

Weber Family Chiropractic PC
HIPAA Privacy Rule Overview

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Approvals: Dr. Scott Weber

Title: Office Manager

Title:

I. POLICY

It is the policy of Weber Family Chiropractic PC to protect and maintain the privacy of the health information of each patient of Weber Family Chiropractic PC in accordance with the requirements of state and federal law, including the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”).

II. SCOPE

The purpose of this policy is to give general guidance as to the requirements of HIPAA as they relate to the privacy of patient health information.

III. DEFINITIONS

Below are definitions for some of the key terms found in HIPAA and used throughout this Policy and in other privacy-related policies of Weber Family Chiropractic PC.

A. ***Covered Entity*** means a health plan, a health care clearinghouse, or a health care provider that transmits health information electronically as part of certain transactions, including the transmission of health care claims, receipt of health care payments and remittance advice, verification of enrollment in a health plan or submission of a prior authorization request. If a health care provider conducts any one of these transactions electronically (including by facsimile), it is a Covered Entity.

Weber Family Chiropractic PC is a health care provider under HIPAA and, because Weber Family Chiropractic PC transmits health information electronically for one or

more of the HIPAA covered transactions, Weber Family Chiropractic PC is a Covered Entity under HIPAA.

B. ***Business Associate*** means an individual or company that performs an administrative function or activity on behalf of Weber Family Chiropractic PC that involves the use or disclosure of patient health information. For example, a company that performs billing or transcription services for Weber Family Chiropractic PC is a business associate of Weber Family Chiropractic PC. Weber Family Chiropractic PC is required to enter into a business associate agreement with each of its Business Associates to ensure that each of them abide by the Privacy Rule requirements to the same extent as Weber Family Chiropractic PC is required to adhere to the Privacy Rule. In fact, Weber Family Chiropractic PC could be held accountable for violations committed by a business associate if: 1) Weber Family Chiropractic PC knew that the Business Associate was breaching its obligations under the Business Associate Agreement; and 2) Weber Family Chiropractic PC did not take steps to mitigate damages and prevent future violations of the Privacy Rule. For additional information on how to identify Weber Family Chiropractic PC's business associates, see Policy No. 11 regarding business associates.

C. ***Protected Health Information*** ("PHI") means health information that: 1) is transmitted, received or maintained in any form or medium (e.g., oral, paper or electronic) by Weber Family Chiropractic PC; 2) identifies a patient; and 3) relates to the past, present or future physical or mental health of the patient or the past, present, or future payment for the provision of health care to the patient. For example, PHI is contained in the following places in Weber Family Chiropractic PC: paper or electronic patient medical charts, the computerized patient insurance files, and patient financial files. Weber Family Chiropractic PC's privacy related policies use the phrase "patient health information;" this phrase means the same as PHI.

D. ***Treatment*** means the provision, coordination, or management of health care and related services. Treatment includes consultation between health care providers or the referral of a patient from one health care provider to another.

E. ***Payment*** means activity to obtain payment for services rendered. For example, submitting a portion of a patient's medical record to a health insurance company in order to obtain payment authorization for a particular procedure would be an activity for the purpose of obtaining payment.

F. ***Health Care Operations*** relates to Weber Family Chiropractic PC's internal administrative processes, including the following activities: 1) quality assessment and improvement; (2) utilization review activities; 3) credentialing employees and the professional review of health care professionals; 4) legal services; 5) accounting and auditing services; 6) business planning and development; 7) actuarial services; and 8) business management and other administrative activities. For example, conducting quarterly audits of physician charts and insurance claims would be an activity that relates to Weber Family Chiropractic PC's health care operations.

IV. GENERAL GUIDANCE REGARDING PRIVACY OF PHI

A. Limiting Use and Disclosure of PHI

1. Weber Family Chiropractic PC and its business associates generally may not use or disclose a patient's PHI unless the use or disclosure fits into one of the following categories:

