

AMBULATORY SURGICAL CENTER (ASC) AT LBJ GOVERNING BODY

Thursday, February 22, 2024
9:00 A.M.

BOARD ROOM
4800 Fournace Place, Bellaire, Texas 77401

The meeting may be viewed online at: <http://harrishealthtx.swagit.com/live>

Notice: Members of the Governing Body may participate by videoconference.

Mission

Harris Health is a community-focused academic healthcare system dedicated to improving the health of those most in need in Harris County through quality care delivery, coordination of care, and education.

AGENDA

- | | | |
|--|------------------------------|-----------------|
| I. Call to Order and Record of Attendance | Ms. Jennifer Tijerina | 1 min |
| II. <u>Approval of the Minutes of Previous Meeting</u> | Ms. Jennifer Tijerina | 1 min |
| <ul style="list-style-type: none"> • <u>ASC at LBJ Governing Body Meeting – November 16, 2023</u> | | |
| III. Executive Session | Ms. Jennifer Tijerina | 30 min |
| <ul style="list-style-type: none"> A. <u>Discussion Regarding Medical Staff Applicants and Privileges for the Ambulatory Surgical Center (ASC) at LBJ Governing Body, Pursuant to Tex. Health & Safety Code Ann. §161.032 and Tex. Occ. Code Ann. §160.007 to Receive Peer Review and/or Medical Committee Report in Connection with the Evaluation of the Quality of Medical and Health Care Services, Including Consideration of Approval of Medical Staff Applicants and Privileges for the ASC at LBJ Governing Body Upon Return to Open Session – Dr. Scott Perry</u> | | <i>(10 min)</i> |
| <ul style="list-style-type: none"> B. Report by the Vice President, Compliance Officer, Regarding Compliance with Medicare, Medicaid, HIPAA and Other Federal and State Healthcare Program Requirements and a Status of Fraud and Abuse Investigations, Pursuant to Tex. Health & Safety Code Ann. §161.032, Including Possible Action Regarding this Matter Upon Return to Open Session – Mr. Anthony Williams | | <i>(10 min)</i> |
| <ul style="list-style-type: none"> C. <u>Report Regarding Quality of Medical and Healthcare, Pursuant to Tex. Health & Safety Code Ann. §161.032 and Tex. Occ. Code Ann. §160.007 to Receive Peer Review and/or Medical Committee Report in Connection with the Evaluation of the Quality of Medical and Healthcare Services, Including ASC at LBJ Governing Body Quality Scorecard Report, Quality Review Committee Report and Medical Executive Committee Report, Including Possible Action Upon Return to Open Session – Dr. Matasha Russell, Dr. Scott Perry and Mr. Matthew Reeder</u> | | <i>(10 min)</i> |

IV. Reconvene	Ms. Jennifer Tijerina	2 min
V. General Action Item(s)	Ms. Jennifer Tijerina	15 min
A. General Action Item(s) Related to Quality: ASC at LBJ Medical Staff 1. <u>Consideration of Approval of Credentialing Changes for Members of the Harris Health System ASC at LBJ Medical Staff – Dr. Scott Perry</u>		<i>(5 min)</i>
B. General Action Item(s) Related to Policy and Procedures 1. <u>Consideration of Approval of Amended Policy and Procedures for the ASC at LBJ – Mr. Matthew Reeder and Dr. Scott Perry</u> 2. <u>Consideration of Approval of Reviewed Policy and Procedures with No Recommended Changes for the ASC at LBJ – Mr. Matthew Reeder and Dr. Scott Perry</u>		<i>(5 min)</i>
C. Miscellaneous General Action Item(s) 1. Discussion and Appropriate Action to Elect Officers of the ASC at LBJ Governing Body in Accordance with Article V, Section 2 of Governing Body Bylaws of the Ambulatory Surgical Center (ASC) at LBJ – ASC Governing Body <ul style="list-style-type: none"> • Chair – Ms. Jennifer Tijerina 		<i>(5 min)</i>
VI. ASC at LBJ Governing Body Medical Director and Administrator Reports	Ms. Jennifer Tijerina	10 min
A. Report Regarding Medical Staff Operations, Clinical Operations, Statistical Analysis of Services Performed and Operational Opportunities at the Ambulatory Surgical Center, Including Questions and Answers – Dr. Scott Perry and Mr. Matthew Reeder		
VII. Adjournment	Ms. Jennifer Tijerina	1 min

MINUTES OF THE HARRIS HEALTH SYSTEM
AMBULATORY SURGICAL CENTER AT LBJ GOVERNING BODY MEETING
November 16, 2023
9:00 AM

AGENDA ITEM	DISCUSSION	ACTION/RECOMMENDATIONS
I. Call to Order & Record of Attendance	The meeting was called to order at 9:01 a.m. by Ms. Jennifer Tijerina, MS, Acting Chair. It was noted that a quorum was present and the attendance was recorded. Ms. Tijerina stated that while some Board members are in the room, others will participate by videoconference as permissible by state law and the Harris Health Videoconferencing Policy. The meeting may be viewed online: http://harrishealthtx.swagit.com/live .	A copy of the attendance is appended to the archived minutes.
II. Approval of the Minutes of the Previous Meeting Ambulatory Surgical Center at LBJ Governing Body Meeting – August 17, 2023		<u>Motion No. 23.11 - 17</u> Moved by Dr. Glorimar Medina, seconded by Ms. Jennifer Tijerina, and unanimously passed that the Governing Body approve the minutes of the August 17, 2023 meeting. Motion carried.
III. Executive Session	At 9:03 a.m., Ms. Tijerina stated that the ASC Governing Body would enter into Executive Session for Items “A through C” as permitted by law under Tex. Health & Safety Code Ann. §161.032 and Tex. Occ. Code Ann. §160.007.	
	A. Discussion Regarding Medical Staff Applicants and Privileges for the Ambulatory Surgical Center (ASC) at LBJ Hospital, Pursuant to Tex. Health & Safety Code Ann. §161.032 and Tex. Occ. Code Ann. §160.007 to Receive Peer Review and/or Medical Committee Report in Connection with the Evaluation of the Quality of Medical and Health Care Services, Including Consideration of Approval of Medical Staff Applicants and Privileges for the ASC at LBJ Hospital Upon Return to Open Session	No Action Taken.
	B. Report by the Vice President, Compliance Officer, Regarding Compliance with Medicare, Medicaid, HIPAA and Other Federal and State Healthcare Program Requirements and a Status of Fraud and Abuse Investigations, Pursuant to Tex. Health & Safety Code Ann. §161.032, Including Possible Action Regarding this Matter Upon Return to Open Session	No Action Taken.

	<p>C. Report Regarding Quality of Medical and Healthcare, Pursuant to Tex. Health & Safety Code Ann. §161.032 and Tex. Occ. Code Ann. §160.007 to Receive Peer Review and/or Medical Committee Report in Connection with the Evaluation of the Quality of Medical and Healthcare Services, Including ASC at LBJ Quality Scorecard Report, Quality Review Committee Report and Medical Executive Committee Report, Including Possible Action Upon Return to Open Session</p>	<p>No Action Taken.</p>
<p>IV. Reconvene</p>	<p>At 9:31 a.m., Ms. Tijerina reconvened the meeting and stated that no action was taken in Executive Session.</p>	
<p>V. General Action Item(s)</p>	<p>A. General Action Item(s) Related to Quality: Ambulatory Surgical Center at LBJ Hospital Medical Staff</p>	
	<p>1. Approval of Credentialing Changes for Members of the Harris Health System Ambulatory Surgical Center at LBJ Hospital Medical Staff</p> <p>Dr. Scott Perry, Medical Director, ASC at LBJ, presented the credentialing changes for members of the Harris Health System Ambulatory Surgical Center at LBJ Hospital Medical Staff. For November 2023, there were four (4) initial appointments and nine (9) reappointments. A copy of the credentialing report is available in the permanent record.</p>	<p><u>Motion No. 23.11 - 18</u></p> <p>Moved by Dr. Glorimar Medina, seconded by Ms. Jennifer Tijerina, and unanimously passed that the Governing Body approve V.A.1. Motion carried.</p>
	<p>B. General Action Item(s) Related to Policy and Procedures</p>	
	<p>1. Approval of New and/or Amended Policies and Procedures for the Ambulatory Surgical Center at LBJ Governing Body</p> <p>i. Policy ASC-P-5005 – Consent for Medical Treatment and Identification of a Surrogate Decision – Maker</p> <p>Mr. Matthew Reeder, R.N., Administrator, ASC at LBJ, presented the amended policy for the Ambulatory Surgical Center at LBJ. He stated that revisions to Policy ASC-P-5005 were made to coincide with Harris Health System’s policy. A copy of the policy is available in the permanent record.</p>	<p><u>Motion No. 23.11 - 19</u></p> <p>Moved by Dr. Glorimar Medina, seconded by Ms. Jennifer Tijerina, and unanimously passed that the Governing Body approve V.B.1. (i). Motion carried.</p>
	<p>C. Miscellaneous General Action Item(s)</p>	
	<p>1. Approval of Appointment/Re-Appointment of Key Positions to the Ambulatory Surgical Center at LBJ Governing Body</p> <p>i. Medical Staff Privileges Officer – Celesta Chelf</p>	<p><u>Motion No. 23.11 - 20</u></p> <p>Moved by Dr. Glorimar Medina, seconded by Ms. Jennifer Tijerina, and unanimously passed that the Governing Body approve V.C.1. (i). Motion carried.</p>

<p>VI. ASC at LBJ Medical Director and Administrator Reports</p>	<p>A. Report Regarding Medical Staff Operations, Clinical Operations, Statistical Analysis of Services Performed and Operational Opportunities at the ASC at LBJ Including Questions and Answers</p> <ul style="list-style-type: none"> • People – Provider Staff Credentials <p>Mr. Reeder delivered a presentation regarding the Ask My Nurse Program, after-hours access to ASC pharmacies, and the 340B Drug Pricing Program. A copy of the presentation is available in the permanent record.</p>	<p>As Presented.</p>
<p>VII. Adjournment</p>	<p>There being no further business to come before the Governing Body, the meeting adjourned at 9:40 a.m.</p>	<p>Moved by Dr. Glorimar Medina, and seconded by Ms. Jennifer Tijerina, and unanimously approved to adjourn the meeting.</p>

I certify that the foregoing are the Minutes of the Harris Health System ASC at LBJ Governing Body Meeting held on November 16, 2023.

Respectfully Submitted,

Jennifer Tijerina, MS, Acting Chair

Minutes transcribed by Cherry A. Pierson, MBA

Thursday, November 16, 2023

Ambulatory Surgical Center (ASC) at LBJ Governing Body Attendance

Note: For Zoom meeting attendance, if you joined as a group and would like to be counted as present, please submit an email to:

BoardofTrustees@harrishealth.org before close of business the day of the meeting.

ASC at LBJ GB MEMBERS PRESENT	ASC at LBJ GB MEMBERS ABSENT	OTHER BOARD MEMBERS PRESENT
Ms. Jennifer Tijerina, <i>Presiding Chair</i>		
Dr. Glorimar Medina		
Dr. Scott Perry, <i>Medical Director, ASC</i>		
Mr. Matthew Reeder, <i>Administrator, ASC</i>		

HARRIS HEALTH EXECUTIVE LEADERSHIP, STAFF & SPECIAL INVITED GUESTS	
Anthony Williams	Louis Smith
Antoinette "Toni" Cotton	Dr. Matasha Russell
Cherry Pierson	Matthew Schlueter
Daniel Smith	Nick Bell
Ebon Swofford (<i>Harris County Attorney's Office</i>)	Patricia Darnauer
Elizabeth Hanshaw Winn (<i>Harris County Attorney's Office</i>)	Patrick Casey
Dr. Esmail Porsa, <i>Harris Health System President & Chief Executive Officer</i>	Randy Manarang
Jeff Baffour	Sara Thomas (<i>Harris County Attorney's Office</i>)
Dr. Jennifer Small	Dr. Steven Brass
Jennifer Zarate	Dr. Tien Ko
Jerry Summers	

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Executive Session

Discussion Regarding Medical Staff Applicants and Privileges for the Ambulatory Surgical Center (ASC) at LBJ Governing Body, Pursuant to Tex. Health & Safety Code Ann. §161.032 and Tex. Occ. Code Ann. §160.007 to Receive Peer Review and/or Medical Committee Report in Connection with the Evaluation of the Quality of Medical and Health Care Services, Including Consideration of Approval of Medical Staff Applicants and Privileges for the ASC at LBJ Governing Body Upon Return to Open Session.

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Executive Session

Report Regarding Quality of Medical and Healthcare, Pursuant to Tex. Health & Safety Code Ann. §161.032 and Tex. Occ. Code Ann. §160.007 to Receive Peer Review and/or Medical Committee Report in Connection with the Evaluation of the Quality of Medical and Healthcare Services, Including ASC at LBJ Governing Body Quality Scorecard Report, Quality Review Committee Report and Medical Executive Committee Report, Including Possible Action Upon Return to Open Session.

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Consideration of Approval of Credentialing Changes for Members of the Harris Health
System Ambulatory Surgical Center at LBJ Medical Staff

Ambulatory Surgical Center Governing Body

February 2024 Medical Staff Credentials Report



Medical Staff Initial Appointments: 3

Medical Staff Initial Appointments: 3

Medical Staff Reappointments: 2

Medical Staff Reappointments: 2

Thursday, February 22, 2024

Consideration of Approval of Amended Policy and Procedures for the
Ambulatory Surgical Center at LBJ

As part of the regulatory requirements of the Ambulatory Surgical Center (ASC), the Governing Body is to review and approve the ASC's policies annually. Most policies will reflect a change in references. Please find a summary of the policies and their changes.

- [Policy 2000 Changes to match system policy](#)
- [Policy 2002-2003 Appendix added and Changes to match system policy](#)
- [Policy 2007-2009 Changes to match system policy](#)
- [Policy 2013-2015 Changes to match system policy](#)
- [Policy 2017 Changes to match system policy](#)
- [Policy 2022 Changes to match system policy](#)
- [Policy 3005 Changes to match system policy](#)
- [Policy 4003 Changes to match system policy](#)
- [Policy 4008 Changes to match system policy](#)
- [Policy 6000 Changes in reference section](#)
- [Policy 6003 Links updated](#)
- [Policy 6006 Links updated](#)
- [Policy 6010 Links updated](#)
- [Policy 6015 Updated Hazard Vulnerability Analysis](#)
- [Policy 6016 Updated Hazard Vulnerability Analysis](#)

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Policy No: [ASC-P-2000](#)
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POLICY AND REGULATIONS MANUAL

TITLE: ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION

PURPOSE: To provide guidance on documenting required disclosures of protected health information and responding to requests for an accounting of disclosures from patients or from patients' personal representatives.

POLICY STATEMENT:

Harris Health System ("Harris Health"), business associates of Harris Health and the Ambulatory Surgical Center (ASC) will document, track, and retain all records pertaining to required disclosures of protected health information. Patients may request an accounting of disclosures of their PHI from the privacy officer or designee, who will respond in accordance with the federal and state privacy laws and Harris Health's privacy policies and procedures and the ASC's privacy and policy procedures.

POLICY ELABORATIONS:

I. DEFINITIONS:

- A. **BUSINESS ASSOCIATE:** A person or entity that provides certain functions, activities, or services for, to, or on behalf of a Covered Entity involving the use and/or disclosure of PHI as further defined in the Health Insurance Portability and Accountability Act (HIPAA) regulations.
- B. **DESIGNATED RECORD SET (DRS):** A group of records maintained by or for the ASC that is:
1. The medical and billing records about patients;
 2. The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
 3. Records used, in whole or part, by or for the ASC to make decisions about patients.

For purposes of this definition, the term "record" means any item, collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for Harris Health and the ASC; the term "record" includes:

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- a. Patient information originated by another healthcare provider and used by the ASC to make decisions about the patient; and
 - b. Tracings, photographs, videotapes, digital, or other images that may be recorded to document the care of the patient.
- C. **DISCLOSURE:** The release, transfer, provision of, access to, or divulging in any manner protected health information outside of the ASC.
- D. **HEALTH CARE OPERATIONS:** Any of the following activities of the Covered Entity to the extent the activities are related to covered functions:
- 1. Conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; patient safety activities (as defined in 42 C.F.R. §3.20); population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;
 - 2. Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, health plan performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of non-health care professionals, accreditation, certification, licensing, or credentialing activities;
 - 3. Except as prohibited under 45 C.F.R. §164.502(a)(5)(i), underwriting, enrollment, premium rating, and other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care (including stop-loss insurance and excess of loss insurance), provided that the requirements of 45 C.F.R. §164.514(g) are met, if applicable;
 - 4. Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;
 - 5. Business planning and development, such as conducting cost-

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management and planning-related analyses related to managing and operating the entity, including formulary development and administration, development or improvement of methods of payment or coverage policies; and

6. Business management and general administrative activities of the entity, including, but not limited to:
 - a. Management activities relating to implementation of and compliance with the requirements of this subchapter;
 - b. Customer service, including the provision of data analyses for policy holders, plan sponsors, or other customers, provided that PHI is not disclosed to such policy holder, plan sponsor, or customer;
 - c. The sale, transfer, merger, or consolidation of all or part of the covered entity with another covered entity, or an entity that following such activity will become a covered entity and due diligence related to such activity; and
 - d. Consistent with the applicable requirements of 45 C.F.R. §164.514, creating de-identified health information or a limited data set, and fundraising for the benefit of a Covered Entity.
- E. **INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION (IIHI):** Information that is a subset of health information, including demographic information, collected from an individual, and:
- F. **INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION (IIHI):** Information that is a subset of health information, including demographic information, collected from an individual, and:
 1. Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
 2. Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and:
 - a. That identifies the individual; or

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b. With respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

G. **LEGALLY AUTHORIZED REPRESENTATIVE (LAR):** An individual with legal standing to represent the interests of another (*e.g.*, parent of a minor patient) or with the authority to act on behalf of another (as by legal power of attorney when applicable, medical power of attorney when the patient is incapacitated, court order, advance directive, or the executor of a will).

H. **PAYMENT:**

1. The activities undertaken by:

- a. Except as prohibited under §164.502(a)(5)(i), a health plan to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the health plan; or
- b. A health care provider or health plan to obtain or provide reimbursement for the provision of health care; and

2. The activities in paragraph (1) of this definition relate to the individual to whom health care is provided and include, but are not limited to:

- a. Determinations of eligibility or coverage (including coordination of benefits or the determination of cost sharing amounts), and adjudication or subrogation of health benefit claims;
- b. Risk adjusting amounts due based on enrollee health status and demographic characteristics;
- c. Billing, claims management, collection activities, obtaining payment under a contract for reinsurance (including stop-loss insurance and excess of loss insurance), and related health care data processing;
- d. Review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;
- e. Utilization review activities, including precertification and preauthorization of services, concurrent and retrospective review of services; and
- f. Disclosure to consumer reporting agencies of any of the

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following protected health information relating to collection of premiums or reimbursement:

- i. Name and address;
- ii. Date of birth;
- iii. Social Security number;
- iv. Payment history;
- v. Account number; and
- vi. Name and address of the health care provider and/or health plan.

