

MODEL NOTICE OF PRIVACY PRACTICES

*(For Mental Health Information Subject to the
Lanterman-Petris-Short Act)*

[Effective Date]

THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.

If you have any questions about this notice, please contact: [insert contact information]

WHO WILL FOLLOW THIS NOTICE

This notice describes our hospital's practices and that of:

- Any health care professional authorized to enter information into your hospital chart.
- All departments and units of the hospital.
- Any member of a volunteer group we allow to help you while you are in the hospital.
- All employees, staff and other hospital personnel.
- [List any other hospitals in your system, subsidiaries or others entities that will follow this privacy notice].

All these entities, sites and locations follow the terms of this notice. In addition, these entities, sites and locations may share medical information with each other for treatment, payment or health care operations purposes described in this notice.

OUR PLEDGE REGARDING MENTAL HEALTH INFORMATION

We understand that information about your mental health treatment and related health care services (mental health information) is personal. We are committed to protecting mental health information about you. We create a record of the care and services you receive at the hospital. We need this record to provide you with quality care and to comply with certain legal requirements. This notice applies to your mental health information generated by the hospital, whether made by hospital personnel or your personal doctor. Your personal doctor may have different policies or notices regarding the doctor's use and disclosure of your mental health information created in the doctor's office or clinic.

This notice will tell you about the ways in which we may use and disclose mental health information about you. We also describe your rights and certain obligations we have regarding the use and disclosure of your mental health information.

We are required by law to:

- Make sure that mental health information that identifies you is kept confidential (with certain exceptions);

This document is based on a model notice prepared for the American Hospital Association by the law firm of Hogan & Hartson, LLP. Hospitals can use this model document as a means to evaluate their current practices on use and disclosure of protected health information and can adapt them, as necessary, to serve as their own notice form. Reprinted with permission. This document was modified to reflect California law by Joe Šimanek, on behalf of the California Hospital Association. Neither Hogan & Hartson LLP nor the American Hospital Association is responsible for any changes made to the original model notice.

- Give you this notice of our legal duties and privacy practices with respect to mental health information about you; and
- Follow the terms of the notice that is currently in effect.

HOW WE MAY USE AND DISCLOSE MENTAL HEALTH INFORMATION ABOUT YOU

The following categories describe different ways that we use and disclose mental health information. For each category of uses or disclosures we will explain what we mean and try to give some examples. Not every use or disclosure in a category will be listed. However, all of the ways we are permitted to use and disclose information will fall within one of the categories.

DISCLOSURE AT YOUR REQUEST

We may disclose information when requested by you. This disclosure at your request may require a written authorization by you.

FOR TREATMENT

We may use mental health information about you to provide you with medical or mental health treatment or services. We may disclose mental health information about you to doctors, nurses, technicians, health care students, or other hospital personnel who are involved in taking care of you at the hospital. For example, a doctor treating you for a mental health condition may need to know what medications you are currently taking, because the medications may affect what other medications may be prescribed for you. In addition, the doctor may need to tell the hospital's food service if you are taking certain medications so that we can arrange for appropriate meals that will not interfere or improperly interact with your medication. Different departments of the hospital also may share mental health information about you in order to coordinate the different things you need, such as prescriptions, lab work and x-rays. We also may disclose mental health information about you to people outside the hospital who may be involved in your medical or mental health treatment after you leave the hospital, such as skilled nursing facilities, home health agencies, and physicians or other practitioners. For example, we may give your physician access to your health information to assist your physician in treating you.

FOR PAYMENT

We may use and disclose mental health information about you so that the treatment and services you receive at the hospital may be billed to and payment may be collected from you, an insurance company or a third party. For example, we may need to give your health plan information about treatment you received at the hospital so your health plan will pay us or reimburse you for the treatment. We may also tell your health plan about a treatment you are going to receive to obtain prior approval or to determine whether your plan will cover the treatment.

FOR HEALTH CARE OPERATIONS

We may use and disclose mental health information about you for health care operations. These uses and disclosures are necessary to run the hospital and make sure that all of our patients receive quality care. For example, we may use mental health information to review our treatment and services and to evaluate the performance of our staff in caring for you. We may also combine mental health information about many hospital patients to decide what additional services the hospital should offer, what services are not needed, and whether certain new treatments are effective. We may also disclose information to doctors, nurses, technicians, health care students, and other hospital personnel for review and learning purposes. We may also combine the mental health information we have with mental health information from other

hospitals to compare how we are doing and see where we can make improvements in the care and services we offer. We may remove information that identifies you from this set of mental health information so others may use it to study health care and health care delivery without learning who the specific patients are.