- a. ***Treatment, Payment or Healthcare Operations ("TPO")***. Weber Family Chiropractic PC must distribute its Notice of Privacy Practices and attempt to obtain a written acknowledgement of receipt from each new and existing patient of the practice. Once a patient has been given the Notice, Weber Family Chiropractic PC may use or disclose the patient's PHI for the treatment of the patient, for obtaining payment for services rendered or for conducting Weber Family Chiropractic PC's health care operations, as those terms are defined in Section III above. Additionally, Weber Family Chiropractic PC may disclose a patient's PHI to: a) another health care provider for the purposes of treating the patient; b) another Covered Entity if the PHI is necessary in order for the entity to obtain payment for services rendered to the patient; or c) any Covered Entity that has a relationship with the patient for purposes of conducting the Covered Entity's health care operations. For more detail regarding the Notice of Privacy Practices.
- b. ***Patient Authorization***. If a patient's PHI will be used or disclosed for some purpose other than TPO (e.g. disclosed to a life insurance company), Weber Family Chiropractic PC must obtain an authorization for release of information. For example, Weber Family Chiropractic PC must obtain authorization before using a patient's name and address for marketing purposes. Generally, an authorization is needed to disclose PHI to persons outside the practice. For more detail regarding authorizations and when and how to obtain them, see Policy No. 3. For more detail regarding marketing practices and when authorization must be obtained to use PHI for marketing purposes, see Policy No. 16.
- c. ***Special Circumstances***. Weber Family Chiropractic PC may use or disclose a patient's PHI without obtaining written authorization if it is required by law. See Policy No. 3 regarding authorizations for use and disclosures for more detail. Some of the situations include: a) the collection of PHI by public health authorities for public health activities; b) reporting victims of abuse or neglect; or c) receipt of a court order for medical records. If Weber Family Chiropractic PC intends to use or disclose PHI for a purpose other than TPO and Weber Family Chiropractic PC does not have the patient's written authorization, Weber Family Chiropractic PC should consult with legal counsel to determine whether any of the special circumstance exceptions may apply to allow the use and/or disclosure of PHI.

B. Minimum Necessary Standard

1. Weber Family Chiropractic PC must establish procedures and revise job descriptions and policies to reasonably ensure that it limits the use of disclosure of the PHI to the

“minimum necessary” to accomplish the purpose of the use or disclosure. For example, Weber Family Chiropractic PC's accountant may need access to a patient's financial information in order to balance Weber Family Chiropractic PC's books; however, the accountant should not be granted access to the patient medical information since that PHI is not necessary to accomplish his/her duties. Similarly, the receptionist may need access to a patient's name and phone number to make an appointment reminder call; however, the receptionist should not be granted access to patient health information since that PHI is not necessary to accomplish her duties.

The "minimum necessary" rule does not, however, apply to the following:

- a. Disclosures to a health care provider for treatment purposes;
- b. Disclosures to the patient who is the subject of the PHI;
- c. Uses or disclosures made pursuant to the patient's written authorization;
- d. Uses or disclosures made to the Department of Health & Human Services; or
- e. Uses or disclosures that are required by law.

For more information regarding the minimum necessary standard, see Policy No. 15.

C. Patient Rights.

The Privacy Rule establishes six specific patient rights designed to allow patients some degree of control over the confidentiality and privacy of their PHI. The Privacy Rule prohibits Weber Family Chiropractic PC from requiring individuals to waive any of the rights summarized below before providing treatment to the individuals.

1. ***Adequate Notice of Privacy Practices.*** Weber Family Chiropractic PC must create a written notice that describes Weber Family Chiropractic PC's policies and procedures for protecting the privacy of PHI. The Notice of Privacy Practices ("NPP") must comply with the specifications of the Privacy Rule by including a description of the Weber Family Chiropractic PC's privacy policies and procedures, listing the patient rights, providing the name of a contact person who can answer privacy questions and informing the patient of how to file a complaint regarding Weber Family Chiropractic PC's privacy practices. Weber Family Chiropractic PC must post the NPP in a prominent place for patients to view, provide the NPP to patients no later than the first date of service on or after April 14, 2003, and make copies of the NPP available upon request. For additional information about this patient right, see the notice of Health Information Privacy Practice.

2. ***Access to Health Information.*** Patients generally have a right to access, inspect and copy PHI used to make health care or payment decisions about them. Weber Family Chiropractic PC must act upon a patient's request for access within 30 days if the information is located on-site and within 60 days if the information is located off the premises. The one exception to this general right is that a patient does not have the right to access psychotherapy notes. For additional information about this patient right, see Policy No. 8.

3. ***Amendment of Health Information.*** Patients have the right to request amendment to and correction of their PHI. Weber Family Chiropractic PC must respond to the request within 60 days. Weber Family Chiropractic PC may deny the request if the PHI is complete and accurate, but Weber Family Chiropractic PC must inform patients of their options with respect to future disclosures of the disputed information. For additional information about this patient right, see Policy No. 7.

4. ***Restriction on Uses and Disclosures.*** Patients have the right to request restrictions on the use and disclosure of their PHI. Weber Family Chiropractic PC may accept or reject the request. However, if the Weber Family Chiropractic PC grants the request, it must document the restriction and maintain the documentation for a minimum of six years. For additional information regarding this patient right, see Policy No. 6.

