted. Each member of the workforce must be retrained if a job function is affected by any changes in the privacy policies and procedures.

Not all new workforce members are required to attend New Associate Orientation. Departments that have workforce members who do not go to New Associate Orientation are responsible for training the workforce member on MLH HIPAA Privacy policies and procedures. Provide a *HIPAA Privacy Training Handbook/ Quick Reference* to these individuals and maintain documentation of the training by keeping the signed training certification. Examples of these workforce members are volunteers, clinical students, temporary workers, job shadowing students, clinical agency staff, etc. A training video, covering general HIPAA Privacy information, may be obtained from the Corporate Compliance Department.

Reporting Privacy Complaints or Concerns

Anyone who believes Methodist Le Bonheur Healthcare is not complying with HIPAA Privacy Regulations may file a complaint with MLH. Patient complaints regarding HIPAA Privacy should be handled in the same manner as all other patient complaints. The current patient complaint process for the hospitals is administered by Patient Affairs. Affiliated Services has its own patient grievance/ complaint resolution process, and should be followed. Associates may also call the Privacy Office with complaints or concerns. The Corporate Compliance Department should be notified of all privacy complaints. All copies of HIPAA Privacy complaints and disposition must be documented and must be maintained for 6 years from the date of its creation.

Mitigation of Improper Uses or Disclosures

The Corporate Compliance Department and/ or the Legal Department will direct and manage HIPAA Privacy investigations. System-wide privacy compliance issues and possible violations will be addressed when they occur. Associates may report possible violations of privacy compliance to their supervisors or to the Corporate Compliance Department without fear of retaliation.

Prohibiting Retaliation

Methodist Le Bonheur Healthcare will not intimidate, threaten, coerce, discriminate against, or take other retaliatory actions against any individual who exercises his or her privacy rights, or files a privacy complaint, or participates in an investigation/ compliance review. It is the responsibility of all Associates to report perceived misconduct, including actual or potential violations of laws, regulations, policies, procedures, or the MLH Standards of Conduct.

HIPAA Privacy Documentation Retention

Methodist Le Bonheur Healthcare is required to maintain policies and procedures that are implemented to keep MLH in compliance with HIPAA Privacy Regulations. Documents of these policies and procedures must be maintained for 6 years from the date they were last in effect and must be made available to the Department of Health and Human Services Office for Civil Rights, or its designated representatives upon request. Departments with specific departmental HIPAA Privacy policies and procedures must maintain documents for the required 6 years.

Any communication, action, activity, or designation, required by HIPAA Privacy Regulations to be in writing, must be maintained and documented for 6 years from the date of its creation/ modification or the date when it was last in effect, whichever is later. Some examples of these documents include the following:

- Contracts:
 - A) Business Associates Agreements
 - B) Limited Data Set Data Use Agreement
- Patient forms:
 - A) Patient Authorization for the Release of Information
 - B) Patient Acknowledgment of Receipt of Privacy Notice
- Titles of the person or office designated to:
 - A) Receive and process patient requests for an accounting of PHI
 - B) Receive privacy complaints
- Administrative documentation:
 - A) Training certification
 - B) Log of Disclosures / Accounting of Disclosures

SECTION VI

SANCTIONS AND PENALTIES

Sanctions Policy

Methodist Le Bonheur Healthcare has established and will apply appropriate corrective actions or sanctions against members of its workforce, as well as other agents and contractors, who fail to comply with MLH's HIPAA Privacy policies and procedures. Corrective action will be taken in accordance with procedures outlined in the MLH Associate Handbook for Associates who violate laws, regulations, policies, procedures, or the Methodist Healthcare Standards of Conduct. Agents and contractors who violate laws, regulations, policies, procedures or the MLH Standards of Conduct will be sanctioned appropriately. Civil and criminal sanctions could also be imposed on MLH or individual members of MLH's workforce for not complying with HIPAA Privacy Regulations. All corrective actions and sanctioning of Associates, agents or contractors will be documented and retained for at least 6 years from the date of its creation or the date it was last in effect, whichever is later.

Federal Government Penalties and Reviews

For unintentional disclosure of information, the Secretary of Health and Human Services shall impose on any person who violates a provision of HIPAA Privacy Regulations, not more than \$100 for each violation, except that the total amount imposed on the person for all violations of an identical requirement during a calendar year may not exceed \$25,000. Federal criminal penalties can be imposed upon providers for knowingly misusing, improperly disclosing or obtaining protected health information. These fines range from \$50,000 and/or imprisonment for 1 year and up to \$250,000 and/or imprisonment up to 10 years.

CERTIFICATION OF TRAINING

I acknowledge that I have received and read the Methodist Le Bonheur Healthcare HIPAA Privacy Training Handbook. I understand that I should refer directly to the Methodist Le Bonheur Healthcare system policies and procedures or contact my supervisor for a better understanding of how HIPAA Privacy Regulations may specifically affect my job.

I understand that it is my responsibility to **sign and return** this certification of training to my Methodist Le Bonheur Healthcare Supervisor **within 14 days** of receiving this booklet.

(Printed Name)_____ (Personnel Number)_____

(Signature)_____ (Date)_____

(Department)_____ (Location)_____

Instructions for supervisors: the signed original of this training certificate will be retained in the departmental file for no less than 6 years from the date it is signed.