APPOINTMENT REMINDERS

We may use and disclose mental health information to contact you as a reminder that you have an appointment for treatment or care at the hospital.

HEALTH-RELATED PRODUCTS AND SERVICES

We may use and disclose mental health information to tell you about our health-related products or services that may be of interest to you.

FUNDRAISING ACTIVITIES

We may use information about you in order to contact you for support of the hospital and its operations. We will not release any information about your treatment but only would release contact information, such as your name, address and phone number, and the dates you received treatment or services at the hospital. If you do not want to be contacted for fundraising efforts, you must notify [insert contact information] in writing.

FAMILY MEMBERS OR OTHERS YOU DESIGNATE

Upon request of a family member and with your consent, we may give the family member notification of your diagnosis, prognosis, medications prescribed and their side effects and progress. If a request for information is made by your spouse, parent, child, or sibling and you are unable to authorize the release of this information, we are required to give the requesting person notification of your presence in the hospital, except to the extent prohibited by federal law. Upon your admission, we must make reasonable attempts to notify your next of kin or any other person designated by you, of your admission, unless you request that this information not be provided. Unless you request that this information not be provided we must make reasonable attempts to notify your next of kin or any other person designated by you, of your release, transfer, serious illness, injury, or death only upon request of the family member.

RESEARCH

Under certain circumstances, we may use and disclose mental health information about you for research purposes. For example, a research project may involve comparing the health and recovery of all patients who received one medication to those who received another, for the same condition. All research projects, however, are subject to a special approval process. This process evaluates a proposed research project and its use of mental health information, trying to balance the research needs with patients' need for privacy of their mental health information. Before we use or disclose mental health information for research, the project will have been approved through this research approval process, but we may, however, disclose mental health information about you to people preparing to conduct a research project, for example, to help them look for patients with specific mental health needs, as long as the mental health information they review does not leave the hospital.

AS REQUIRED BY LAW

We will disclose mental health information about you when required to do so by federal, state or local law.

TO AVERT A SERIOUS THREAT TO HEALTH OR SAFETY

We may use and disclose mental health information about you when necessary to prevent a serious threat to your health and safety, or the health and safety of the public or another person. Any disclosure, however, would only be to someone able to help prevent the threat.

SPECIAL SITUATIONS

ORGAN AND TISSUE DONATION

We may release mental health information to organizations that handle organ procurement or organ, eye or tissue transplantation or to an organ donation bank, as necessary to facilitate organ or tissue donation and transplantation.

PUBLIC HEALTH ACTIVITIES

We may disclose mental health information about you for public health activities. These activities may include, without limitation, the following:

- To prevent or control disease, injury or disability;
- To report births and deaths;
- To report regarding the abuse or neglect of children, elders and dependent adults;
- To report reactions to medications or problems with products;
- To notify people of recalls of products they may be using;
- To notify a person who may have been exposed to a disease or may be at risk for contracting or spreading a disease or condition;
- To notify the appropriate government authority if we believe a patient has been the victim of abuse, neglect or domestic violence. We will only make this disclosure if you agree or when required or authorized by law;
- To notify emergency response employees regarding possible exposure to HIV/AIDS, to the extent necessary to comply with state and federal laws.

HEALTH OVERSIGHT ACTIVITIES

We may disclose mental health information to a health oversight agency for activities authorized by law. These oversight activities include, for example, audits, investigations, inspections, and licensure. These activities are necessary for the government to monitor the health care system, government programs and compliance with civil rights laws.

LAWSUITS AND DISPUTES

If you are involved in a lawsuit or a dispute, we may disclose mental health information about you in response to a court or administrative order. We may also disclose mental health information about you in response to a subpoena, discovery request, or other lawful process by someone else involved in the dispute, but only if efforts have been made to tell you about the request (which may include written notice to you) or to obtain an order protecting the information requested.

We may disclose mental health information to courts, attorneys and court employees in the course of conservatorship, and certain other judicial or administrative proceedings.