I. **PERSONAL REPRESENTATIVE:** A person authorized by law to act on behalf of a patient. For purposes of this policy only, the term Personal Representative also includes a patient's Legally Authorized Representative, defined above.

K. **PROTECTED HEALTH INFORMATION (PHI):** PHI that is created, received, transmitted, or maintained by Harris Health on behalf of the ASC, in any form or medium, that relates to the patient's healthcare condition, provision of healthcare, or payment for the provision of healthcare, as further defined in the HIPAA regulations. PHI includes, but is not limited to, the following identifiers:

1. Name;
2. All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code if, according to current publicly available data from the Bureau of the Census:
 - a. The geographic unit formed by combining all zip codes with the same three initial digits contains more than 20,000 people; and
 - b. The initial three digits of a zip code for all such geographic units containing 20,000 or fewer people is changed to 000.
3. All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over eighty-nine (89) and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age ninety (90) or older;
4. Telephone numbers;

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5. Fax numbers;
6. Electronic mail addresses;
7. Social Security numbers;
8. Medical record numbers;
9. Health plan beneficiary numbers;
10. Account numbers;
11. Certificate/license numbers;
12. Vehicle identifiers and serial numbers, including license plate numbers;
13. Device identifiers and serial numbers;
14. Web Universal Resource Locators (URLs);
15. Internet Protocol (IP) address numbers;
16. Biometric identifiers, including finger and voice prints;
17. Full face photographic images and any comparable images; and
18. Any other unique identifying number, characteristic, or code, except permitted for re-identification purposes.

L. **PRIVACY OFFICER:** An individual designated by Harris Health who is responsible for the development and implementation of privacy related functions of Harris Health as further defined in Harris Health Policy and Procedure 3.11.101 Privacy Officer Roles and Responsibilities.

M. **TREATMENT:** The provision, coordination, or management of health care and related services by one (1) or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one (1) health care provider to another.

N. **WORKFORCE:** The members of the governing body of the Ambulatory Surgical Center (ASC) at LBJ, employees, medical staff, trainees, contractors, volunteers, and vendors. Employees (permanent or temporary) include; volunteers, trainees and other persons whose conduct, in the performance of work for Harris Health, is under the direct control of Harris Health, whether or not they are paid by Harris Health.

II. IN GENERAL:

A. The patient's or the patient's Personal Representative's request for an

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accounting of disclosures of PHI must be in writing and must specify the period of time the accounting request covers, but in no case, covering more than six (6) years from the date of the request.

- B. If the request for an accounting of disclosures of PHI is made by the patient's Personal Representative and a licensed health care professional, using his or her professional judgment, determines that providing the Personal Representative an account of disclosures is reasonably likely to cause harm to the patient or to another person, the ASC may decline the Personal Representative's request for the accounting of disclosures.
- C. An accounting of Disclosures must include the following information:
1. The date of each Disclosure;
 2. The name of the entity or person who received the PHI, and, if known, the address of the entity or person;
 3. A brief description of the PHI disclosed; and
 4. A brief statement of the purpose of the Disclosure that reasonably informs the patient or the patient's Personal Representative of the basis for the Disclosure; or in place of such statement:
 - i. A copy of the patient's or Personal Representative's Authorization; or
 - ii. A copy of a written request for Disclosure when required by the Secretary of United States Department of Health and Human Services (DHHS) to investigate or determine Harris Health's compliance with the HIPAA regulations, or a written request as outlined in Harris Health Policy and Procedure 3.11.306 Permitted Use and Disclosure of Protected Health Information without a Patient's Authorization.

Note: If during the time period covered by the request for an accounting of disclosures, the ASC made multiple Disclosures of PHI to the same person or entity for a single purpose, or pursuant to a single authorization, the response to the accounting for disclosures may, with respect to the multiple Disclosures, provide:

- i. The information listed in Section II.C.3-6 above;

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- ii. The frequency or number of the Disclosures made during the accounting period; and
- iii. The date of the last Disclosure in the accounting period.

D. Harris Health on the behalf of the ASC, does not need to include the following information in the accounting of disclosures:

1. Disclosures to carry out Treatment, Payment, or Health Care Operations;
2. Disclosures to the patient;
3. Disclosures that are incidental Disclosures to another permissible or required Use or Disclosure of PHI, as long as reasonable safeguards and minimum necessary standards have been observed for the underlying communication;
4. Disclosures pursuant to a valid Authorization;
5. Disclosures made for or pursuant to Harris Health's facility directory. (See Harris Health Policy and Procedure 3.11.201 Use and Disclosure of Protected Health Information for Facility Directories);
6. Disclosures to persons involved in the patient's care;
7. Disclosures for notification purposes, such as identifying or locating a family member or Personal Representative to inform that person of the patient's location, general condition, or death. (See Harris Health Policy and Procedure 3.11.203 Use and Disclosure of Protected Health Information to Persons Involved in Patient's Care and for Notification and Disaster Relief);
8. Disclosures for national security or intelligence;
9. Disclosures to correctional facilities or law enforcement facilities;
10. Disclosures that are part of a limited data set. (See Harris Health Policy and Procedure 3.11.308 Use and Disclosure of a Limited Data Set).

III. RESEARCH:

A. On behalf of the ASC, if Harris Health has made disclosures of PHI for a particular research purpose without the patient's authorization for fifty (50) or more individuals during the period covered by the request for an accounting of disclosures, Harris Health's response may, with respect to such disclosures for which the patient's PHI may have been included, provide the following:

1. The name of the protocol or other research activity;

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2. A description, in plain language, of the research protocol or other research activity, including the purpose of the research and the criteria used for selecting particular records;
3. A brief description of the type of the PHI that was disclosed;
4. The date or period of time during which such disclosures occurred, or may have occurred, including the date of the last disclosure during the accounting period;
5. The name, address, and telephone number of the entity that sponsored the research and of the researcher to whom the PHI was disclosed; and
6. A statement that the PHI of the patient may or may not have been disclosed for a particular protocol or other research activity.

- B. On behalf of the ASC, if Harris Health provides an accounting to a patient of research disclosures, and if it reasonably likely that the PHI of the patient was disclosed for such research protocol or activity, Harris Health shall, at the request of the patient, assist the patient in contacting the entity that sponsored the research and the researcher.

IV. TIMEFRAME FOR PROVIDING A RESPONSE TO A REQUEST FOR AN ACCOUNTING OF DISCLOSURES AND ALLOWABLE FEES:

- A. The ASC or Harris Health on behalf of the ASC will provide the patient or the patient's Personal Representative an accounting of disclosures within sixty (60) calendar days of the date of the request for an accounting of disclosures.
- B. If Harris Health is unable to provide on behalf of the ASC an accounting of disclosures within sixty (60) calendar days of the date of the request, the Privacy Officer may extend the time that Harris Health has to provide the accounting of disclosures by no more than thirty (30) calendar days, provided that:
1. Harris Health gives the patient or the patient's Personal Representative, within the initial sixty (60) days, a written statement explaining the reasons for the delay and the date the accounting will be provided; and
 2. Harris Health may have only one extension of time.
- C. A patient's first accounting of disclosures during any twelve (12) month period will be free of charge.

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- D. Harris Health, acting on behalf of the ASC, may charge a reasonable, cost-based fee for each additional request a patient or the patient's Personal Representative makes for an accounting of disclosures within a single twelve (12) month period, provided that Harris Health informs the patient or the Personal Representative in advance of the fee of the fee and provides the patient or the patient's Personal Representative an opportunity to withdraw or modify the request for a subsequent accounting to avoid or reduce the fee.

V. RETENTION AND TRACKING OF ACCOUNTING OF DISCLOSURES:

- A. Copies of a patient's or a patient's Personal Representative request for an accounting of disclosures and the accounting of disclosures provided to the patient or the patient's Personal Representative will be maintained for six (6) years.
- B. The Privacy Officer or designee will keep a log of the accountings provided to patients' or to patients' Personal Representatives on behalf of the ASC for the purposes of auditing or monitoring the right of the patient or the patient's Personal Representative to obtain an accounting of disclosures.

VI. PROCEDURE:

See Appendix A for receiving and responding to requests for accountings of disclosures procedures.

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REFERENCES/BIBLIOGRAPHY:

45 CFR §§ 164.528, 164.524

OFFICE OF PRIMARY RESPONSIBILITY:

The Ambulatory Surgical Center (ASC) at LBJ

REVIEW/REVISION HISTORY:

Effective Date	Version # (If Applicable)	Review/ (Indicate Revised)	Revision Reviewed	Date or	Approved by:
06/14/2016	1.0				The Ambulatory Surgical Center (ASC) at LBJ Governing Body
	2.0	Reviewed /	Approved	03/29/2018	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed /	Approved	02/14/2019	The Ambulatory Surgical Center (ASC) Governing Body
		Reviewed /	Approved	02/13/2020	The Ambulatory Surgical Center (ASC) Governing Body
		Reviewed /	Approved	02/25/2021	The Ambulatory Surgical Center (ASC) Governing Body
		Reviewed /	Approved	02/17/2022	The Ambulatory Surgical Center (ASC) Governing Body
		Reviewed /	Approved	02/16/2023	The Ambulatory Surgical Center (ASC) Governing Body

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APPENDIX A
PROCEDURE FOR RECEIVING AND RESPONDING TO REQUESTS FOR
ACCOUNTING OF DISCLOSURES

- A. The Privacy Officer or his or her designee will:
1. Receive and log all requests for accountings of disclosures received by Harris Health.
 2. Verify that no health oversight agency or law enforcement official has submitted a written or oral statement preventing Harris Health from providing the accounting to the requestor.
 - a. A written statement from one of these agencies should include the reasons why the Disclosure would impede the activities of the agency and indicate the time frame that the suspension is required.
 - b. If Harris Health receives an oral statement from one of these agencies, the Privacy Officer or his or her designee must:
 - i. Document the statement, including the identity of the agency or official making the statement;
 - ii. Temporarily suspend the individual's right to an accounting of disclosures subject to the statement; and
 - iii. Limit the temporary suspension to no longer than thirty (30) days from the date of the oral statement, unless a written statement is submitted during the thirty (30) day suspension by the agency or official.
 3. The Privacy Officer or his or her designee, will identify if any other reason exists to deny the patient's or the Patient's Personal Representative's request for an accounting of disclosures;
If no temporary suspension of the patient's right to an accounting of disclosures is in place, the Privacy Officer or his or her Designee will route the request for an accounting of disclosures to:
 - a. Harris Health's HIM department;
 - b. Business Associates that maintain PHI that is a part of the Harris Health Designated Record Set and is held only by the particular Business Associate.

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B. The HIM department will:

Compile an accounting of disclosures of the records and submit the documentation to the Privacy Officer.

C. Director of Research and Sponsored Programs:

The Director of Research and Sponsored Programs, or his or her designee, is responsible for providing an accounting of disclosures for those disclosures associated with research activities described above in section III of this policy.

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APPENDIX B

HARRISHEALTH SYSTEM

INSTRUCTIONS: Please complete this form to request the disclosure of Protected Health Information (PHI) pursuant to a subpoena that is not accompanied by a court order or an authorization signed by the patient (or his/her representative). Please note your request may be denied if you submit an incomplete form and/or provide insufficient supporting documentation.

Cause Number and Style of Suit: _____

Patient's Information:

Name: _____

Address: _____

Date of Birth: _____

Social Security Number: _____ **Medical Record Number:** _____

I hereby certify, as the attorney subpoenaing for the above identified patient, that the following requirements under 45 CFR §164.512(e)(1)(i-vi) have been met. In addition, I understand that I must attach documentation to this statement demonstrating the following:

1. I have made a good faith effort to provide written notice to the above identified patient (or that patient's attorney), and
2. The notice included sufficient information about the litigation or proceeding in which the PHI is requested to permit the individual to raise an objection in court or administrative tribunal; and
3. The time for the individual to raise objections to the court or administrative tribunal has elapsed and (please circle either a. or b.)
 - a. No objections were filed; or
 - b. All objections filed by the individual have been resolved by the court or tribunal and the disclosures sought by this subpoena are consistent with such resolution.

OR (please circle either 4. or 5.)

4. The parties to the dispute giving rise to the request for information have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute; or
5. The party seeking the PHI has requested a qualified protective order from such court or administrative tribunal.

I also hereby certify that the PHI requested is related to a judicial proceeding in which the patient is a party (See TEX. HEALTH & SAFETY CODE § 241.153(2)).

Name of Attorney: _____

Signature: _____

Date: _____ **State Bar Number:** _____

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TITLE BREACH RISK ASSESSMENT AND NOTIFICATION POLICY

PURPOSE: To outline how Harris Health System's Office of Corporate Compliance conducts a risk assessment on behalf of the Ambulatory Surgical Center (ASC) to determine whether a breach of protected health information has occurred under the Health Insurance Portability and Accountability Act, and to explain Harris Health System's notification procedures to affected individuals, the media, and the Secretary of the U.S. Department of Health and Human Services.

POLICY STATEMENT:

Harris Health System (Harris Health) and the Ambulatory Surgical Center (ASC) are committed to conducting thorough risk assessments to determine whether a breach of protected health information has occurred. If Harris Health's Office of Corporate Compliance determines a breach of Protected Health Information (PHI) has occurred at the ASC, the ASC and Harris Health are committed to providing notification to each individual affected and, when applicable, to the media and the Secretary of the U.S. Department of Health and Human Services (the Secretary).

POLICY ELABORATION:

I. DEFINITIONS:

- A. **BREACH:** The unauthorized acquisition, access, Use, or Disclosure of PHI in a manner not permitted by the Privacy Rule and compromises the security or privacy of the PHI.
- B. **BUSINESS ASSOCIATE (BA):** A person or entity that provides certain functions, activities, or services for, to or on behalf of a Covered Entity involving the Use and or Disclosure of PHI as further defined in the Health Information Portability and Accountability Act (HIPAA) regulations.
- C. **BUSINESS ASSOCIATE AGREEMENT (BAA):** A written contract between the BA and Harris Health and behalf of the ASC outlining the responsibilities of the BA with respect to the protection of PHI.
- D. **DISCLOSURE:** The release, transfer, provision of, access to, or divulging in any manner PHI outside of Harris Health.

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- E. **ELECTRONIC PROTECTED HEALTH INFORMATION (E-PHI):** PHI that is created, received, maintained, or transmitted by electronic means.
- F. **INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION (IIHI):** Information that is a subset of health information, including demographic information collected from an individual, and:
1. Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
 2. Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and
 - a. Identifies the individual; or
 - b. With respect to which there is a reasonable basis to believe that the information can be used to identify the individual.
- G. **LAW ENFORCEMENT OFFICIAL (LEO):** An Officer or employee of any agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian Tribe, who is empowered by law to:
1. Investigate or conduct an official inquiry into a potential violation of law; or
 2. Prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.
- H. **LEGALLY AUTHORIZED REPRESENTATIVE (LAR):** An individual with legal standing to represent the interests of another (e.g., parent of a minor patient) or with the authority to act on behalf of another (as by legal power of attorney when applicable, medical power of attorney when the patient is incapacitated, court order, advance directive, or the executor of a will).¹
- I. **PERSONAL REPRESENTATIVE:** A person with authority under the law to act on behalf of the patient. For purposes of this policy only, the term Personal

¹ Tex. Health & Safety Code § 241.151.

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Representative also includes a patient's Legally Authorized Representative, defined above.

J. **PROTECTED HEALTH INFORMATION (PHI):** PHI that is created, received, transmitted or maintained by Harris Health in any form or medium that relates to the patient's health care condition, provision of health care, or payment for the provision of health care, as further defined in the HIPAA regulations. PHI includes, but is not limited to, the following identifiers:

1. Name;
2. All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three (3) digits of a zip code if, according to the current publicly available data from the Bureau of the Census:
 - a. The geographic unit formed by combining all zip codes with the same three initial digits contains more than twenty thousand (20,000) people; and
 - b. The initial three (3) digits of a zip code for all such geographic units containing twenty thousand (20,000) or fewer people is changed to 000.
3. All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over eighty-nine (89) and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age ninety (90) or older;
4. Telephone numbers;
5. Fax numbers;
6. Electronic mail addresses;
7. Social security numbers;
8. Medical record numbers;
9. Health plan beneficiary numbers;
10. Account numbers;
11. Certificate/license numbers;
12. Vehicle identifiers and serial numbers, including license plate numbers;
13. Device identifiers and serial numbers;
14. Web Universal Resource Locators (URLs);

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15. Internet Protocol (IP) address numbers;
16. Biometric identifiers, including finger and voice prints;
17. Full face photographic images and any comparable images; and
18. Any other unique identifying number, characteristic, or code, except as permitted for re-identification purposes.

K. **SECURITY INCIDENT:** The attempted or successful unauthorized access, Use, Disclosure, modification, or destruction of confidential information, including, but not limited to, PHI and E-PHI, or interference with the systems operations in an information system, including, but not limited to, information systems containing E-PHI. This definition includes, but is not limited to, lost or stolen transportable media devices (*e.g.*, flash drives, CDs, PDAs, cell phones, and cameras), desktop and laptop computers, photographs, and paper files containing confidential information, including, but not limited to, PHI and E-PHI. Security Incidents shall not include pings and other broadcast attacks on firewalls, port scans, unsuccessful log-on attempts, and denials of service.

L. **UNSECURED PHI:** PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by the Secretary.

M. **USE:** Regarding PHI, the sharing, employment, application, utilization, examination or analysis of such information within an entity that maintains such information.

N. **VIOLATION:** An infraction of HIPAA or a Harris Health privacy or security policy, procedure, safeguard, or law.

O. **WORKFORCE:** The members of the governing body of the Ambulatory Surgical Center (ASC) at LBJ, employees, medical staff, trainees, contractors, volunteers, and vendors. Employees (permanent or temporary) include volunteers, trainees, and other persons whose conduct, in the performance of work for Harris Health, is under the direct control of Harris Health, whether or not they are paid by Harris Health.