5. ***Alternative Methods of Communicating.*** Patients have the right to request that Weber Family Chiropractic PC communicate PHI to them by “alternative means” or at “alternative locations.” Such requests must be accommodated if reasonable. For additional information regarding this patient right, see Policy No. 5.

6. ***Accounting of Disclosures.*** Patients have the right to receive an accounting of PHI disclosures made by Weber Family Chiropractic PC during the 6 years prior to the date of patient's request for accounting. The accounting of disclosures does not, however, need to include disclosures such as those made prior to the April 14, 2003, disclosures made to carry out treatment, payment or healthcare operations, disclosures made pursuant to the patient’s authorization or disclosures made to the patient. For additional information regarding this patient right, see Policy No. 9.

E. Administrative Requirements

1. Weber Family Chiropractic PC must:

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a. ***Have a Privacy Officer.*** Weber Family Chiropractic PC must designate an individual as Weber Family Chiropractic PC's Privacy Officer. The Privacy

Officer is responsible for: i) developing and implementing privacy policies and procedures for Weber Family Chiropractic PC; ii) receiving and responding to privacy-related complaints; and iii) answering questions and providing further information regarding the Notice of Privacy Practices. The privacy officer for Weber Family Chiropractic PC is Dr. Scott Weber. For additional information regarding the Privacy Officer, see Policy No. 1.

- b. ***Have Policies and Procedures.*** Weber Family Chiropractic PC must develop written policies and procedures that implement the requirements of the Privacy Rule and that are designed to protect the confidentiality and privacy of PHI. For a list of Weber Family Chiropractic PC's written HIPAA Policies, please see Section III.G. of this Policy.
- c. ***Conduct Employee Training.*** Weber Family Chiropractic PC must train each member of its workforce regarding Weber Family Chiropractic PC's HIPAA privacy policies and procedures. The training may be tailored according to the workforce member's particular job functions. For instance, the receptionist may have different training than nursing staff. For additional information on the training requirements, see Policy No. 12.
- d. ***Have a Complaint System.*** Weber Family Chiropractic PC must have a system to allow patients, families and staff to file complaints regarding privacy breaches or Weber Family Chiropractic PC's privacy practices in general. Weber Family Chiropractic PC must investigate the complaint and, if necessary, take actions to correct any deficiencies or problems uncovered by the investigation. Weber Family Chiropractic PC is required by the Privacy Rule to mitigate any harmful effects that occur as a result of a privacy violation by Weber Family Chiropractic PC or its business associates. Weber Family Chiropractic PC cannot intimidate, threaten, discriminate against or generally retaliate against anyone who has filed a complaint or who assists in the investigation. For additional information regarding the complaint and investigation process, see Policy No. 10.
- e. ***Impose Sanctions for Breaches.*** Weber Family Chiropractic PC must impose sanctions for staff members who fail to comply with Weber Family Chiropractic PC's HIPAA Policies or the Privacy Rule. For additional information regarding sanctions for violating the HIPAA Policies, see Policy No. 10.
- f. ***Retain HIPAA Records.*** Weber Family Chiropractic PC must retain its written HIPAA Policies and other documentation created under Weber Family Chiropractic PC's HIPAA Policies for a minimum period of 6 years. For additional information regarding record retention, see Policy No. 13.

F. Enforcement of the Privacy Rule

In addition to the right to complain to Weber Family Chiropractic PC, patients, families and staff can complain to the federal Office of Civil Rights ("OCR"). OCR will investigate the complaints. OCR can impose a \$100 civil fine for each violation, up to a maximum of \$25,000 in a calendar year. If an individual or entity knowingly uses or discloses PHI in violation of the Act, OCR can impose a criminal fine of up to \$50,000 or prison for up to 1 year, or both. If the violation is committed under false pretenses, the individual may be subject to a fine of up to \$100,000 or prison for up to 5 years, or both. If the violation is committed with intent to sell, transfer or use PHI for commercial advantage, personal gain or malicious harm, the individual may be subject to a fine of up to \$250,000 or prison for up to 10 years, or both.

G. HIPAA Policies

- **Authorization For Use and Disclosure**
- **Business Associates**
- **Complaints, Sanctions & Mitigation**
- **Destruction of Health Information**
- **Employee Training**
- **Marketing Practices**
- **Minimum Necessary Standard**
- **Notice of Health Information Practices**
- **Patient Request for Accounting of Health Information Disclosures**
- **Patient Right to Inspect and/or Copy Health Information**
- **Patient Right to Request Alternative Methods of Communication**
- **Patient Right to Request Amendment or Correction of Health Information**
- **Patient Right to Request Restrictions on Uses and Disclosures of Health Information**
- **Privacy Officer Job Description**
- **Record Retention**
- **Technical and Physical Safeguards**