LAW ENFORCEMENT

We may release mental health information if asked to do so by a law enforcement official:

- In response to a court order, subpoena, warrant, summons or similar process;
- To identify or locate a suspect, fugitive, material witness, certain escapes and certain missing person;
- About a death we believe may be the result of criminal conduct;
- About criminal conduct at the hospital;
- When requested by an officer who lodges a warrant with the facility, and
- When requested at the time of a patient's involuntary hospitalization.

CORONERS AND MEDICAL EXAMINERS

We may be required by law to report the death of a patient to a coroner or medical examiner. [State hospitals, only, should add: "We may release limited information regarding your diagnosis and physical condition to the coroner or medical examiner."]

PROTECTION OF ELECTIVE CONSTITUTIONAL OFFICERS

We may disclose mental health information about you to government law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

INMATES

If you are an inmate of a correctional institution or under the custody of a law enforcement official, we may release mental health information about you to the correctional institution or law enforcement official. Disclosure may be made when required, as necessary to the administration of justice.

ADVOCACY GROUPS

We may release mental health information to the statewide protection and advocacy organization if it has a patient or patient representative's authorization, or for the purposes of certain investigations. We may release mental health information to the County Patients' Rights Office if it has a patient or patient representative's authorization, or for investigations resulting from reports required by law to be submitted to the Director of Mental Health.

DEPARTMENT OF JUSTICE

We may disclose limited information to the California Department of Justice for movement and identification purposes about certain criminal patients, or regarding persons who may not purchase, possess or control a firearm or deadly weapon.

MULTIDISCIPLINARY PERSONNEL TEAMS

We may disclose mental health information to a multidisciplinary personnel team relevant to the prevention, identification, management, or treatment of an abused child, the child's parents, or an abused elder or dependent adult.

SENATE AND ASSEMBLY RULES COMMITTEES

We may disclose your mental health information to the Senate or Assembly Rules Committee for purpose of legislative investigation.

OTHER SPECIAL CATEGORIES OF INFORMATION

Special legal requirements may apply to the use or disclosure of certain categories of information — e.g., tests for the human immunodeficiency virus (HIV) or treatment and services for alcohol and drug

abuse. In addition, somewhat different rules may apply to the use and disclosure of medical information related to any general medical (non-mental health) care you receive.

PSYCHOTHERAPY NOTES

Psychotherapy notes means notes recorded (in any medium) by a health care provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are separated from the rest of the individual's medical record. Psychotherapy notes excludes medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

We may use or disclose your psychotherapy notes, as required by law, or:

- For use by the originator of the notes
- In supervised mental health training programs for students, trainees, or practitioners
- By the covered entity to defend a legal action or other proceeding brought by the individual
- To prevent or lessen a serious and imminent threat to the health or safety of a person or the public
- For the health oversight of the originator of the psychotherapy notes
- For use or disclosure to coroner or medical examiner to report a patient's death, [State hospitals should insert: "and information related to the diagnosis and treatment of the patient's physical condition"]
- For use or disclosure necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public
- For use or disclosure to the Secretary of DHHS in the course of an investigation

YOUR RIGHTS REGARDING MENTAL HEALTH INFORMATION ABOUT YOU

You have the following rights regarding mental health information we maintain about you:

RIGHT TO INSPECT AND COPY

You have the right to inspect and copy mental health information that may be used to make decisions about your care. Usually, this includes mental health and billing records, but may not include some mental health information.

To inspect and copy mental health information that may be used to make decisions about you, you must submit your request in writing to [insert contact information]. If you request a copy of the information, we may charge a fee for the costs of copying, mailing or other supplies associated with your request.

We may deny your request to inspect and copy in certain very limited circumstances. If you are denied access to mental health information, you may request that the denial be reviewed. Another licensed health care professional chosen by the hospital will review your request and the denial. The person conducting the review will not be the person who denied your request. We will comply with the outcome of the review.

RIGHT TO AMEND

If you feel that mental health information we have about you is incorrect or incomplete, you may ask us to amend the information. You have the right to request an amendment for as long as the information is kept by or for the hospital.

To request an amendment, your request must be made in writing and submitted to [insert contact information]. In addition, you must provide a reason that supports your request.

We may deny your request for an amendment if it is not in writing or does not include a reason to support the request. In addition, we may deny your request if you ask us to amend information that:

- Was not created by us, unless the person or entity that created the information is no longer available to make the amendment;
- Is not part of the mental health information kept by or for the hospital;
- Is not part of the information which you would be permitted to inspect and copy; or
- Is accurate and complete.