II. RISK ASSESSMENT PROCEDURES:

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- A. Upon receiving an allegation of a Breach, including but not limited to a Security Incident, Harris Health's Office of Corporate Compliance (OCC) on behalf of the ASC, will promptly initiate an investigation and conduct a risk assessment.
- B. On behalf of the ASC, Harris Health will presume a reportable Breach has occurred unless Harris Health can demonstrate that there is a low probability that the PHI or E-PHI has been compromised based on a risk assessment of at least the following factors:
 - 1. The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
 - 2. The unauthorized person who Used the PHI or to whom the Disclosure was made;
 - 3. Whether the PHI was actually acquired or viewed; and
 - 4. The extent to which the risk to the PHI has been mitigated.
- C. Upon completion of the risk assessment described in Section II(B) above, Harris Health on behalf of the ASC will do the following:
 - 1. If the ASC or Harris Health determines a reportable Breach of PHI has occurred, the OCC will provide notification as detailed in Section III below to the affected individuals; and, if applicable, to the media and the Secretary.
 - 2. If the ASC or Harris Health determines a reportable Breach has not occurred, the OCC will maintain documentation of the risk assessment performed in accordance with Section II (B) above for six (6) years from the date of its creation or the date when it was last in effect, whichever is later.

III. NOTIFICATION PROCEDURES:

A. General Rule - Notification to Affected Individuals:

Following the discovery of a reportable Breach of Unsecured PHI, on behalf of the ASC, Harris Health shall notify each individual whose Unsecured PHI has been, or is reasonably believed by Harris Health to have been, accessed, acquired, Used, or Disclosed as a result of such reportable Breach.

B. Deadline to Provide Notification to Affected Individuals:

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1. Harris Health will provide the required notification to each individual affected by a reportable Breach without unreasonable delay, but in no case, not later than sixty (60) calendar days after the discovery of the reportable Breach.

Determining Discovery of a Breach:

- i. Harris Health will treat a Breach as discovered as of the first day on which such Breach was known to any Harris Health Workforce member, other than the person who committed the Breach or, by exercising reasonable diligence, would have been known to Harris Health.
- ii. Harris Health will be deemed to have knowledge of a Breach if such Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is a Workforce member or agent of Harris Health.

2. **Exception: Law Enforcement Delay:**

If a LEO states to Harris Health, or a BA of Harris Health, that a notification, notice, or posting of a Breach would impede a criminal investigation or cause damage to national security, Harris Health shall follow the following guidelines regarding the provision of notice to individuals affected by the Breach:

- a. If a statement is in writing from a LEO and the statement specifies the time for which a delay is required, Harris Health will delay the notification, notice, or posting of the Breach for the time period specified by the official; or
- b. If the statement is made orally by the law enforcement official, Harris Health must document the statement, including the identity of the official making the statement. Harris Health may delay the notification, notice, or posting of the Breach no longer than thirty (30) days from the date of the oral statement, unless a written statement as set forth in (i) above is submitted during the thirty (30) day delay.

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C. Content Requirements of Notification to Individuals:

1. The notification to individuals affected by a reportable Breach must include the following information:
 - a. A brief description of the incident that occurred, including the date of the Breach and the date of discovery of the Breach, if known;
 - b. A description of the types of Unsecured PHI that was involved in the Breach (such as full name, Social Security number, date of birth, home address, account number, disability code, or other types of information);
 - c. Any steps the individual should take to protect themselves from potential harm resulting from Breach;
 - d. A brief description of what Harris Health is doing to investigate the Breach, to mitigate harm to the individuals affected by the Breach, and to protect against any further Breaches; and
 - e. Contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, website, or postal address.
2. The notification must be written in plain language.

D. Methods of Notification to Individuals:

1. Written Notice:
 - a. Harris Health must provide written notification to affected individuals by first-class mail to each individual at his or her last known address.

Note: if an individual has agreed to electronic notice and such agreement has not been withdrawn, Harris Health may provide notice via electronic mail.
 - b. If Harris Health knows that an individual who has been affected by the reportable Breach is deceased and Harris Health has the address of the individual's next of kin or Personal Representative, written

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notification of the Breach must be sent by first-class mail to either the individual's next of kin or Personal Representative.

2. Substitute Notice:

a. If Harris Health has insufficient or out-of-date contact information that precludes written to the individual, a substitute form of notice reasonably calculated to reach the individual.

i. Insufficient or Out-of-Date Contact Information for Fewer than ten (10) Individuals:

In the event Harris Health has insufficient or out-of-date contact information for fewer than ten (10) individuals, then substitute notice may be provided by an alternate form of written notice, telephone, or other means.

ii. Insufficient or Out-of-Date Contact Information for Greater than ten (10) Individuals:

In the event Harris Health has insufficient or out-of-date contact information for ten (10) or more individuals, then the substitute notice must:

- a) Be in the form of either (1) a conspicuous posting for a period of ninety (90) days on the home page of Harris Health's website; or (2) must be in the form of a conspicuous notice in major print or broadcast media in geographic areas where the individuals affected by the Breach are likely to reside; and
- b) Include a toll-free number that remains active for at least ninety (90) where an individual can learn whether the individual's or Unsecured PHI may be included in the Breach.

b. Deceased Individuals:

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If Harris Health has insufficient or out-of-date contact information for a deceased individual's next of kin or Personal Representative, Harris Health does not need to provide substitute notice.

3. Emergency Notice:

In any case deemed by Harris Health to require urgency because of possible imminent misuse of Unsecured PHI, Harris Health may provide notification to the affected individuals by telephone or other means, as appropriate, in addition to the written notice described above.

E. Notification to the Media:

1. For a Breach of Unsecured PHI involving more than five hundred (500) residents of a State or jurisdiction, Harris Health shall, following the discovery of the Breach, notify prominent media outlets serving that State or jurisdiction.
2. Notice to the media shall be provided without unreasonable delay and in no case later than sixty (60) calendar days after discovery of a Breach. The notification to the media must meet the same requirements as described above in Section III(C).

F. Notification to the Secretary:

1. Following the discovery of a Breach of Unsecured PHI., Harris Health on behalf of the ASC shall notify the Secretary.
2. For Breaches of Unsecured PHI involving five hundred (500) or more individuals, Harris Health shall, except in the case of a law enforcement delay (described above), provide notification to the affected individuals and to the media as described above, and in the manner specified on the U.S. Department of Health and Human Services (DHHS) website.
3. For Breaches of Unsecured PHI involving less than five hundred (500) individuals, Harris Health shall maintain a log or other documentation of such Breaches on behalf of the ASC and, not later than sixty (60) days after the end of each calendar year, shall provide the notification for the Breaches discovered during the preceding calendar year, in the manner specified on the HHS website.

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IV. BUSINESS ASSOCIATES:

Pursuant to Harris Health’s BAA, BA’s are required to report all Breaches, including but not limited to Security Incidents, to the ASC and Harris Health within the number of days specified in the BAA. Refer to Harris Health policy and procedure 3.11.401 Business Associates for further details regarding Business Associates.

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REFERENCES/BIBLIOGRAPHY:

- 45 Code of Federal Regulations (C.F.R.) §§164.402
- 45 Code of Federal Regulations (C.F.R.) §§164.404
- 45 Code of Federal Regulations (C.F.R.) §§164.406
- 45 Code of Federal Regulations (C.F.R.) §§164.408
- 45 Code of Federal Regulations (C.F.R.) §§164.410
- 45 Code of Federal Regulations (C.F.R.) §§164.412
- Tex. Bus. & Comm. Code § 521.053
- Tex. Bus. & Comm. Code § 521.002
- Harris Health Policy and Procedure 3.11.401 Business Associates

OFFICE OF PRIMARY RESPONSIBILITY:

The Ambulatory Surgical Center (ASC) at LBJ

REVISION HISTORY:

Effective Date	Version # (If Applicable)	Review/ Revision Date (Indicate Reviewed or Revised)	Approved by:
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Appendix A

I. Definitions:

A. PERSONAL IDENTIFYING INFORMATION: Information that alone or in conjunction with other information identifies an individual, including an individual's:

1. Name, Social Security number, date of birth, or government-issued identification number;
2. Mother's maiden name;
3. Unique biometric data, including the individual's fingerprint, voice print, and retina or iris image;
4. Unique electronic identification number, address, or routing code; and
5. Telecommunication access device, as defined by Section 32.51, Penal Code.

B. SENSITIVE PERSONAL INFORMATION: an individual's first name or first initial and last name in combination with any one or more of the following items, if the name and the items are not encrypted: (i) Social Security number; (ii) driver's license number or government-issued identification number; or (iii) account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account; or (B) information that identifies an individual and relates to: (i) the physical or mental health or condition of the individual; (ii) the provision of health care to the individual; or (iii) payment for the provision of health care to the individual. The term "Sensitive Personal Information" does not include publicly available information that is lawfully made available to the public from the federal government or a state or local government.²⁰

C. SYSTEM SECURITY VIOLATION: Unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of sensitive personal information maintained by a person, including data that is encrypted if the person accessing the data has the key required to decrypt the data. Good faith acquisition of Sensitive Personal Information by an employee or agent of Harris Health for the purposes of Harris Health

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is not a System Security Violation unless the employee or agent uses or discloses the Sensitive Personal Information in an unauthorized manner.²¹

II. Notification Requirements to Individuals:

a. Requirement: After discovering that there has been a System Security Violation, Harris Health must notify any individual whose Sensitive Personal Information was, or is reasonably believed to have been acquired by an unauthorized person.

i. Note: If Harris Health is required to notify more than 10,000 patients of a System Security Violation, Harris Health must also notify without unreasonable delay each consumer reporting agency in accordance with the requirements of the Texas Business & Commerce Code §521.053(h).

b. Time Frame to Notify: Notification must be made without unreasonable delay but in no case no later than the 60th day after the date on which Harris Health determines a System Security Violation occurred unless additional time is needed to determine the scope of the violation and restore the reasonable integrity of the data system or if a law enforcement delay is requested.

c. Method of Notification: Harris Health must notify affected individuals in the manner set forth above in the policy in Section III.

III. Notification to the Texas Attorney General:

. Requirement: If Harris Health is required to notify at least 250 individuals as set forth in Section (I) above, Harris Health must also notify the Texas Attorney General of the System Security Violation.

a. Time Frame to Notify: Harris Health must notify the Texas Attorney General as soon as practicable and in no case no later than the 30th day after the date on which Harris Health determined that the System Security Incident occurred.

b. Method of Notification: Harris Health must submit the notification to the Texas Attorney General electronically and using a form located on the Texas Attorney General website and must include:

. A detailed description of the System Security Violation or the use of Sensitive Personal Information acquired as a result of the System Security Violation;

i. The number of residents of the state affected at the time of the notification;

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- ii. The number of affected residents that have been sent a disclosure of the System Security Violation by mail or other direct method of communication at the time of the notification;
- iii. The measures taken by Harris Health regarding the System Security Violation and any measures Harris Health intends to take after the notification; and
- iv. Information regarding whether law enforcement is engaged in investigation the System Security Violation.

¹Tex. Health & Safety Code § 241.151.

²Medical Staff members are not part of Harris Health's workforce as the term "Workforce" is defined under HIPAA, and Harris Health does not directly control members of the Medical Staff. However, Harris Health expects all members of the Medical Staff to follow and abide by Harris Health's policies and procedures.

³45 C.F.R. § 164.402(2).

⁴45 C.F.R. § 164.404(a)(1).

⁵45 C.F.R. § 164.404(b).

⁶45 C.F.R. § 164.404(a)(2).

⁷45 C.F.R. § 164.412.

⁸45 C.F.R. § 164.404(c).

⁹45 C.F.R. § 164.404(d)(1)(i).

¹⁰45 C.F.R. § 164.404(d)(1)(i).

¹¹45 C.F.R. § 164.404(d)(1)(ii).

¹²45 C.F.R. § 164.404(d)(2).

¹³45 C.F.R. § 164.404(d)(2)(i).

¹⁴45 C.F.R. § 164.404(d)(2)(ii).

¹⁵45 C.F.R. § 164.404(d)(2).

¹⁶45 C.F.R. § 164.404(d)(3).

¹⁷45 C.F.R. § 164.408.

¹⁸45 C.F.R. § 164.406.

¹⁹TX B&CC 521.002.

²⁰Tex. Bus. & Comm. Code § 521.002(2).

²¹Tex. Bus. & Comm. Code § 521.053(a).

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TITLE: BUSINESS ASSOCIATES

PURPOSE: To identify Harris Health System’s Business Associates that act on behalf of the Ambulatory Surgical Center (ASC) at LBJ, and to outline the steps necessary to ensure Harris Health System enters into Business Associate Agreements on behalf of the Ambulatory Surgical Center (ASC) at LBJ prior to permitting the Use, Disclosure of, or provision of access to Protected Health Information.

POLICY STATEMENT:

The Ambulatory Surgical Center (ASC) at LBJ will only permit the Use, Disclosure of, or the provision of access to its Protected Health Information (PHI) by a Business Associate (BA) when there is a written Business Associate Agreement (BAA) between Harris Health and the Business Associate.

POLICY ELABORATION:

I. DEFINITIONS:

- A. **BREACH:** The unauthorized acquisition, access, Use, or Disclosure of PHI in a manner not permitted by the HIPAA Privacy Rule and compromises the security or privacy of the protected health information.
- B. **BUSINESS ASSOCIATE (BA):** A person or entity that provides certain functions, activities, or services for, to, or on behalf of a covered entity involving the Use and/or Disclosure of PHI as further defined in the Health Information Portability and Accountability Act (HIPAA) regulations.
- C. **BUSINESS ASSOCIATE AGREEMENT (BAA):** A written contract between the BA and Harris Health outlining the responsibilities of the BA with respect to the protection of protected health information being used or disclosed.
- D. **COVERED ENTITY (CE):** A health plan, a health care clearinghouse, or a health care provider (the ASC or Harris Health) that electronically transmits health information covered by the HIPAA Regulations. The ASC and Harris Health are Covered Entities.

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- E. **DISCLOSURE:** The release, transfer, provision of, access to, or divulging in any manner information outside of the ASC.

- F. **INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION (IIHI):** Information, that is a subset of health information, including demographic information collected from an individual, and:
 - 1. Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
 - 2. Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and
 - a. Identifies the individual; or
 - b. With respect to which there is a reasonable basis to believe the information can be used to identify the individual.

- G. **Privacy Officer:** An individual designated by Harris Health who is responsible for the development and implementation of the privacy-related functions of Harris Health as further defined in the Ambulatory Surgical Center at LBJ Policy 2016, *Privacy Officer, Roles and Responsibilities*

- H. **PROTECTED HEALTH INFORMATION (PHI):** ~~PHI~~ that is created, received, transmitted or maintained by the ASC in any form or medium, that relates to the patient's healthcare condition, provision of healthcare, or payment for the provision of healthcare, as further defined in the HIPAA regulations. PHI includes, but is not limited to, the following identifiers:
 - 1. Name;
 - 2. All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code if, according to the current publicly available data from the Bureau of the Census:

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- a. The geographic unit formed by combining all zip codes with the same three (3) initial digits contains more than twenty thousand (20,000) people; and
 - b. The initial three (3) digits of a zip code for all such geographic units containing twenty thousand (20,000) or fewer people is changed to 000.
3. All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over eighty-nine (89) and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age ninety (90) or older;
 4. Telephone numbers;
 5. Fax numbers;
 6. Electronic mail addresses;
 7. Social Security numbers;
 8. Medical record numbers;
 9. Health plan beneficiary numbers;
 10. Account numbers;
 11. Certificate/license numbers;
 12. Vehicle identifiers and serial numbers, including license plate numbers;
 13. Device identifiers and serial numbers;
 14. Web Universal Resource Locators (URLs);
 15. Internet Protocol (IP) address numbers;
 16. Biometric identifiers, including finger and voice prints;
 17. Full face photographic images and any comparable images; and
 18. Any other unique identifying number, characteristic, or code, except as permitted for re-identification purposes.

- I. **SECURITY INCIDENT** The attempted or successful unauthorized access, use, Disclosure, modification, or destruction of information or interference with system operations in an information system.
- J. **USE:** The sharing, employment, application, utilization, examination, or analysis of PHI.

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- K. **WORKFORCE:** The members of the governing body of the Ambulatory Surgical Center (ASC) at LBJ, employees, medical staff, trainees, contractors, volunteers, and vendors. Employees (permanent or temporary) include volunteers, trainees and other persons whose conduct, in the performance of work for Harris Health, is under the direct control of Harris Health, whether or not they are paid by Harris Health.

II. IDENTIFICATION OF BUSINESS ASSOCIATES:

- A. Prior to permitting the Use, Disclosure of, or access to PHI to a third (3rd) party, whether the third (3rd) party is a person or entity, Harris Health must determine whether the third party qualifies as a BA.

The department wishing to enter into the agreement or contract **must first** contact the Harris County Attorney's Office, which may consult with the Privacy Officer, or designee, to determine whether the third (3rd) party qualifies as a BA.

- B. If the determination is made that the third (3rd) party is a BA, Harris Health on behalf of the ASC **must** enter into a BAA with the third party **prior** to Disclosing PHI or providing access to PHI to the third party.
- C. Disclosing PHI or providing a BA with access to PHI prior to the execution of a BAA **could be** considered a Breach.. Any provision of access to PHI or Disclosure of PHI to a BA prior to the execution of a BAA **must** be reported to the Office of Corporate Compliance immediately. See Harris Health policy and procedure 3.11.700 Breach Risk Assessment and Notification.

III. REQUIREMENTS OF A BUSINESS ASSOCIATE AGREEMENT:

- A. All BAAs entered into by Harris Health on behalf of the ASC must:
1. Establish the permitted and required Uses and Disclosures of PHI by the BA. The BAA may not authorize the BA to Use or further Disclose the PHI in a manner that would violate the requirements of the HIPAA Privacy Rule;
 2. Provide that the BA will:

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- a. Not Use or further Disclose the PHI other than as permitted or required by the BAA or as required by law;
 - b. Use appropriate safeguards and comply, where applicable, with the HIPAA Privacy Rules regarding the protection of electronic PHI;
 - c. Report to the ASC and Harris Health any Use or Disclosure of the PHI not provided for by the BAA of which the BA becomes aware, including Breaches of unsecured PHI;
 - d. Ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of the BA agree to the same restrictions and conditions that apply to the BA with respect to such information;
 - e. Make PHI available in accordance with the HIPAA Privacy Rules regarding the provision of access to PHI;
 - f. Make PHI available for amendment and incorporate any amendments made to PHI;
 - g. Make available information required for Harris Health to provide an accounting of disclosures;
 - h. Make its internal practices, books, and records relating to the Use and Disclosure of PHI received from or created or received by the BA on behalf of the ASC and Harris Health available to the Department of Health and Human Services for purposes of determining Harris Health's compliance with the HIPAA Privacy Rule; and
 - i. At the termination of the BAA, if feasible, return or destroy all PHI received from or created or received by the BA on behalf of the ASC and Harris Health that the BA still maintains in any form, and retain no copies of such PHI, or, if such return or destruction is not feasible, extend the protections of the BAA to that PHI and limit further Uses and Disclosures to those purposes that make the return or destruction of that PHI infeasible.
3. If the BA is to create, receive, maintain, or transmit electronic PHI on Harris Health's behalf, the BAA will appropriately safeguard the information in the following manner:

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The BAA must provide that the BA will:

- a. Comply with the applicable requirements of Subpart C of HIPAA, Security Standards for the Protection of Electronic PHI;
 - b. In accordance with 45 C.F.R § 164.314, § 164.308(b)(2), ensure that any subcontractors that create, receive, maintain, or transmit electronic PHI on behalf of the Business Associate agree to comply with the applicable requirements of Subpart C of HIPAA, Security Standards for the Protection of Electronic PHI, by entering into a contract or other arrangement that complies with 45 C.F.R § 164.314; and
 - c. Report to Harris Health any Security Incident of which it becomes aware, including Breaches of unsecured PHI as required by 45 C.F.R. § 164.410.
4. Authorize termination of the contract by the Covered Entity, if the Covered Entity determines that the BA has violated a material term of the contract.

IV. BREACH OF A BUSINESS ASSOCIATE AGREEMENT:

- A. Harris Health Workforce members and ASC Workforce members must contact Harris Health's Privacy Officer within twenty-four (24) hours if he or she knows, or suspects, a BA has violated HIPAA or a term or obligation of its BAA with Harris Health.
- B. When Harris Health becomes aware that a BA has violated HIPAA or a term or obligation of its BAA, Harris Health may take all appropriate and necessary action

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REFERENCES/BIBLIOGRAPHY:

45 CFR §§ 164.502, 164.504, 164.314, 164.304
 Harris Health System Policy 3.11.700 Breach Risk Assessment and Notification

Harris County Purchasing Manual

Harris Health System Policy and Procedures 3.03 Signature Authority on Contracts

OFFICE OF PRIMARY RESPONSIBILITY:

The Ambulatory Surgical Center (ASC) at LBJ

REVISION HISTORY:

Effective Date	Version# (If Applicable)	Review or Revision Date (Indicate Reviewed or Revised)	Reviewed or Approved by: (If Board of Managers Approved, include Board Motion#)
8/5/16	1.0		The Ambulatory Surgical Center (ASC) at LBJ Governing Body
	2.0	Revised/Approved 03/29/2018	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed/Approved 02/14/2019	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed/Approved 02/13/2020	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
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		Reviewed/Approved 02/17/2022	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed/Approved 02/16/2023	The Ambulatory Surgical Center (ASC) at LBJ Governing Body

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TITLE: INTERPRETATION AND TRANSLATION SERVICES

PURPOSE: To establish guidelines for providing interpretation and translation services to patients of the Ambulatory Surgical Center (ASC) at LBJ that allow patients and their representative or surrogates to communicate and receive information in a manner that meets the patient's needs.

POLICY STATEMENT:

The Ambulatory Surgical Center (ASC) at LBJ is committed to providing patients and their representatives or surrogates who have limited English proficiency or a hearing impairment with qualified interpreters and translators to enable the patients and their representatives or surrogates to communicate with the patient's healthcare team and receive information in a manner that meets their needs.

POLICY ELABORATIONS:

I. DEFINITIONS:

- A. **INTERPRETATION:** The facilitation of oral and sign language communication, either simultaneously or consecutively, between two or more speakers who do not speak or sign the same source language.
- B. **INDIVIDUALS WITH LIMITED ENGLISH PROFICIENCY:** Individuals who do not speak English as their primary language and who have limited ability to read, speak, write or understand English.
- C. **QUALIFIED INTERPRETER:** An interpreter who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary. Qualified Interpreters will be Harris Health System staff members who have met competency requirements of converting information from one spoken language or sign language into another spoken language or sign language through language proficiency assessment and have an interpreter symbol on their name badge.
- D. **WORKFORCE MEMBER:** For the purpose of this policy includes employees, medical staff, trainees, and contractors who are working at a Harris Health facility or represent Harris Health.

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E. **QUALIFIED BILINGUAL WORKFORCE MEMBER:** A Workforce member permitted to speak with patients or their representatives regarding the patient's care in a language other than English. This qualification does not permit the Workforce member to act as a Qualified Interpreter or Qualified Translator. Qualified Bilingual Workforce Members must have the bilingual symbol on the lower right-hand corner of the HHS Employee / Staff badge.

(See Appendix A: Part C – How to become a Qualified Bilingual Member)

F. **TRANSLATION:** The act of changing written communication from one language to another language.

G. **QUALIFIED TRANSLATOR:** Harris Health System staff members who have met competency requirements of converting information from one written language into another written language through language proficiency assessment and have an interpreter symbol on their name badge. All Qualified Translators shall also be Qualified Interpreters.

II. GENERAL PROVISIONS:

A. Patients and their representatives or surrogates will be advised of the availability of Interpretation, and Translation Services in the Patient Rights and Responsibilities document.

The Ambulatory Surgical Center will rely on Harris Health System's ("Harris Health") Interpretation Services department to provide interpretation and translation services to patients of the ASC as set out in the Letter of Agreement between Harris Health System and the Ambulatory Surgical Center (ASC) at LBJ.

B. Harris Health Workforce members who are not Qualified Bilingual Workforce Members must use Qualified Interpreters when speaking with individuals with LEP. To speak directly to an individual with LEP regarding their health care or the healthcare of another in any language other than English, Harris Health Workforce members must be designated as a Qualified Bilingual Workforce Member. Qualified Bilingual Workforce Members may not interpret for other Workforce Members and must use Qualified Interpreters. (See Harris Health System Policy 3.52 Non-Discrimination in Access to Services, Programs, and Facilities).

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- C. Interpretation Services are available 24 hours a day, seven days a week.
- D. The Language Access Services Department will translate or coordinate the Translation of information and materials, including but not limited to, patient education materials approved by the Harris Health Patient Education Department and Forms Committee.
- E. All Qualified Interpreters must demonstrate competency in at least one language other than English and wear a Harris Health – issued badge that bears the International Interpreter symbol and the language qualified to interpret.
- F. Harris Health will maintain Workforce member (oral / written) linguistics competency documentation in the employee's records.

III PROCEDURE:

See Appendix A.

REFERENCES/BIBLIOGRAPHY:

28 C.F.R. § 35.104, Americans with Disabilities Act.

45 C.F.R § 92

Bureau of Labor Statistics, U.S. Department of Labor, Occupational Outlook Handbook, 2014-15 Edition, Interpreters and Translators, on the Internet at: <http://www.bls.gov/ooh/media-and-communication/interpreters-and-translators.htm>

U.S. Department of Health & Human Services Office for Civil Rights at: <http://www.hhs.gov/ocr/civilrights/resources/specialtopics/lep/>

Harris Health System Policy 3.52 Non-Discrimination in Access to Programs, Treatment, and Facilities

OFFICE OF PRIMARY RESPONSIBILITY:

Harris Health System Ambulatory Care Services

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APPENDIX A PROCEDURES

A. Interpretation Services: (Verbal/Spoken or Sign language)

1. When either (1) a patient requests an interpreter; (2) the patient's medical record indicates that the patient's preferred language is not English, or (3) there is any other evidence presented that indicates the patient or his or her representative is an individual with LEP, Workforce members must utilize a Qualified Interpreter. Workforce members must use dual handset/speaker phones, cordless phones, iPad devices or request an in-person interpreter.
2. If a Qualified Interpreter is needed, Harris Health System Workforce members will solicit as follows
3. Interpretation provided or arranged by Harris Health's Language Access Services Department or Harris Health's Interpretation Services vendor must be documented in the patient's electronic medical record when services are rendered.
4. Only Qualified Interpreters and Qualified Translators will interpret or translate on behalf of Individuals with LEP or hearing impairments applying for or receiving services at Harris Health.
5. Qualified Bilingual Workforce members may speak directly to LEP patients in only the language(s) of fluency they are qualified to speak without the use of a Qualified Interpreter.
6. **Qualified bilingual Workforce members may not interpret on behalf of other Workforce members regarding LEP patients' health care.**
7. Individuals with LEP or hearing impairments may request that a friend or family member be present and assist in understanding the information communicated through the Qualified Interpreter or Qualified Translator.
8. If a LEP patient or a patient's representative refuses Interpretation or Translation services, the Patient's care team must ask the patient or the patient's representative at least twice to confirm whether the individual would like to utilize Harris Health Interpretation or Translation services or have any written documents related to the individual's care translated. The patient's care team must document the discussion in

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the patient's electronic medical record when the patient refuses Interpretation or Translation services.

9. Sign Language Interpretation Services. (ASL – American or other Sign Languages).

- a. The ASC will arrange for sign language interpreters through Harris Health and provide access to services for patients and the patient's representatives or surrogate who are deaf, hard of hearing, or speech-impaired and prefer to communicate in this manner.

Sign language interpretation services are available 24 hours a day, seven (7) days a week, via iPad interpretation devices throughout Harris Health. For in-person sign language (ASL or other Sign Languages) interpretation requests, the following must be submitted to Language Access Services via email as soon as it is known that the Sign Language Interpreter will be needed.

Email: Interpretationservices@harrishealth.org

- i. Requested by (Workforce member name and title).
- ii. Name of patient and Medical Record Number (MRN #).
- iii. Department, location, and point of contact's phone number where service is scheduled.
- iv. Date of visit, start time, and anticipated service duration.
- v. Reason for service (i.e., family conference) and/or other applicable information deemed necessary in preparation for the ASL interpreter's assistance
- vi. A confirmation notice will be emailed to the requestor, including the secured on-site Interpreter's information before the scheduled date and time of the patient's visit.

B. Translation Services: (Written in-language communication)

- 1. Requests for Translation services, along with the materials requiring translation, must be sent via e-mail to the Manager of Interpretation Services at Harris Health.
- 2. All submitted written documents, including general and/or patients' PHI (Protected Health Information), will be translated as solicited specifically by the requestor.
- 3. Patient education and marketing materials will be translated within two weeks. Documents containing Protected Health Information, physician instructions,

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and urgent requests by medical staff will be translated within 48 hours from submission.

4. Costs associated with Translation of documents may be charged directly to the ASC.
5. Translated documents will be sent to the ASC for appropriate disposition.

C. Bilingual Qualified Workforce Member Testing: (Ref: Pg. 2 - Policies and Regulations Part 1: D Qualified Bilingual Workforce Member)

1. Workforce members who voluntarily want to become Bilingual Qualified may take the Bilingual Fluency test located online at Harris Health System e-Learning Management System - Saba.
2. Language Access Services will contact Workforce members via e-mail after successfully passing initial online testing to complete the second module with a proctor, as applicable.
3. Workforce members interested in becoming Bilingual Qualified in languages other than Spanish should e-mail Language Access Services at HHSfluencytest@harrishealth.org, indicating the language of interest.
4. For further information regarding Bilingual Fluency testing and all other in-language support, visit:

[Language Access Services \(hchd.local\)](mailto:LanguageAccess@hchd.local)

REFERENCES/BIBLIOGRAPHY:

42 Code of Federal Regulations (C.F.R.) §416.50(a).

OFFICE OF PRIMARY RESPONSIBILITY:

The Ambulatory Surgical Center (ASC) at LBJ

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06/14/2016	1.0	06/14/2016	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
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		Reviewed / Approved	The Ambulatory Surgical Center

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Policy No: ASC-P-2008
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Effective Date: 09-16-2016
Board Motion No: n/a

TITLE: MAKING AND DISCLOSING PHOTOGRAPHIC, VIDEO, ELECTRONIC, DIGITAL, OR AUDIO RECORDINGS OF PATIENTS.

PURPOSE: To specify when Ambulatory Surgical Center (ASC) at LBJ may make a photographic, video, digital, or audio recording of a patient and how and when the Harris Health System may disclose the photographic, video, digital, or audio recording of the patient.

POLICY STATEMENT:

Ambulatory Surgical Center (ASC) at LBJ will make and disclose photographic, video, digital, or audio recordings of its patients in accordance with state and federal privacy laws and regulations, including obtaining an authorization to make and disclose the recording when required by state or federal privacy laws and regulations.

POLICY ELABORATIONS:

I. DEFINITIONS:

- A. **AUTHORIZATION:** A signed written document that allows the use and disclosure of protected health information for purposes other than treatment, payment, or health care operations, or as otherwise required by law.
- B. **DE-IDENTIFIED INFORMATION:** Protected health information (PHI) that does not identify a patient and for which there is no reasonable basis to believe that the information can be used to identify the patient. Please see policy 2005 for guidance on how to de-identifying PHI.
- C. **DESIGNATED RECORD SET:** A group of records maintained by or for Harris Health on behalf of the ASC that is:
 - 1. The medical and billing records about patients;
 - 2. The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
 - 3. Used in whole, or in part, and by or for the ASC to make decisions about patients.

For purposes of this definition, the term "Record" means any item, collection, or grouping of information that includes PHI and is maintained,

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collected, used, or disseminated by or for the facility; the term “Record” includes: (a) patient information originated by another healthcare provider and used by the ASC to make decisions about the patient; and (b) tracings, photographs, videotapes, digital, and other images that may be recorded to document the care of the patient.

- D. **DISCLOSURE:** The release, transfer, provision of, access to, or divulging in any manner protected health information outside of the ASC.
- E. **EMERGENT CIRCUMSTANCES:** When a patient is unconscious or is unable to communicate, and in medical judgment, there appears to be a life-threatening injury or illness, and it is impossible to notify the patient of the ASC’s intent to make a Recording of that patient.
- F. **HEALTHCARE OPERATIONS:** Any of the following activities of the Covered Entity to the extent the activities are related to covered functions:
1. Conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purport of any studies resulting from such activities; patient safety activities (as defined in 42 C.F.R. §3.20); population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;
 2. Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, health plan performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of non-health care professionals, accreditation, certification, licensing, or credentialing activities;
 3. Except as prohibited under 45 C.F.R. §164.502(a)(5)(i), underwriting, enrollment, premium rating, and other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care (including stop-loss insurance and excess of loss insurance), provided that the requirements of 45 C.F.R. §164.514(g) are met, if applicable;

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4. Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;
5. Business planning and development such as conducting cost-management and planning related analyses related to managing and operating the entity, including formulary development and administration, development or improvement of methods of payment or coverage policies; and
6. Business management and general administrative activities of the entity, including, but not limited to:
 - a. Management activities relating to implementation of and compliance with the requirements of this subchapter;
 - b. Customer service, including the provision of data analyses for policy holders, plan sponsors, or other customers, provided that PHI is not disclosed to such policy holder, plan sponsor, or customer.
 - c. The sale, transfer, merger, or consolidation of all or part of the Covered Entity with another Covered Entity, or an entity that following such activity will become a Covered Entity and due diligence related to such activity; and
 - d. Consistent with applicable requirements of 45 C.F.R. §164.514, creating de-identified health information or a limited data set, and fundraising for the benefit of the covered entity.

G. INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION (IIHI): Information that is a subset of health information, including demographic information, collected from an individual, and:

1. Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
2. Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual:
 - a. Identifies the individual; or
 - b. There is a reasonable basis to believe the information can be used to identify the individual.

H. MINIMUM NECESSARY: The minimum necessary PHI required to accomplish the intended purpose of the requested use or Disclosure of PHI when:

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1. A workforce member uses PHI for a specific job function;
2. The ASC discloses PHI to an outside person or entity; or
3. The ASC requests PHI from an outside person or entity.

I. **PAYMENT:** The activities undertaken by:

1. A health plan to obtain premiums or to determine or fulfill its responsibility for coverage and the provision of benefits under a health plan, except as prohibited under 45 C.F.R. §164.402(a)(5)(i); or
2. A Healthcare Provider or health plan to obtain or provide reimbursement for the provision of healthcare; and
3. The activities set forth above, include but are not limited to:
 - a. Determinations of eligibility of coverage (including coordination of benefits or the determination of cost sharing amounts), and adjudication of subrogation of a health benefit claim;
 - b. Risk adjusting amounts due based on enrollee health status and demographic characteristics;
 - c. Billing, claims management, collection activities, obtaining payment under a contract for reinsurance (including stop-loss insurance and excess of loss insurance), and related healthcare data processing;
 - d. Review of healthcare services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;
 - e. Utilization review activities, including precertification and preauthorization of services, concurrent and retrospective review of services; and
 - f. Disclosure to consumer reporting agencies of any of the following PHI relating to collection of premiums or reimbursement:
 - i. Name and address;
 - ii. Date of birth;
 - iii. Social Security number;
 - iv. Payment history;
 - v. Account number; and
 - vi. Name and address of the Healthcare Provider and/or health plan.

- J. **PERSONAL REPRESENTATIVE:** A person with authority under the law to act on behalf of the patient.
- K. **PROTECTED HEALTH INFORMATION (PHI):** Individually Identifiable Health Information that is created, received, transmitted, or maintained by Harris Health in any form or medium that relates to the patient's healthcare condition, provision of healthcare, or payment for the provision of healthcare, as further defined in the (HIPAA) regulations. PHI includes, but is not limited to, the following identifiers:
1. Name;
 2. All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code if, according to the current publicly available data from the Bureau of the Census:
 - a. The geographic unit formed by combining all zip codes with the same three initial digits contains more than (20,000) people; and
 - b. The initial three digits of a zip code for all such geographic units containing (20,000) or fewer people is changed to 000.
 3. All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over eighty-nine (89) and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age ninety (90) or older;
 4. Telephone numbers;
 5. Fax numbers;
 6. Electronic mail addresses;
 7. Social Security numbers;
 8. Medical record numbers;
 9. Health plan beneficiary numbers;
 10. Account numbers;
 11. Certificate/license numbers;
 12. Vehicle identifiers and serial numbers, including license plate numbers;
 13. Device identifiers and serial numbers;
 14. Web Universal Resource Locators (URLs);
 15. Internet Protocol (IP) address numbers;
 16. Biometric identifiers, including finger and voice prints;
 17. Full face photographic images and any comparable images; and

18. Any other unique identifying number, characteristic, or code, except as permitted for re-identification purposes.

- L. **RECORDING:** Photographic, video, electronic, digital, or audio media of the patient, including live feeds; but does not include instances in which the patient is not individually identifiable.
- M. **TREATMENT:** The provision, coordination, or management of healthcare and related services by one or more health care providers, including the coordination or management of healthcare by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for healthcare from one health care provider to another.
- N. **USE:** Regarding PHI, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.
- O. **WORKFORCE:** The members of the governing body of the Ambulatory Surgical Center (ASC) at LBJ, employees, Medical Staff, trainees, contractors, volunteers, and vendors. Employees (permanent or temporary), volunteers, trainees and other persons whose conduct, in the performance of work for Harris Health, is under the direct control of Harris Health, whether or not they are paid by Harris Health.

II. IN GENERAL:

- A. Unless a Recording of a patient is being made for treatment purposes or being used for Healthcare Operations purposes, Workforce members are prohibited from making, Using, or Disclosing a Recording of a patient without obtaining that patient's written Authorization.
- B. The ASC respects the privacy of its patients. To honor the privacy of the ASC's patients, any Recording that is made of a patient will be De-Identified, when possible.