Even if we deny your request for amendment, you have the right to submit a written addendum, not to exceed 250 words, with respect to any item or statement in your record you believe is incomplete or incorrect. If you clearly indicate in writing that you want the addendum to be made part of your mental health record we will attach it to your records and include it whenever we make a disclosure of the item or statement you believe to be incomplete or incorrect.

RIGHT TO AN ACCOUNTING OF DISCLOSURES

You have the right to request an “accounting of disclosures.” This is a list of the disclosures we made of mental health information about you other than our own uses for treatment, payment and health care operations (as those functions are described above)¹, and with other exceptions pursuant to the law.

To request this list or accounting of disclosures, you must submit your request in writing to [insert contact information]. Your request must state a time period which may not be longer than six years and may not include dates before April 14, 2003. Your request should indicate in what form you want the list (for example, on paper, electronically). The first list you request within a 12 month period will be free. For additional lists, we may charge you for the costs of providing the list. We will notify you of the cost involved and you may choose to withdraw or modify your request at that time before any costs are incurred.

In addition, we will notify you as required by law if your health information is unlawfully accessed or disclosed.

RIGHT TO REQUEST RESTRICTIONS

You have the right to request a restriction or limitation on the mental health information we use or disclose about you for treatment, payment or health care operations. You also have the right to request a limit on the mental health information we disclose about you to someone who is involved in your care or the payment for your care, like a family member or friend. For example, you could ask that we not use or disclose information about a type of therapy you had.

¹ When a provider is required to give patients an accounting of disclosures through an electronic health record for TPO, the provider should revise this document accordingly. (See “Accounting of Disclosures from an EHR,” page 3.13, for detailed information.) [42 U.S.C. Section 17935(c)]

We are not required to agree to your request.² If we do agree, we will comply with your request unless the information is needed to provide you emergency treatment.

To request restrictions, you must make your request in writing to [insert contact information]. In your request, you must tell us 1) what information you want to limit; 2) whether you want to limit our use, disclosure or both; and 3) to whom you want the limits to apply, for example, disclosures to your spouse.

RIGHT TO REQUEST CONFIDENTIAL COMMUNICATIONS

You have the right to request that we communicate with you about mental health matters in a certain way or at a certain location. For example, you can ask that we only contact you at work or by mail.

To request confidential communications, you must make your request in writing to [insert contact information]. We will not ask you the reason for your request. We will accommodate all reasonable requests. Your request must specify how or where you wish to be contacted.

RIGHT TO A PAPER COPY OF THIS NOTICE

You have the right to a paper copy of this notice. You may ask us to give you a copy of this notice at any time. Even if you have agreed to receive this notice electronically, you are still entitled to a paper copy of this notice.

You may obtain a copy of this notice at our website: [insert website address]

To obtain a paper copy of this notice: [insert instructions]

CHANGES TO THIS NOTICE

We reserve the right to change this notice. We reserve the right to make the revised or changed notice effective for mental health information we already have about you as well as any information we receive in the future. We will post a copy of the current notice in the hospital. The notice will contain the effective date on the first page, in the top right-hand corner. In addition, each time you register at or are admitted to the hospital for treatment or health care services as an inpatient or outpatient, we will offer you a copy of the current notice in effect.

COMPLAINTS

If you believe your privacy rights have been violated, you may file a complaint with the hospital or with the Secretary of the U.S. Department of Health and Human Services. To file a complaint with the hospital, contact [insert the name, title, and phone number of the contact person or office responsible for handling complaints]. All complaints must be submitted in writing.

You will not be penalized for filing a complaint.

² Effective Feb. 17, 2010, providers will be required to honor a request for a restriction on disclosures to health plans for services paid in full. This document should be revised accordingly on that date. (See "Provider Must Agree to Restriction for Services Paid in Full," page 3.15, for detailed information.) [42 U.S.C. Section 17935(a)]

OTHER USES OF MENTAL HEALTH INFORMATION

Other uses and disclosures of mental health information not covered by this notice or the laws that apply to us will be made only with your written permission. If you provide us permission to use or disclose mental health information about you, you may revoke that permission, in writing, at any time. If you revoke your permission, this will stop any further use or disclosure of your mental health information for the purposes covered by your written authorization, except if we have already acted in reliance on your permission. You understand that we are unable to take back any disclosures we have already made with your permission, and that we are required to retain our records of the care that we provided to you.