III. MAKING RECORDINGS:

- A. The ASC may make Recordings of patients without first obtaining the patient's Authorization for treatment purposes only. However, if the Recording is not integral to the treatment of a patient, Workforce members are strictly prohibited

- B. Except in Emergent Circumstances and when feasible, the ASC Workforce members must notify the patient of the Workforce member's intent to make a Recording of the patient prior to making the Recording.

IV. USING RECORDINGS:

- A. Treatment:

The ASC may Use Recordings of patients without first obtaining the patient's written Authorization for treatment purposes.

- B. Healthcare Operations:

The ASC may Use Recordings of patients without first obtaining the patient's written Authorization for Healthcare Operations purposes, including internal education purposes.

V. DISCLOSURES OF RECORDINGS TO THIRD OR EXTERNAL PARTIES OR FOR EXTERNAL PURPOSES:

- A. Harris Health must obtain an Authorization from the patient or from the patient's Personal Representative prior to disclosing a Recording to a third party or a party external to Harris Health, unless the Disclosure is for Treatment, Payment or Healthcare Operations.

- B. Harris Health must explain the purpose of the proposed Use and/or Disclosure of the Recording to the patient or the patient's Personal Representative prior to obtaining the Authorization.

- C. External Purposes include, but are not limited to, the following:

1. External education and training;
2. Commercial filming;
3. Television programs or other media;
4. Marketing or publicity; or
5. Law enforcement activities.

- D. When possible, Harris Health must still de-identify a Recording of a patient prior to making and disclosing that Recording for an external purpose or to an external or third party. Please review policy 2005 (*De-Identification of Protected Health Information*) for requirements related to de-identifying PHI.

- E. If the Recording is for external education or training, the Recording will not become a part of the patient's Designated Record Set.
- F. If the media wishes to interview, film, or record a patient, in addition to obtaining an Authorization from the patient or the patient's Personal Representative, a representative from Harris Health's Corporate Communications department must be notified and must accompany the media representative(s).

VI. SPECIAL CONSIDERATIONS:

- A. Documentation of Abuse or Neglect:

Harris Health on behalf of the ASC is not required to obtain an Authorization from a patient or the patient's Personal Representative to make and disclose a Recording of a patient for the purpose of documentation of reportable cases of abuse and neglect, and any such Recording may be submitted to the appropriate investigating agency.

- B. Security:

Harris Health on behalf of the ASC is not required to obtain an Authorization from the patient or the patient's Personal Representative to make or disclose a Recording of a patient for security purposes, such as utilizing cameras to monitor Harris Health's premises. Harris Health's Department of Public Safety will maintain possession of all Recordings pursuant to its retention schedule, and will only disclose Recordings after consultation with Harris Health's Office of Corporate Compliance and the Harris County Attorney's Office.

- C. Patient in Custody:

Harris Health on behalf of the ASC is not required to obtain an Authorization from a patient or the patient's Personal Representative to make and disclose a Recording of a patient if the patient is in custody and the Recording is being made by a law enforcement official.

- D. National Security and Intelligence Activities:

Harris Health on behalf of the ASC is not required to obtain an Authorization from a patient or from the patient's Personal Representative to allow, Use or, Disclose Recordings of a patient to, or at the request of, an authorized federal official for the conduct of lawful intelligence, counter-intelligence, and other national security activities authorized by the National Security Act and its implementing authority.

E. Research:

Recordings of patients taken as part of a research protocol must be approved by Harris Health's Research Office. The Authorization for such Recordings must be incorporate into the patient consent for participation in the research protocol.

F. Publications/Conferences:

Harris Health on behalf of the ASC must obtain the patient's Authorization or an Authorization from the patient's Personal Representative prior to Harris Health using Recordings of the patient, if identifiable as the patient, in publications and presentations at conferences and professional organizations external to Harris Health or in any public forum where they may be viewed by unauthorized individuals.

G. Patients:

A patient may make Recordings of themselves while he or she is receiving treatment at the ASC. However, the agreement of all parties involved in the treatment of the patient must be obtained prior to making the Recording. If a Workforce member discovers that a patient made a Recording or is making a Recording without obtaining agreement of all the parties involved, the Workforce member must request the patient to stop making the Recording (if actively Recording), and request that the patient permanently delete the Recording. If the patient refuses to stop recording or refuses to delete the Recording, please follow the requirements outlined in policy 4013 (*Disruptive Patients and Visitors*).

H. Visitors:

A patient's family and friends may make Recordings of the patient while the patient is receiving treatment at the ASC; however, the agreement of all parties involved in the treatment of the patient must be obtained prior to making the

Recording. In addition, Harris Health must ensure that the Recording does not include other patients or Workforce members who have not agreed to be included in the Recording. If a Workforce member discovers that a visitor made a Recording or is making a Recording without obtaining agreement of all the parties involved, the Workforce member must request the visitor to stop making the Recording (if actively Recording), and request that the visitor permanently delete the Recording. If the visitor refuses to stop recording or refuses to delete the Recording, please follow the requirements outlines in policy 4013 (*Disruptive Patients and Visitors*).

VII. REVOCATION:

A patient's Authorization to make, Use and/or Disclose Recordings may be revoked in writing at any time by the patient or by the patient's Personal Representative. Such written revocation must be sent to Harris Health's Office of Corporate Compliance. The Office of Corporate Compliance will facilitate discontinuing all Disclosures of the Recording(s) of the patient who has revoked his or her Authorization; however, the revocation will not apply to actions taken by Harris Health in reliance on the patient's initial Authorization.

REFERENCES/BIBLIOGRAPHY:

45 Code of Federal Regulations (C.F.R.) §160.103 (Definition of Health Information and Protected Health Information)

45 Code of Federal Regulations (C.F.R.) §164.514 (b)(2).

OFFICE OF PRIMARY RESPONSIBILITY:

The Ambulatory Surgical Center (ASC) at LBJ

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TITLE: MINIMUM NECESSARY STANDARD FOR REQUEST, USE, OR DISCLOSURE OF PROTECTED HEALTH INFORMATION

PURPOSE: To describe the requirements of requesting, using, or disclosing only the minimum necessary protected health information pursuant to the Health Insurance Portability and Accountability Act.

POLICY STATEMENT:

Pursuant to federal and state laws, protected health information must only be requested, used, or disclosed when it is required to accomplish a legitimate job function for legitimate business purposes. Therefore, when requesting, using, or disclosing protected health information, the Ambulatory Surgical Center (ASC) at LBJ workforce shall limit the protected health information requested, used, or disclosed to the minimum necessary required.

POLICY ELABORATIONS:

I. DEFINITIONS:

- A. **BUSINESS ASSOCIATE:** A person or entity that provides certain functions, activities, or services for, to or on behalf of a covered entity involving the use and or disclosure of protected health information as further defined in the Health Insurance Portability and Accountability Act (HIPAA) regulations.
- B. **CHIEF CYBER INFORMATION SECURITY OFFICER (CCISO):** An individual responsible for the management and supervision of the use of security measures to protect data and the conduct of personnel in relation to the protection of data as further defined in Harris Health System Policy 3.11.801 Security Official Roles and Responsibilities.
- C. **COVERED ENTITY:** A health plan, a health care clearinghouse, or a health care provider (the ASC and Harris Health) that electronically transmits health information covered by the HIPAA Regulations. The Ambulatory Surgical Center and Harris Health are Covered Entities.
- D. **DISCLOSURE:** The release, transfer, provision of, access to, or divulging in any manner protected health information outside of the ASC.

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- E. **HEALTHCARE PROVIDER:** A provider (e.g., hospital, physician, advance practice nurse) of care, services, or supplies related to the health of an individual, or any other individual or organization who furnishes, bills, or is paid for health care in the normal course of business.
- F. **INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION (IIHI):** Information that is a subset of health information, including demographic information collected from an individual, and:
1. Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
 2. Relates to the past, present, or future physical or mental health condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and
 - a. That identifies the individual; or
 - b. With respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- G. **LEGALLY AUTHORIZED REPRESENTATIVE (LAR):** An individual with legal standing to represent the interests of another (e.g., parent of a minor patient) or with the authority to act on behalf of another (as by legal power of attorney when applicable, medical power of attorney when the patient is incapacitated, court order, advance directive, or the executor of a will).¹
- H. **MEDICAL STAFF:** All physicians, dentists, podiatrists and oral-maxillofacial surgeons who are appointed to the Medical Staff and who either (i) hold a faculty appointment at Baylor College of Medicine and/or The University of Texas Health Science Center at Houston, (ii) are employed by Harris Health or (iii) are Contractor Practitioners. Medical school faculty appointment status is not required for Medical Staff members employed by Harris Health or Contract Practitioners. See Harris Health Medical Staff Bylaws for further definitions, including definition of Contract Practitioner.
- I. **MINIMUM NECESSARY:** The minimum PHI required to accomplish the intended purpose of the request, Use, or Disclosure of PHI when:
1. A Workforce member Uses PHI for a job specific function;
 2. The ASC Discloses PHI to an outside person or entity; or

¹ Texas Health & Safety Code § 241.151.

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3. The ASC requests PHI from an outside person or entity.

- J. **PERSONAL REPRESENTATIVE:** A person with authority under the law to act on behalf of the patient. For purposes of this policy only, the term Personal Representative also includes a patient's Legally Authorized Representative, defined above.
- K. **PRIVACY OFFICER:** An individual designated by Harris Health on behalf of the ASC who is responsible for the development and implementation of the privacy related functions of Harris Health as further defined in Harris Health Policy and Procedure 3.11.101 Privacy Officer, Roles and Responsibilities.
- L. **PROTECTED HEALTH INFORMATION (PHI):** Individually Identifiable Health Information that is created, received, transmitted or maintained by the ASC in any form or medium that relates to the patient's health care condition, provision of health care, or payment for the provision of health care, as further defined in the HIPAA regulations. PHI includes, but is not limited to, the following identifiers:
1. Name;
 2. All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code if, according to the current publicly available data from the Bureau of the Census:
 - a. The geographic unit formed by combining all zip codes with the same three initial digits contains more than twenty thousand (20,000) people; and
 - b. The initial three digits of a zip code for all such geographic units containing twenty thousand (20,000) or fewer people is changed to 000.
 3. All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over eighty-nine (89) and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age ninety (90) or older;
 4. Telephone numbers;
 5. Fax numbers;
 6. Electronic mail addresses;

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7. Social security numbers;
8. Medical record numbers;
9. Health plan beneficiary numbers;
10. Account numbers;
11. Certificate/license numbers;
12. Vehicle identifiers and serial numbers, including license plate numbers;
13. Device identifiers and serial numbers;
14. Web Universal Resource Locators (URLs);
15. Internet Protocol (IP) address numbers;
16. Biometric identifiers, including finger and voice prints;
17. Full face photographic images and any comparable images; and
18. Any other unique identifying number, characteristic, or code, except as permitted for re-identification purposes.

M. **RECORD CUSTODIAN:** An individual designated by Harris Health to be responsible for the safekeeping, maintenance, and release of PHI.

N. **TREATMENT:** The provision, coordination, or management of healthcare and related services by one or more Healthcare Providers, including the coordination or management of healthcare by a Healthcare Provider with a third party; consultation between Healthcare Providers relating to a patient; or the referral of a patient from one Healthcare Provider to another.

O. **USE:** Regarding PHI, the sharing, employment, application, utilization, examination or analysis of such information within an entity that maintains such information.

P. **WORKFORCE:** The members of the governing body of the Ambulatory Surgical Center (ASC) at LBJ, employees, medical staff, trainees, contractors, volunteers, and vendors. Employees (permanent or temporary) include volunteers, trainees and other persons whose conduct, in the performance of work for Harris Health, is under the direct control of Harris Health, whether or not they are paid by Harris Health.

II. MINIMUM NECESSARY REQUEST, USE, OR DISCLOSURE OF PHI BY WORKFORCE:

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- A. Minimum Necessary access to PHI by the ASC's Workforce is regulated by role-based access that considers:
 - 1. The persons or job classifications in each department who need access to PHI to carry out their duties;
 - 2. Each category or categories of PHI for which access is needed for each job classification; and
 - 3. Any conditions appropriate to such access for each job classification.
- B. Request, Use, and Disclosure of PHI by the ASC's Workforce must be limited to the Minimum Necessary to carry out the Workforce members' job role and functions.
- C. The ASC's Workforce members may access a patient's entire medical record if necessary for treatment of the patient.
- D. The ASC's Workforce members accessing an entire medical record for purposes other than treatment must provide specific justification to the Harris Health Privacy Officer.
- E. The ASC is responsible for ensuring that Workforce members within their department only request, Use or Disclose the Minimum Necessary PHI to carry out his or her job role or function.
- F. Harris Health's Privacy Officer or designee, in collaboration with department directors, will review and monitor PHI access by the ASC and Harris Health's Workforce. The Privacy Officer or designee will modify or update appropriate access to PHI by a Workforce member or a job class of Workforce members due to:
 - 1. Changes in the role or responsibilities of the Workforce member or group of Workforce members;
 - 2. Termination of employment of Workforce member; or
 - 3. Changes in technology or methodology used for limiting access to PHI.

III. MINIMUM NECESSARY DISCLOSURE OF PHI TO OUTSIDE INDIVIDUALS OR ENTITIES:

- A. The ASC and Harris Health may not Disclose an entire medical record to an individual or entity outside of Harris Health unless:

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1. Authorized to do so in writing by the patient or the patient's Personal Representative; or
 2. The requesting individual or entity is requesting the entire medical record for Treatment purposes; or
 3. The requesting individual or entity offers documentation of the specific justification to Harris Health's Privacy Officer, or his or her designee, for Disclosure of the entire medical record.
- B. The Record Custodian is responsible for applying the Minimum Necessary standard to Disclosure of PHI to individuals or entities outside of Harris Health.
- C. Routine Disclosure of PHI to Outside Individuals or Entities:
1. For Disclosures of PHI that the ASC makes on a routine basis to individuals and entities outside of Harris Health, the ASC must implement criteria or protocols that limit the Disclosures of PHI to the Minimum Necessary to achieve the purpose of the Disclosure.
 2. The Record Custodian, in collaboration with the Privacy Officer or designee, shall:

Determine which Disclosures of PHI are considered to be routine and recurrent; Establish criteria or protocols, and set forth the Minimum Necessary PHI for each type of routine and recurrent Disclosure. Consideration should be given in defining:
- D. Non-Routine Disclosures of PHI to Outside Individuals or Entities:
1. For non-routine Disclosures of PHI to individuals or entities outside of the ASC and Harris Health, Harris Health must develop criteria to limit Disclosure of PHI to the Minimum Necessary required and review requests for Disclosure on a case-by-case basis in accordance with such criteria.
 2. The Record Custodian, in collaboration with the Privacy Officer or designee, shall:

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3. The Record Custodian may rely on the judgment of the individual or entity requesting the PHI to be the Minimum Necessary PHI needed if the request for Disclosure is made by:
 - a. Another Covered Entity (See Section IV);
 - b. A public official or agency for a Disclosure permitted without Authorization and if the public official or agency represents that the information requested is the Minimum Necessary for the stated purpose;
 - c. A Harris Health Workforce member or Business Associate who represents that the requested PHI is the Minimum Necessary to provide services on behalf of Harris Health; or
 - d. A researcher with appropriate documentation for research requests.

Note: Harris Health, in its sole discretion, may make its own Minimum Necessary determination for all Disclosures of PHI.

IV. REQUESTS FOR PHI TO AND FROM OTHER COVERED ENTITIES:

A. Requests for Entire Medical Record

When requesting PHI from another Covered Entity, the ASC must limit the request to the Minimum Necessary to accomplish the purpose of the request. The ASC may request an entire medical record from another Covered Entity only if the entire medical record is specifically justified as the PHI reasonably necessary to accomplish the purpose of the request.

B. Routine and Recurrent Request for PHI to Other Covered Entities:

For requests of PHI the ASC makes on a routine and recurrent basis from other Covered Entities, the ASC must implement policies and procedures that limit PHI requested to the Minimum Necessary to achieve the purpose of the request.

C. Non-Routine Requests of PHI from Other Covered Entities:

For non-routine requests of PHI from other Covered Entities, the Record Custodian or his/her designee shall:

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1. Establish criteria or protocols setting forth the Minimum Necessary PHI for each type of non-routine request;
2. Review each request for PHI on a case-by-case basis in accordance with the established criteria and protocols;
3. Approve or reject non-routine requests for PHI;
4. Supervise designated Workforce members who process and document routine and non-routine requests of PHI from and other Covered Entities; and
5. Maintain documentation of non-routine requests for PHI.

V. WHEN MINIMUM NECESSARY STANDARD DOES NOT APPLY:

The Minimum Necessary Standard does not apply in the following situations:

- A. Disclosures to or requests by a health care provider for treatment purposes;
- B. Use or Disclosures to the patient who is the subject of the PHI;
- C. Uses or Disclosures made pursuant to a valid authorization as described in Harris Health Policy and Procedure 3.11.300 Authorization for Use and Disclosure of Protected Health Information.
- D. Disclosures made to the Secretary of the U.S. Department of Health and Human Services when the Disclosure is required pursuant to HIPAA for enforcement purposes;
- E. Uses and Disclosures as otherwise required by HIPAA; and
- F. Uses and Disclosures required by law as described in Harris Health Policy and Procedure 3.11.306 Permitted Use and Disclosure of Protected Health Information without a Patient's Authorization.

VI. SPECIAL CONSIDERATIONS:

- A. Members of the Medical Staff:

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See the Harris Health Medical Staff Bylaws and Rules and Regulations governing access to PHI by members of Harris Health's Medical Staff. Minimum Necessary applies to administrative uses not for Treatment purposes.¹³

B. Visual Communications:

White-boards, bulletin boards, and other visual postings are often used to communicate the location and/or status of patients in treatment areas such as emergency rooms, operating rooms, and labor and delivery units. The Minimum Necessary standard applies to the use of these postings. Department directors in treatment areas, in collaboration with the Privacy Officer or designee, are responsible for determining which reasonable precautions should be taken to avoid inadvertent or unnecessary Disclosures of PHI. These determinations will be documented in departmental policies, procedures and guidelines. Members of the Medical Staff:

C. Monitoring compliance with the Minimum Necessary Standard:

Harris Health's Privacy Officer or designee and Chief Cyber and Information Security Officer are responsible for monitoring compliance with the Minimum Necessary requirements, standards and designations, and for assuring corrective action where indicated. Departmental leadership will monitor their staff's compliance with the Minimum Necessary standards as part of an ongoing review of departmental operations and will take corrective actions when indicated.

D. Standard Electronic Transactions:

The Minimum Necessary standard does not apply to the required and situational required data elements in the standard electronic transactions provided for in HIPAA. However, the Minimum Necessary standard applies to the optional data elements.¹⁴¹⁵

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E. Business Associates:

The Use or Disclosure of PHI by Business Associates shall be consistent with the Minimum Necessary standard.

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REFERENCES/BIBLIOGRAPHY:

45 Code of Federal Regulations (C.F.R.)§164.502, 164.514

U.S. Department of Health & Human Services, Office for Civil Rights, *Doesn't the HIPAA Privacy Rule minimum necessary standard conflict with the HIPAA transaction standards?*, Dec. 19, 2002, available at <https://www.hhs.gov/hipaa/for-professionals/faq/212/does-minimum-necessary-standard-conflict-with-hipaa-transaction-standards/index.html> (last visited June 26, 2020).

Harris Health System Policy and Procedure 3.11.105 Use and Disclosure of Protected Health Information for Purposes Other Than Treatment, Payment and Health Care Operations

Harris Health System Policy and Procedure 3.11.203 Use and Disclosure of Protected Health Information to Persons Involved in the Patient's Care and for Notification and Disaster Relief

Harris Health System Policy and Procedure 3.11.300 Use and Disclosure of Protected Health Information for Purposes Other Than Treatment, Payment and Health Care Operations

Harris Health System Policy and Procedure 3.11.304 Accounting of Disclosures of Protected Health Information

Harris Health Policy System Policy and Procedure 3.11.306 Permitted Use and Disclosure of Protected Health Information without a Patients Authorization

Harris Health System Policy and Procedure 3.11.801 Security Official Roles and Responsibilities

Harris Health System Policy and Procedure Policy 3.05 Research

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OFFICE OF PRIMARY RESPONSIBILITY:

The Ambulatory Surgical Center (ASC) at LBJ

REVIEW/REVISION HISTORY:

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6/14/16	1.0		The Ambulatory Surgical Center (ASC) at LBJ Governing Body
	2.0	Reviewed / Approved 03/29/2018	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/14/2019	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/13/2020	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Revised / Approved 02/25/2021	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/17/2022	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/16/2023	The Ambulatory Surgical Center (ASC) at LBJ Governing Body

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TITLE: REQUESTS FOR RESTRICTING USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION

PURPOSE: To outline the process for receiving, evaluating, and responding to requests for restrictions on Ambulatory Surgical Center (ASC) at LBJ's use and/or disclosure of protected health information.

POLICY STATEMENT:

The Ambulatory Surgical Center (ASC) at LBJ will comply with federal and state privacy laws when responding to requests from patients to restrict the use and disclosure of their protected health information (PHI).

POLICY ELABORATION:

I. DEFINITIONS:

- A. **ACCEPTANCE:** To agree to assume the obligation to abide by the patient's or the patient's personal representative's requested restriction(s) of the use and/or disclosure of the patients protected health information.
- B. **DISCLOSURE:** The release, transfer, provision of, access to, or divulging in any manner protective health information outside of Harris Health.
- C. **HEALTHCARE OPERATIONS:** Any of the following activities of Harris Health acting on behalf of the ASC to the extent that the activities are covered functions of the ASC:
 - 1. Conducting quality assessment and improvement activities, including:
 - Outcomes evaluation and development of clinical guidelines provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities.
 - 2. Patient safety activities, including:
 - a. Efforts to improve patient safety and the quality of health care delivery;
 - b. The collection and analysis of patient safety work product;

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- c. The development and dissemination of information with respect to improving patient safety, such as recommendations, protocols, or information regarding best practices;
 - d. The utilization of patient safety work product for the purposes of encouraging a culture of safety and of providing feedback and assistance to effectively minimize patient risk;
 - e. The maintenance of procedures to preserve confidentiality with respect to patient safety work product;
 - f. The provision of appropriate security measures with respect to patient safety work product;
 - g. The utilization of qualified staff; and
 - h. Activities related to the operation of a patient safety evaluation system and to the provision of feedback to participants in a patient safety evaluation system.
3. Population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives;
4. Reviewing the competence or qualifications of health care professionals, evaluating practitioner performance, health plan performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of non-health care professionals, accreditation, certification, licensing, or credentialing activities;
5. Except as prohibited under 45 C.F.R. §164.502(a)(5)(i), underwriting, enrollment, premium rating, and other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care (including stop-loss insurance and excess of loss insurance), provided that the requirements of 45 C.F.R. §164.514(g) are met, if applicable;
6. Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;
7. Business planning and development, such as conducting cost-management and planning related analyses related to managing and operating Harris Health, including formulary development and administration, development or improvement of methods of payment, or coverage policies; and

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8. Business management and general administrative activities of Harris Health including, but not limited to:
 - a. Management activities relating to the implementation of and compliance with the requirements of the HIPAA Privacy Rule;
 - b. Customer service, including the provision of data analyses for policy holders, plan sponsors, or other customers, provided that PHI is not disclosed to such policy holder, plan sponsor, or customer;
 - c. Resolution of internal grievances;
 - d. The sale, transfer, merger, or consolidation of all or part of Harris Health with another covered entity, or an entity that following such activity will become a covered entity and due diligence related to such activity; and
 - e. Consistent with the applicable requirements of 45 C.F.R. §164.514, creating de-identified health information or a limited data set, and fundraising for the benefit of Harris Health.

D. INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION (IIHI): Information that is a subset of health information, including demographic information collected from an individual, and:

1. Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
2. Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and
 - a. That identifies the individual; or
 - b. With respect to which there is a reasonable basis to believe the information can be used to identify the individual.

E. LEGALLY AUTHORIZED REPRESENTATIVE (LAR): An individual with legal standing to represent the interests of another (*e.g.*, parent of a minor patient) or with the authority to act on behalf of another (as by legal power of attorney when

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applicable, medical power of attorney when the patient is incapacitated, court order, advance directive, or the executor of a will).¹

F. **PAYMENT:** Payment includes:

1. Activities undertaken by:

- a. A health plan to obtain premiums or to determine or fulfill its responsibility for coverage and the provision of benefits under the health plan, excluding genetic information for underwriting purposes; or
- b. A health care provider or health plan to obtain or provide reimbursement for the provision of health care; and

2. The activities set forth above relate to the individual to whom health care is provided and include, but are not limited to:

- a. Determinations of eligibility or coverage (including coordination of benefits or the determination of cost sharing amounts,) and adjudication or subrogation of health benefit claims;
- b. Risk adjusting amounts due based on enrollee health status and demographic characteristics;
- c. Billing, claims management, collection activities, obtaining payment under a contract for reinsurance (including stop-loss insurance and excess of loss insurance), and related health care data processing;
- d. Review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;
- e. Utilization review activities, including precertification and preauthorization of services, concurrent and retrospective review of services; and
- f. Disclosure to consumer reporting agencies of any of the following protected health information relating to collection of premiums or reimbursement:
 - i. Name and address;

¹ Texas Health & Safety Code § 241.151.

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- ii. Date of birth;
 - iii. Social Security number;
 - iv. Payment history;
 - v. Account number; and
 - vi. Name and address of health care provider and/or health plan.
- G. **PERSONAL REPRESENTATIVE:** A person with authority under the law to act on behalf of the patient. For purposes of this policy only, the term Personal Representative also includes a patient's Legally Authorized Representative, defined above.
- H. **PRIVACY OFFICER:** An individual designated by Harris Health and acting on behalf of the ASC who is responsible for the development and implementation of the privacy-related functions of Harris Health as further defined in Harris Health System Policy and Procedure 3.11.101 Privacy Officer, Roles and Responsibilities.
- I. **PROTECTED HEALTH INFORMATION (PHI):** PHI that is created, received, transmitted or maintained by Harris Health in any form or medium that relates to the patient's health care condition, provision of health care, or payment for the provision of health care, as further defined in the HIPAA regulations. PHI includes, but is not limited to, the following identifiers:
- 1. Name;
 - 2. All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code if, according to the current publicly available data from the Bureau of the Census:
 - a. The geographic unit formed by combining all zip codes with the same three initial digits contains more than twenty thousand (20,000) people; and
 - b. The initial three (3) digits of a zip code for all such geographic units containing twenty thousand (20,000) or fewer people is changed to 000.
 - 3. All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over eighty-nine (89) and all elements of dates

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(including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age ninety (90) or older;

4. Telephone numbers;
5. Fax numbers;
6. Electronic mail addresses;
7. Social security numbers;
8. Medical record numbers;
9. Health plan beneficiary numbers;
10. Account numbers;
11. Certificate/license numbers;
12. Vehicle identifiers and serial numbers, including license plate numbers;
13. Device identifiers and serial numbers;
14. Web Universal Resource Locators (URLs);
15. Internet Protocol (IP) address numbers;
16. Biometric identifiers, including finger and voice prints;
17. Full face photographic images and any comparable images; and
18. Any other unique identifying number, characteristic, or code, except as permitted for re-identification purposes.

J. **TREATMENT:** The provision, coordination, or management of health care and related services by one or more health care providers, including coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another.

K. **USE:** Regarding PHI, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

L. **WORKFORCE:** The members of the governing body of the Ambulatory Surgical Center (ASC) at LBJ, employees, medical staff, trainees, contractors, volunteers, and vendors. Employees (permanent or temporary) include, volunteers, trainees, and other persons whose conduct, in the performance of work for Harris Health, is under the direct control of Harris Health, whether or not they are paid by Harris Health.

II. REQUESTS FOR RESTRICTIONS ON USE AND DISCLOSURE OF PHI:

A. A patient, or the patient's Personal Representative, has the right to request that

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Harris Health and the ASC place a restriction on Harris Health's Use or Disclosure of the patient's PHI when the Use or Disclosure pertains to:

1. Treatment, Payment, or Health Care Operations (TPO); unless the Use or Disclosure is required for emergency treatment or
 2. Disclosures to individuals involved in the patient's care or to individuals involved in the Payment for the patient's care;
 3. Disclosures to notify or assist in the notification of a family member, a Personal Representative of the patient, or another person responsible for the care of the patient of the patient's location, general condition, or death.
- B. Except as described in Section III below, Harris Health on behalf of the ASC is not required to agree to a patient's requested restriction.
- C. If Harris Health acting on behalf of the ASC agrees to a patient's requested restriction, Harris Health must abide by the restriction except Harris Health may Use and/or Disclose the restricted PHI:
1. When the patient requires emergency treatment and the restricted PHI is needed to provide such treatment.
 2. To another health care provider in order to provide emergency treatment to the patient.

If the ASC Discloses restricted PHI to another health care provider in accordance with Section C.2 above, the ASC must request that the health care provider to whom the Disclosure was made not further Use or Disclose the restricted PHI.

III. REQUIRED ACCEPTANCE OF REQUEST FOR RESTRICTION:

The ASC must agree to a patient's or a patient's Personal Representative's request for a restriction on the Use or Disclosure of the patient's PHI when:

- A. The patient's or the patient's Personal Representative's requested restriction pertains to Disclosures of PHI to a health plan;
- B. The Disclosure to the health plan is for the purpose of carrying out Payment or Health Care Operations and is not otherwise required by law; and

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- C. The PHI pertains solely to a health care item or service that the patient or another person, excluding the health plan, has paid for in full.

IV. TERMINATION OF RESTRICTIONS ON USE AND DISCLOSURE OF PHI:

The Harris Health's Privacy Officer or his or her designee on behalf of the ASC, may terminate a previously approved restriction on Use and Disclosure of PHI if:

1. The patient or the patient's Personal Representative agrees to or requests the termination in writing;
2. The patient or the patient's Personal Representative verbally agrees to the termination and the agreement is documented; or
3. Except in situations as described in Section III above, Harris Health's Privacy Officer, or his or her designee on behalf of the ASC, informs the patient of the termination, and the termination is only effective with respect to PHI created or received after the ASC has informed the patient.
4. Harris Health's Privacy Officer acting on behalf of the ASC, or his or her designee, must document the communication of the termination in the patient's medical and billing records.

V. PROCESSING REQUESTS FOR RESTRICTIONS ON USE AND DISCLOSURE OF PHI:

- A. The patient's or patient's Personal Representative's request for restrictions may be written or verbal. The request may be documented on Harris Health System Form 282020 – Request for Restriction on Use and Disclosure of Patient Information, (See Attachment A) by either the patient or the patient's Personal Representative.
- B. Requests for restrictions on Use and Disclosure of PHI shall be submitted to the Harris Health's Privacy Officer, or his or her designee, for review and for determination as to whether to the requested restriction will be granted or denied.

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- C. If Harris Health acting on behalf of the ASC denies a request for restriction, Harris Health's Privacy Officer, or his/her designee, shall inform the patient of Harris Health's decision in writing.
- D. Harris Health must maintain the documentation of the restriction for six (6) years from the date the documentation was created or the date on which it was last effective, whichever is later.
- E. Harris Health's Privacy Officer, or his/her designee, shall document any accepted restrictions and terminated restrictions in the patient's electronic medical record.

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REFERENCES/BIBLIOGRAPHY:

45 Code of Federal Regulations (C.F.R.) §164.522.

45 Code of Federal Regulations (C.F.R.) §164.510(j).45 Code of Federal Regulations (C.F.R.) §164.530(j).

Harris Health System Policy and Procedures 6.27 Workplace Violence

Harris Health System Policy and Procedures 3.11.101 Privacy Officer, Roles and Responsibilities

ATTACHMENT(S):

Harris Health System Form 282020 – Request for Restriction on Use and Disclosure of Patient Information

OFFICE OF PRIMARY RESPONSIBILITY:

The Ambulatory Surgical Center (ASC) at LBJ

REVIEW/REVISION HISTORY:

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6/14/16	1.0		The Ambulatory Surgical Center (ASC) at LBJ Governing Body
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		Reviewed/ Approved 02/14/2019	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/13/2020	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/25/2021	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/17/2022	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/16/2023	The Ambulatory Surgical Center (ASC) at LBJ Governing Body

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ATTACHMENT A REQUEST FOR RESTRICTION ON USE AND DISCLOSURE OR PROTECTED HEALTH INFORMATION



Request for Restriction on Use and Disclosure of Protected Health Information

I hereby request the following restrictions for use and disclosure of protected health information (PHI) contained in medical records or billing records maintained by Harris Health System (Harris Health).

Restriction Request:

If Harris Health accepts your request, we will comply with your request unless the information is needed to provide you with emergency treatment. If we can no longer comply with the request, we will notify you in writing of the termination of the agreed to restriction. If you would like to pay in full for health care items or services and to restrict disclosure of PHI for such items or services to your health plan, please ask Harris Health Registration staff for further guidance (see Form 283576).

Signature _____ Date _____

Printed Name _____

Relationship if not Patient _____

Patient or Personal Representative's
Address _____

FOR HARRIS HEALTH SYSTEM USE ONLY:

Immediately fax this form to Harris Health's Privacy Officer at 713-566-6543 for approval or denial.

The above request has been **accepted/denied** (circle one).

Your request for restrictions has been denied for the following reason/s:

[Signature of Privacy Officer or Designee] _____ [Date] _____

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TITLE: PERMITTED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION WITHOUT A PATIENT'S AUTHORIZATION

PURPOSE: To provide guidelines for the use and disclosure of protected health information without an Authorization.

POLICY STATEMENT:

The Ambulatory Surgical Center (ASC) at LBJ will only use or disclose a patient's protected health information without an Authorization in strict accordance with state and federal laws and regulations.

POLICY ELABORATIONS:

I. DEFINITIONS:

- A. **AUTHORIZATION:** A signed written document that allows Use and Disclosure of Protected Health Information (PHI) for purposes other than Treatment, Payment, or Healthcare Operations, or as otherwise required by law.
- B. **DE-IDENTIFIED INFORMATION:** Health information for which there is no reasonable basis to believe that the information can be used to identify a patient and does not contain any of the following direct identifiers:
1. Names;
 2. All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code and their equivalent geocodes, except for the initial three digits of a zip code if, according to current publicly available data from the Bureau of the Census:
 - a. The geographic unit formed by combining all zip codes with the same three initial digits contains more than twenty thousand (20,000) people; and
 - b. The initial three (3) digits of a zip code for all such geographic units containing twenty thousand (20,000) or fewer people is changed to 000.

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3. All elements of dates (except year) for dates directed related to an individual, including birth date, admission date, discharge date, date of death; and all ages over eighty-nine (89) and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age ninety (90) or older;
 4. Telephone numbers;
 5. Fax numbers;
 6. Electronic mail addresses;
 7. Social Security numbers;
 8. Medical record numbers;
 9. Health plan beneficiary numbers;
 10. Account numbers;
 11. Certificate/license numbers;
 12. Vehicle identifiers and serial numbers, including license plate numbers;
 13. Device identifiers and serial numbers;
 14. Web Universal Resource Locators (URLs);
 15. Internet Protocol (IP) address numbers;
 16. Biometric identifiers, including finger and voice prints;
 17. Full face photographic images and any comparable images; and
 18. Any other unique identifying number, characteristic, or code, except as permitted for re-identification purposes.
- C. **DISCLOSURE:** The release, transfer, provision of, access to, or divulging in any manner protected health information outside of the ASC.
- D. **INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION (IIHI):** Information that is a subset of health information, including demographic information collected from the individual, and:
1. Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
 2. Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual;
 - a. Identifies the individual; or
 - b. There is a reasonable basis to believe the information can be used to identify the individual.

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- E. **LAW ENFORCEMENT OFFICIAL:** An officer or employee of any agency or authority of the United States, as a state, territory, a political subdivision of a state or territory, or an Indian tribe, who is empowered by law to:
1. Investigate or conduct an official inquiry into a potential violation of law; or
 2. Prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.
- F. **LEGALLY AUTHORIZED REPRESENTATIVE (LAR):** An individual with legal standing to represent the interests of another (e.g., parent of a minor patient) or with the authority to act on behalf of another (as by legal power of attorney when applicable, medical power of attorney when the patient is incapacitated, court order, advance directive, or the executor of a will).¹
- G.. **MINIMUM NECESSARY:** The minimum protected health information required to accomplish the intended purpose of the request, use, and Disclosure of protected health information when:
1. A workforce member uses protected health information for a job specific function;
 2. The ASC discloses protected health information to an outside person or entity; or
 3. The ASC requests protected health information from an outside person or entity.
- H. **PERSONAL REPRESENTATIVE:** A person with authority under the law to act on behalf of the patient. For purposes of this policy only, the term Personal Representative also includes a patient's Legally Authorized Representative, defined above.
- I. **PROTECTED HEALTH INFORMATION (PHI):** Individually Identifiable Health Information that is created, received, transmitted or maintained by Harris Health System on behalf of the ASC in any form or medium that relates to the patient's health care condition, provision of health care, or payment for the provision of health care, as further defined in the Health Insurance Portability and

¹ Texas Health & Safety Code § 241.151.

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Accountability Act (HIPAA) regulations. PHI includes, but is not limited to, the following identifiers:

1. Name;
2. All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code if, according to the current publicly available data from the Bureau of the Census:
 - a. The geographic unit formed by combining all zip codes with the same three (3) initial digits contains more than twenty thousand (20,000) people; and
 - b. The initial three digits of a zip code for all such geographic units containing twenty thousand (20,000) or fewer people is changed to 000.
3. All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over eighty-nine (89) and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age ninety (90) or older;
4. Telephone numbers;
5. Fax numbers;
6. Electronic mail addresses;
7. Social security numbers;
8. Medical record numbers;
9. Health plan beneficiary numbers;
10. Account numbers;
11. Certificate/license numbers;
12. Vehicle identifiers and serial numbers, including license plate numbers;
13. Device identifiers and serial numbers;
14. Web Universal Resource Locators (URLs);
15. Internet Protocol (IP) address numbers;
16. Biometric identifiers, including finger and voice prints;
17. Full face photographic images and comparable images; and
18. Any other unique identifying number, characteristic, or code, except as

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permitted for re-identification purposes.

- J. **PUBLIC HEALTH AUTHORITY:** An agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate.
- K. **TREATMENT:** The provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to payment; or the referral of a patient for health care from one health care provider to another.
- L. **USE:** Regarding PHI, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.
- M. **WORKFORCE:** The members of the governing body of the Ambulatory Surgical Center (ASC) at LBJ, employees, Medical Staff, trainees, contractors, volunteers, and vendors. Employees (permanent or temporary) include volunteers, trainees and other persons whose conduct, in the performance of work for Harris Health, is under the direct control of Harris Health, whether or not they are paid by Harris Health.²

II. USES AND DISCLOSURES OF PHI AS REQUIRED BY LAW:

A. In General:

1. If a Use or Disclosure of PHI is required by law, the ASC must Use or Disclose the PHI so long as the Use or Disclosure complies with the law and is limited to the relevant requirements of the law.
2. The Minimum Necessary Standard, described in Harris Health's Minimum Necessary Standard for the Use and Disclosure of PHI policy, does not apply to Uses or Disclosures of PHI that are required by law.

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B. Disclosures relating to Elderly or Disabled Victims of Abuse, Neglect, Exploitation, or Domestic Violence:

1. The ASC must immediately report to the Texas Health and Human Services Commission and the Texas Department of Family and Protective Services after Harris Health first reasonably believes that the elderly or disabled individual is a victim of abuse, neglect, exploitation, or domestic violence.³ Please see Harris Health System Policy and Procedures 3.67 Mandatory Reporting Requirements and Notification Commitment for more information related to reporting suspected abuse, neglect, exploitation, or domestic violence of Elderly or disabled individuals.

2. If the ASC makes or intends to make a Disclosure as described above, the ASC must promptly inform the patient of the Disclosure, unless:
 - a. The ASC, in the exercise of professional judgment, believes that informing the patient would place the patient at risk of serious harm; or
 - b. The ASC would be informing a Personal Representative of the patient and the ASC reasonably believes that the Personal Representative is responsible for the abuse, neglect, or other injury, and the ASC determines, in the exercise of professional judgment, that informing the Personal Representative would not be in the patient's best interests.

C. Disclosures about Child Abuse, Neglect, or Indecency with a Child:

Harris Health must report to the Texas Health and Human Services Commission not later than the 48th hour after Harris Health first suspects that the child is a victim of abuse, neglect, or is a victim under section 21.11 of the Texas Penal Code. Please see Harris Health System Policy and Procedures 3.67 Mandatory

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Reporting Requirements and Notification Commitment for more information related to reporting suspected child abuse, neglect, or indecency with a child.

D. Disclosures for Judicial and Administrative Proceedings:

The ASC may Disclose PHI in the course of a judicial or administrative proceeding as follows:

1. Court Order or Administrative Tribunal Order:

Upon receipt of a court or administrative tribunal order, the ASC may Disclose PHI expressly authorized in the court or administrative tribunal order.

2. Subpoena, Discovery Request or other Lawful Process without Accompanying Court Order or Order of Administrative Tribunal:

Upon receipt of a subpoena, discovery request, or other lawful process without an accompanying court order or order of an administrative tribunal, the ASC may Disclose the PHI requested in the subpoena, discovery request, or other lawful process only if it receives the required satisfactory assurances (See Attachment A) from the party seeking the PHI.

III. DISCLOSURES OF PHI FOR LAW ENFORCEMENT PURPOSES:

A. Required by Law:

The ASC may Disclose PHI as required by law, including laws that require the reporting of certain types of wounds or other physical injuries, except for laws requiring the reporting of child abuse or neglect or adult abuse, neglect, or domestic violence.

B. Court Order or Court-Ordered Warrant:

The ASC may Disclose PHI pursuant to a court order or a court-ordered warrant, provided that the ASC only discloses the PHI required by the court order or court-ordered warrant.

C. Subpoena or Summons Issued by a Judicial Officer:

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The ASC may Disclose PHI pursuant to a subpoena or summons issued by a judicial officer **for law enforcement purposes** provided that the ASC only discloses the PHI required by the subpoena or summons issued by the judicial officer.

D. Grand Jury Subpoena:

The ASC may Disclose PHI pursuant to a grand jury subpoena provided that the ASC only discloses the PHI required by the grand jury subpoena.

E. Administrative Request (including Administrative Subpoena or Summons) or a Civil or Authorized Investigative Demand:

The ASC may disclose PHI for law enforcement purposes in response to an administrative request, including an administrative subpoena or summons, or a civil or authorized investigative demand, provided that only discloses the PHI required by the request or demand and provided that:

- a. The information sought is relevant and material to a legitimate law enforcement inquiry;
- b. The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and
- c. De-identified information could not reasonably be used.

Note: The ASC may Disclose PHI to law enforcement with a valid written Authorization or may allow law enforcement officials to speak with a patient if the patient agrees and if it is not disruptive to the delivery of patient care.

F. Disclosures of Limited Information for Identification and Location Purposes:

1. The ASC may Disclose PHI to a law enforcement official in response to an official's request for PHI for the purpose of identifying or locating a

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suspect, fugitive, material witness, or missing person, provided that the ASC only Discloses the following PHI:

- a. Name and address;
 - b. Date and place of birth;
 - c. Social Security number;
 - d. ABO blood type and rh factor;
 - e. Type of injury;
 - f. Date and time of treatment;
 - g. Date and time of death, if applicable; and
 - h. A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.
2. The ASC may not Disclose any PHI related to a person's deoxyribonucleic acid (DNA) or DNA analysis, dental records, typing, or samples or analysis of body fluids or tissue to a law enforcement official for purposes of identifying or locating a suspect, fugitive, material witness, or missing person.

G. Victims of Crime:

The ASC may Disclose a patient's PHI to a law enforcement official in response to an official's request for the PHI when the patient is or is suspected to be a victim of crime, excluding a victim of child abuse or neglect or adult abuse, neglect or domestic violence, if:

1. The victim of crime or suspected victim of crime agrees to the Disclosure; or
2. If the ASC is not able to obtain the victim or suspected victim's agreement because of he or she is incapacitated or because of another emergency circumstances, the ASC may Disclose the PHI if:
 - a. The law enforcement represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred, and such information is not intended to be used against the victim

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- b. The law enforcement official represents that an immediate law enforcement activity that depends on the Disclosure would be materially and adversely affected by waiting until the victim or suspected victim is able to agree to the Disclosure; and
- c. The Disclosure is in the best interest of the victim or suspected victim as determined by the ASC in the exercise of professional judgment.

H. Decedents:

The ASC may Disclose PHI about a patient who has died to a Law Enforcement Official for the purpose of alerting the Law Enforcement Official of the patient's death if the ASC suspects that the patient's death resulted from criminal conduct.

I. Crime on Premises:

The ASC may Disclose PHI to a Law Enforcement Official when the ASC believes, in good faith, that the PHI constitutes evidence of criminal conduct that occurred on the ASC's premises.

J. Reporting Crime in Emergencies:

While providing emergency health care in response to a medical emergency, other than an emergency on the premises, may disclose PHI to a Law Enforcement Official if such Disclosure appears necessary to alert the Law Enforcement Official to:

1. The commission and nature of a crime;
2. The location of such crime or of the victims of such crime; and
3. The identity, location, and description of the perpetrator of the crime.

If Harris Health believes that the medical emergency is the result of abuse, neglect, or domestic violence, this section does not apply and the above section II(B) and II(C) apply.

IV. USE AND DISCLOSURE OF PHI FOR PUBLIC HEALTH ACTIVITIES:

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- A. The ASC may Disclose PHI to a Public Health Authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury or disability, including but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions.
- B. The ASC may Disclose PHI to a person subject to the jurisdiction of the Food and Drug Administration (FDA) with respect to an FDA-regulated product or activity for which that person has responsibility, for the purpose of activities related to the quality, safety, or effectiveness of such FDA-regulated product or activity. Such purposes include:
1. To collect or report adverse events (or similar activities with respect to food and dietary supplements), product defects and problems (including problems with the use or labeling of a product), or biological product deviations;
 2. To track FDA-regulated products;
 3. To enable product recalls, repairs, or replacement, or look back (included locating and notifying individuals who have received products that have been recalled, withdrawn, or the subject of look back); or
 4. To conduct post marketing surveillance (e.g., pacemakers, orthotics, etc.).
- C. The ASC may Disclose PHI to a person who may have been exposed to or is at risk of spreading or contacting a communicable disease or condition, if the ASC or the Public Health Authority is authorized by law to notify such person as necessary in the conduct of a public health intervention or investigation.
- D. The ASC may Disclose PHI to the patient's employer if:
1. At the employer's request, the ASC provides health care services to the patient to conduct an evaluation relating to medical surveillance of the workplace or to evaluate the patient for a work-related illness or injury;
 2. The PHI Disclosed is limited to the findings of a workplace-related medical surveillance or a work-related illness or injury;
 3. The employer needs such information to comply with its obligations under federal or state laws requiring the employer to record illness or injuries or to carry out responsibilities for workplace medical surveillance; and
 4. The ASC provides written notice to the patient that the PHI relating to

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medical surveillance of the workplace or work-related illness or injury is being Disclosed to the employer by:

- a. Giving a copy of the notice to the patient at the time the health care services are provided; or
 - b. Posting a notice in a prominent location where the health care services are provided, if the health care services are provided on the employer's work site.
- E. The ASC may Disclose PHI to a school about a patient, who is a student or a prospective student of the school, if:
1. The PHI that is Disclosed is limited to proof of immunization(s);
 2. The school is required by state or other law to have such proof of immunization(s) prior to admitting the patient as a student; and
 3. The ASC obtains and documents the agreement to the Disclosure from either:
 - a. A parent, guardian, or other person acting in loco parentis of the patient, if the patient is an un-emancipated minor; or
 - b. The patient, if the patient is an adult or an emancipated minor.

V. DISCLOSURE OF PHI FOR HEALTH OVERSIGHT ACTIVITIES:

- A. The ASC may Disclose PHI to a health oversight agency for health oversight activities authorized by law, including audits, investigations, inspections, licensure, disciplinary actions, legal proceedings, or other activities necessary for the appropriate oversight of:
1. The health care system;
 2. Government benefit programs for which health information is relevant to beneficiary eligibility; or
 3. Entities subject to government regulatory programs or civil rights laws for which health information is necessary for determining compliance.
- B. For the purpose of the disclosures permitted by paragraph (A) above, a health oversight activity does not include an investigation or other activity in which the patient is the subject of the investigation or activity and such investigation or other activity does not arise out of and is not directly related to:

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1. The receipt of health care;
2. A claim for public benefits related to health (*unless* it is conducted in conjunction with a health oversight activity or investigation, in which case a Disclosure is permitted); or
3. Qualification for, or receipt of, public benefits or services, when the patient's health is integral to the claim for public benefits or services.

VI. USE AND DISCLOSURE OF PHI ABOUT DECEDENTS:

A. Coroners and Medical Examiners:

The ASC may Disclose PHI to a coroner or medical examiner for the purpose of:

1. Identifying a deceased patient;
2. Determining a cause of death; or
3. Performing other duties as authorized by law.

B. Funeral Directors:

The ASC may Disclose PHI to funeral directors, consistent with applicable law and that as is necessary for a funeral director to carry out his or her duties with respect to the decedent. If required for funeral directors to carry out his or her duties, the ASC may disclose PHI prior to and in reasonable anticipation of the patient's death.

C. Individuals Involved in Decedent's Health Care or Payment for Health Care:

The ASC may Disclose to a decedent's family member, other relative, close personal friend, or any other person identified by the decedent who were involved in the decedent's health care or payment for health care prior to death, PHI relevant to such person's involvement, unless doing so is inconsistent with any prior expressed preference of the decedent that is known to the ASC.

VII. USE AND DISCLOSURE OF PHI FOR CADAVERIC ORGAN, EYE, OR TISSUE DONATION:

The ASC may Use or Disclose PHI to organ procurement or other entities engaged in the procurement, banking, or transplantation of cadaveric organs, eyes; or tissues in order to facilitate organ, eye, and tissue donation and transplantation.

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VIII. USE AND DISCLOSURE OF PHI FOR RESEARCH:

The ASC may Use and Disclose PHI for research purposes without obtaining a patient's Authorization, in accordance with the procedures described in Harris Health Policy and Procedure 3.05, Research.

IX. USES AND DISCLOSURES TO AVERT A SERIOUS THREAT TO HEALTH OR SAFETY:

A. The ASC may Use or Disclose PHI if the ASC believes in good faith that the Use or 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; or

B. The ASC may Use or Disclose PHI if the ASC believes in good faith that the Use or Disclosure is necessary for law enforcement authorities to identify or apprehend an individual when:

1. A statement is made by an individual admitting participation in a violent crime that the ASC reasonably believes may have caused serious physical harm to the victim; or

Exception: the ASC may not Use or Disclose PHI based on a statement from an individual admitting participation in a violent crime when the information/statement is learned/made:

- a. In the course of counseling, therapy, or treatment to affect the propensity to commit the criminal conduct that is the basis for the Disclosure; or
- b. Through a request by the individual to initiate or to be referred for treatment, counseling, or therapy described above.

Note: A Disclosure of PHI made pursuant to an individual's statement will only contain the statement and the following PHI:

- i. Name and address;
- ii. Date and place of birth;
- iii. Social Security number;

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- iv. ABO blood type and rh factor;
- v. Type of injury;
- vi. Date and time of treatment;
- vii. Date and time of death, if applicable;
- viii. A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.

- 2. It appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody.

X. USE AND DISCLOSURE OF PHI FOR SPECIALIZED GOVERNMENT FUNCTIONS:

A. Disclosures for Military and Veteran Activities:

1. Armed Forces Personnel:

The ASC may Use or Disclose PHI of patients who are Armed Forces personnel for activities deemed necessary by appropriate military command authorities to assure the proper execution of the military mission, if the appropriate military authority has published by notice in FEDERAL REGISTER the following information:

- a. Appropriate military command authorities; and
- b. Purposes for which the PHI may be Used or Disclosed.

2. Foreign Military Personnel:

The ASC may Use and Disclose PHI of patients who are foreign military personnel to their appropriate foreign military authority for the same purposes for which Uses and Disclosures are permitted for Armed Forces personnel under the notice published in the FEDERAL REGISTER.

B. Disclosures for National Security and Intelligence Activities:

The ASC may Disclose PHI to authorized federal officials for the conduct of lawful intelligence, counter-intelligence, and other national security activities

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authorized by the National Security Act and its implementing authority.

C. Disclosures for Protective Services for the President and Others:

The ASC may Disclose PHI to authorized federal officials for:

1. The provision of protective services to the President or other persons authorized by law to receive such services; or
2. The conduct of investigations related to threats against the President; a former President or their immediate family members; the Vice President; a former Vice President or their immediate family members; a major candidate for the Presidential or Vice Presidential Office or their immediate family members; or a person protected by the United States Secret Service.

D. Disclosure to Correctional Institution:

1. The ASC may disclose to a correctional institution or a law enforcement official having custody of a patient the PHI of the patient, who is also an inmate, if the correctional institution or law enforcement official represents that the PHI is necessary for:

- a. The provision of health care to the patient;
- b. The health and safety of the patient or other inmates;
- c. The health and safety of the officers, employees of, or others at the correctional institution;

The health and safety of such individuals and officers or other persons responsible for the transporting of inmates or their transfer from one institution, facility, or setting to another.

- d. Law enforcement on the premises of the correctional institution; or
- e. The administration and maintenance of safety, security, and good order of the correctional institution.

2. An individual is not considered to be “detained” if he or she is on parole, probation, supervised release, or is otherwise no longer in lawful custody.

XI. DISCLOSURE FOR WORKER’S COMPENSATION:

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The ASC may Disclose PHI as authorized and to the extent necessary to comply with laws related to worker's compensation or similar programs, established by law to provide benefits for work-related injuries or illnesses without regard to fault.

XII. RETENTION OF REQUESTS AND TRACKING OF DISCLOSURES OF PHI:

Disclosures of PHI will be documented in the patient's medical record and tracked to enable the ASC to respond to patient's requests for an Accounting of Disclosures.

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REFERENCES/BIBLIOGRAPHY:

45 C.F.R. §§ 164.512, 164.502

Texas Human Resources Code §§ 48.002, 48.051

Texas Health & Safety Code § 81.103

Policy 3.67, *Mandatory Reporting Requirements and Notification Commitment* (page 15)

OFFICE OF PRIMARY RESPONSIBILITY:

The Ambulatory Surgical Center (ASC) at LBJ

REVIEW/REVISION HISTORY:

Effective Date	Version # (If Applicable)	Review/ Revision Date (Indicate Reviewed or Revised)	Approved by:
6/14/16	1.0		The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Revised / Approved 03/29/2018	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/14/2019	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/13/2020	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
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		Reviewed / Approved 02/17/2022	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/16/2023	The Ambulatory Surgical Center (ASC) at LBJ Governing Body

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ATTACHMENT A
REQUIREMENTS FOR SATISFACTORY ASSURANCES

Required Satisfactory Assurances Required Upon Receipt of a Subpoena or Discovery Request or Other Lawful Process Without a Court Order or Order of Administrative Tribunal:

- a. The ASC may disclose PHI upon receipt of a subpoena, discovery request, or other lawful process only if the ASC receives one of the items listed below in paragraphs (i) through (iii).
 - i. The party seeking PHI completes Harris Health Form No. 282081 (see Attachment B); or
 - ii. The party seeking the PHI provides a written statement and accompanying documentation showing that:
 - 1) The party requesting the PHI has made a good faith attempt to provide written notice to the individual who is the subject of the PHI;
 - 2) The notice included sufficient information about the litigation or proceeding in which the PHI is requested to permit the individual who is the subject of the PHI to raise an objection to the court or administrative tribunal;
 - 3) The time for the individual who is the subject of the PHI to raise an objection to the court or administrative tribunal has passed; and
 - a) No objections were filed; or
 - b) All objections filed by the individual who is the subject of the PHI have been resolved and the disclosures being sought are consistent with the resolution; or
 - iii. The party seeking the PHI provides a written statement and accompanying documentation showing that:
 - 1) The parties to the dispute giving rise to the request for PHI have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute; or
 - 2) The party seeking the PHI has requested a qualified protective order

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from such court or administrative tribunal.

- b. If satisfactory assurances described above in Section a cannot be obtained by the ASC, then the ASC must contact the Harris County Attorney's Office prior to releasing PHI pursuant to the subpoena, discovery request, or other lawful process without an accompanying court order or order of an administrative tribunal.

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ATTACHMENT B PROTECTED HEALTH INFORMATION (PHI):



SATISFACTORY ASSURANCES FORM

INSTRUCTIONS: Please complete this form to request the disclosure of Protected Health Information (PHI) pursuant to a civil subpoena that is not accompanied by a court order. *Please note your request may be denied if you submit an incomplete form and/or provide insufficient supporting documentation.*

Cause Number and Style of Suit: _____

PATIENT'S INFORMATION:

Name: _____

Address: _____

Date of Birth: _____ Social Security Number: _____

Harris Health System Medical Record Number (if known): _____

I hereby certify, as the issuer of the subpoena requesting Protected Health Information relating to the identified patient above, that I have met the following requirements under 45 CFR § 164.512(e), and I provided Harris Health with documentation demonstrating the following:

1. I have made a good faith effort to provide written notice to the above identified patient (or that patient's attorney); and
2. The notice included sufficient information about the litigation or proceeding in which the Protected Health Information is requested to permit the individual to raise an objection in court or administrative tribunal.

Further, I attest that the time for the patient to raise objections to the court or administrative tribunal has elapsed and either: (1) no objections were filed, or (2) all objections filed by the patient have been resolved by the court or administrative tribunal, and the disclosures sought by this subpoena are consistent with such resolution.

OR (circle #3 or #4 only if applicable).

3. The parties to the dispute giving rise to the request for information have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute; or
4. The party seeking the PHI has requested a qualified protective order from such court or administrative tribunal.

I also hereby certify that the PHI requested is related to a judicial proceeding in which the patient is a party (See TEX. HEALTH & SAFETY CODE § 241.153(20)).

Name of individual who issued the subpoena: _____

Signature: _____

Date: _____ State Bar Number (if applicable): _____

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TITLE: PRIVACY & SECURITY EDUCATION

PURPOSE: To delineate the Ambulatory Surgical Center (ASC) at LBJ's responsibilities for educating its workforce members regarding federal and state privacy and security laws and the Ambulatory Surgical Center (ASC) at LBJ's privacy and security policies.

POLICY STATEMENT:

The Ambulatory Surgical Center (ASC) at LBJ will ensure that its workforce receives general education and specialized training, as indicated, regarding Federal and state privacy and security laws and the ASC's privacy and security policies and procedures. Each workforce member will participate in training as required by job classification or role.

POLICY ELABORATIONS:

I. DEFINITIONS:

- A. **CHIEF CYBER AND INFORMATION SECURITY OFFICER (CcISO):** An individual designated by Harris Health System who is responsible for the management and supervision of the use of security measures to protect data and the conduct of workforce members in relation to the protection of data.
- B. **COVERED ENTITY (CE):** A health plan, health clearinghouse, or healthcare provider (the ASC) that electronically transmits health information covered by the HIPAA regulations. The ASC is a Covered Entity.
- C. **INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION (IIHI):** Information that is a subset of health information, including demographic information collected from an individual, and:
 - 1. Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
 - 2. Relates to the past, present, or future physical or mental health condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and
 - a) That identifies the individual; or

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b) With respect to which there is a reasonable basis to believe the information can be used to identify the individual.

D. **PRIVACY OFFICER:** An individual designated by Harris Health System who is responsible for the development and implementation of the privacy-related functions of the ASC.

E. **PROTECTED HEALTH INFORMATION:** IIHI that is created, received, transmitted, or maintained by the ASC in any form or medium that relates to the patient's healthcare condition, provision of healthcare, or payment for the provision of healthcare, as further defined in the HIPAA regulations. PHI includes, but is not limited to, the following identifiers:

1. Name;
2. All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code if, according to the currently publicly available data from the Bureau of the Census:
 - a) The geographic unit formed by combining all zip codes with the same three initial digits contains more than twenty thousand (20,000) people; and
 - b) The initial three (3) digits of a zip code for all such geographic units containing twenty thousand (20,000) or fewer people are changed to 000.
3. All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over eighty-nine (89) and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age ninety (90) or older;
4. Telephone numbers;
5. Fax numbers;
6. Electronic mail addresses;
7. Social Security numbers;
8. Medical record numbers;
9. Health plan beneficiary numbers;
10. Account numbers;

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11. Certificate/license numbers;
12. Vehicle identifiers and serial numbers, including license plate numbers;
13. Device identifiers and serial numbers;
14. Web Universal Resource Locators (URLs);
15. Internet Protocol (IP) address numbers;
16. Biometric identifiers, including finger and voiceprints;
17. Full face photographic images and any comparable images; and
18. Any other unique identifying number, characteristic, or code, except as permitted for re-identification purposes.

- F. **WORKFORCE:** The members of the governing body of the Ambulatory Surgical Center (ASC) at LBJ, employees, medical staff, trainees, contractors, volunteers, and vendors.

II. GENERAL PRIVACY AND SECURITY TRAINING PROGRAM:

- A. Pursuant to the Letter of Agreement between Harris Health System (“Harris Health”) and the ASC, Harris Health will provide privacy and security training programs to ASC Workforce members. .
- B. The LRC will conduct general privacy and security training programs for all new ASC Workforce members during Harris Health’s general orientation.
- C. The general privacy and security training will include all topics required by HIPAA and required by Texas privacy laws.

III. SPECIALIZED PRIVACY TRAINING PROGRAMS:

The Privacy Officer or his or her designee and Chief Information Security Officer or his or her designee will coordinate specialized privacy training for Workforce members who have regular access to PHI and whose job responsibilities include activities necessary to ensure the ASC’s compliance with its privacy and security policies and procedures.

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IV. UPDATING PRIVACY AND SECURITY TRAINING CONTENT:

- A. The LRC, the Privacy Officer or designee, and Chief Information Security Officer or designee will assure that the content of the privacy and security training programs is updated as appropriate to reflect any material changes in the privacy and security policies and procedures.
- B. Privacy and security training programs will be conducted as appropriate for Workforce members whose job functions are affected by a material change in the privacy and security policies and procedures within a reasonable time after such change becomes effective.

V. DOCUMENTATION OF PRIVACY AND SECURITY TRAINING:

- A. The LRC will document the privacy and security training programs conducted for ASC Workforce members.
- B. The ASC will retain for six (6) years from the date the document was created, all privacy and security training related documentation, including:
 - 1. Privacy and security training session attendance lists; and
 - 2. All written material used for privacy and security training.

VI. RESPONSIBILITIES FOR PRIVACY TRAINING:

- A. The Privacy Officer and Chief Information Security Official will ensure that the ASC conducts general and specialized privacy and security training programs for ASC Workforce members as required under this policy.
- B. The Privacy Officer or his or her designee and Chief Information Security Official or his or her designee will coordinate specialized privacy and security training.
- C. The ASC Administrator and Medical Director will assist the Privacy Officer and Chief Information Security Official to ensure that all ASC Workforce members attend general privacy and security training programs and that designated Workforce members attend specialized privacy and security and training programs

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related to their particular roles in implementing the ASC's privacy and security policies, procedures, and guidelines.

- D. The LRC will ensure that general privacy and security training programs are incorporated into new Workforce member's orientation.

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REFERENCES/BIBLIOGRAPHY:

42 Code of Federal Regulations (C.F.R.) §416.50(g).

45 Code of Federal Regulations (C.F.R.) §164.530.

OFFICE OF PRIMARY RESPONSIBILITY:

The Ambulatory Surgical Center (ASC) at LBJ

REVIEW/REVISION HISTORY:

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06/14/2016	1.0	06/14/2016	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 03/29/2018	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/14/2019	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/13/2020	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/25/2021	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/17/2022	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/16/2023	The Ambulatory Surgical Center (ASC) at LBJ Governing Body

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TITLE: SANCTIONS FOR FAILURE TO COMPLY WITH PRIVACY AND INFORMATION SECURITY POLICIES

PURPOSE: To describe how the Ambulatory Surgical Center (ASC) at LBJ investigates violations of its privacy and information security policies and state and federal privacy laws and regulations and to set forth the resulting sanctions.

POLICY STATEMENT:

The Ambulatory Surgical Center (ASC) at LBJ is committed to ensuring that all Harris Health Workforce members comply with all state and federal laws and regulations protecting patient privacy, including but not limited to, the Health Insurance Portability and Accountability Act of 1996 (HIPAA). As a result, all allegations of violations of any state or federal privacy law or regulation and all allegations of violations of any Harris Health privacy or information security policy will be thoroughly investigated and workforce members will be sanctioned as appropriate.

The Office of Corporate Compliance (OCC) will use Just and Accountable standards (as outlined in Harris Health System Policy and Procedures 3466 Just and Accountable Culture) when recommending corrective action for HIPAA violations. However, the OCC will only deviate from the attached Sanction Matrix ("Attachment A") when the OCC determines that following the guidelines in Attachment A are not appropriate

POLICY ELABORATIONS:

I. DEFINITIONS:

- A. **BREACH:** The unauthorized acquisition, access, use, or disclosure of protected health information in a manner not permitted by the HIPAA Privacy Rule and compromises the security or privacy of the protected health information.
- B. **CHIEF CYBER INFORMATION SECURITY OFFICER (CISO):** An individual responsible for the management and supervision of the use of security measures to protect data and the conduct of personnel in relation to the protection of data as further defined in Harris Health policy and procedure 3.11.801 Security Official Roles and Responsibilities.
- C. **CONFIDENTIAL INFORMATION:** Information that has been deemed or designated confidential by law (*i.e.*, constitutional, statutory, regulatory, or by

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judicial decision).

- D. **GOOD FAITH:** Any action taken with honest intent and free from coercion or intimidation that does not take unfair advantage of another person. Actions of Good Faith are aligned with standards of decency and honesty or lawfulness of purpose.
- E. **INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION (IIHI):** Information that is a subset of health information, including demographic information collected from an individual, and:
1. Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
 2. Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and:
 - a. That identifies the individual; or
 - b. With respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- F. **PRIVACY OFFICER:** An individual designated by Harris Health to be responsible for the development and implementation of the privacy-related functions of Harris Health as further defined in the Harris Health policy and procedure 3.11.101 Privacy Officer, Roles, and Responsibilities.
- G. **PROTECTED HEALTH INFORMATION (PHI):** IIHI that is created, received, transmitted, or maintained by the ASC in any form or medium that relates to the patient's healthcare condition, provision of healthcare, or payment for the provision of healthcare as further defined in the HIPAA regulations. PHI includes, but is not limited to, the following identifiers:
1. Name;
 2. All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code, and the equivalent geocodes, except for the initial three digits of a zip code if, according to the current publicly available data from the Bureau of the Census:

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- a. The geographic unit formed by combining all zip codes with the same three initial digits contains more than twenty thousand (20,000) people; and
 - b. The initial three (3) digits of a zip code for all such geographic units containing twenty thousand (20,000) or fewer people is changed to 000.
3. All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over eighty-nine (89) and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age ninety (90) or older;
 4. Telephone numbers;
 5. Fax numbers;
 6. Electronic mail addresses;
 7. Social Security numbers;
 8. Medical record numbers;
 9. Health plan beneficiary numbers;
 10. Account numbers;
 11. Certificate/license numbers;
 12. Vehicle identifiers and serial numbers, including license plate numbers;
 13. Device identifiers and serial numbers;
 14. Web Universal Resource Locators (URLs);
 15. Internet Protocol (IP) address numbers;
 16. Biometric identifiers, including finger and voice prints;
 17. Full face photographic images and any comparable images; and
 18. Any other unique identifying number, characteristic, or code, except as permitted for re-identification purposes.
- H. **RETALIATION:** For purposes of this policy only, Retaliation means any adverse action taken against a workforce member because the workforce member has reported a violation of HIPAA or a Harris Health privacy or security policy, procedure, or safeguard or because a Workforce member has cooperated in an investigation of a violation of HIPAA or Harris Health privacy or security policy, procedure, or safeguard.
- I. **VIOLATION:** A deviation from the requirements set forth in HIPAA or an infraction of a Harris Health privacy or security policy, procedure, safeguard, or law.

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- J. **WORKFORCE:** The members of the governing body of the Ambulatory Surgical Center (ASC) at LBJ, employees, medical staff, trainees, contractors, volunteers, and vendors.

II. PRIVACY AND SECURITY VIOLATIONS:

A. Reporting Violations:

1. Absent circumstances beyond the Workforce member's control, Workforce members must report not less than twenty-four (24) hours after discovery the following to his or her immediate supervisor or to Corporate Compliance:
2. Failure of a Workforce member to report a known Violation of Harris Health privacy or information security policy or state and federal privacy laws or regulations or a known Breach of PHI, may result in sanctions being imposed against the Workforce member who failed to report.

B. Investigating Violations:

1. All reports of Breaches of PHI or Violations of Harris Health's privacy or information security policies will be investigated by the Privacy Officer, or his or her designee, and/or the CISO, or his or her designee.
2. Each investigation will be commensurate with the severity of the allegation, which may include, but not be limited to, interviewing Workforce members and reviewing documentation.

C. Sanctions:

1. Pursuant to HIPAA, Harris Health must sanction Workforce members for any Violation of a Harris Health privacy and/or information security policy and for any Breach of PHI.
2. To impose sanctions consistently, a Sanctions Matrix is attached hereto as Exhibit A. This matrix sets forth the minimum sanctions that must be imposed on Workforce members for Violations Harris Health's privacy or information security policies or for a Breach of PHI. Harsher sanctions than those listed in the matrix, including termination, may be assessed for any Violation of a Harris Health privacy or information security policy or

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- for any Breach of PHI, depending on the severity.
3. Sanctions for Violations are cumulative as outlined in Attachment A.
 4. The OCC will determine the appropriate corrective action in collaboration with the responsible employee's management, according to the guidelines in Attachment A. If an agreement between the OCC and the responsible employee's management cannot be reached on the appropriate corrective action, OCC leadership will review the concern for final resolution.

D. Non-Retaliation:

1. Harris Health strictly prohibits Retaliation of any kind against Workforce members who, in Good Faith, report a Violation of Harris Health's privacy or information security policies or a Breach of PHI or who assist in the investigation of any report of a Violation of a Harris Health privacy or security policy or a Breach of PHI.
2. Any Workforce member who feels that he or she has been subjected to Retaliation in violation of this policy should report that belief to the Office of Corporate Compliance.
3. Any Workforce member who engages in Retaliation will be subject to disciplinary action, up to and including termination.

III. PRIVACY SANCTIONS LOG:

- A. The Privacy Officer, or his or her designee, will maintain a log of sanctions imposed against Workforce members for Violations of Harris Health's privacy or information security policies or for Breaches of PHI.
- B. Documentation in the log will include the following:
 1. Name of the Workforce member(s) involved in the Violation or Breach;
 2. Description of the Breach or Violation, including a description of what happened, the types of information involved, steps taken to investigate the Violation or Breach, steps taken to mitigate the harm to affected individuals, and steps taken to protect against further similar Violations or Breaches;
 3. Location of the Breach or Violation;
 4. Date and time of the Breach or Violation and date and time of when the Breach or Violation was discovered; and
 5. Disciplinary action taken against the Workforce member(s) involved in

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the Violation or Breach.

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ATTACHMENT A MINIMUM Sanctions for Privacy/Security Violations and/or Breaches

This Sanctions Matrix sets forth the MINIMUM disciplinary actions to be imposed for violations or breaches of patient confidentiality, patient privacy, HIPAA or other federal or state privacy or security related regulations, or Harris Health System (“Harris Health”) privacy and/or security policies. Harsher sanctions, including termination, may be assessed for any violation or breach on a case-by-case basis. At any level, individuals may also be subject to civil and/or criminal penalties. Violations will be reported to the appropriate licensing Board(s), federal and state government and other third-parties when prudent or required.

Level of Violation	Description/Examples	<u>Minimum</u> Disciplinary Action	
Level I	<p>Unintentional violation caused by carelessness or lack of knowledge</p> <ul style="list-style-type: none"> • Misdirected faxes & e-mails • Failing to log off or secure a computer with PHI displayed • Leaving a copy of PHI in a non-secure area • Carelessly discussing PHI in an open or crowded area, such as a cafeteria or elevator 	<p>Individuals subject to direct disciplinary action by Harris Health (i.e. Harris Health employees – including employed physicians, volunteers and students of Harris Health-sponsored programs, such as Harris Health’s School of X-Ray Technology)</p> <p>First Offense - Documented verbal counseling or written reprimand, depending on the seriousness of the violation and the potential risk to the patient(s) involved***; repeat Privacy training</p> <p>Second Offense – Written reprimand; repeat Privacy training</p> <p>Third Offense – Three (3) day suspension without pay; repeat Privacy training</p> <p>Fourth Offense – Termination</p> <p>***Factors considered in determining the seriousness of the violation and potential risk to the patient(s) involved include, but are not limited to: the type of information</p>	<p>Individuals <u>not</u> subject to direct disciplinary action by Harris Health</p> <p>(i.e. Medical Staff members, residents, fellows, students subject to Affiliation Agreements with Harris Health, Allied Health Professionals, Advanced Practice Professionals, Vendors, etc.)</p> <p>Any offense - The Privacy Officer or other designated individual (“Privacy Official”) of the institution with direct disciplinary control of the individual will be notified.</p> <p>The Privacy Official must notify Harris Health of the disciplinary/corrective action taken.</p> <p>Harris Health, either through its Medical Staff Bylaws or otherwise, may initiate termination of privileges or ask that the individual no longer participate in any program at any Harris Health facility if an agreement regarding appropriate disciplinary/corrective action can not be reached or if the Privacy Official fails to contact Harris Health regarding the violation.</p>

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		involved (e.g. HIV, financial information, etc.); the number of patients affected; and whether the PHI was disclosed to a person or organization not affiliated with Harris Health or covered by HIPAA	
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ATTACHMENT A Continued

MINIMUM Sanctions for Privacy/Security Violations and/or Breaches

This Sanctions Matrix sets forth the MINIMUM disciplinary actions to be imposed for violations or breaches of patient confidentiality, patient privacy, HIPAA or other federal or state privacy or security related regulations, or Harris Health privacy and/or security policies. Harsher sanctions, including termination, may be assessed for any violation or breach on a case-by-case basis. At any level, individuals may also be subject to civil and/or criminal penalties. Violations will be reported to the appropriate licensing Board(s), federal and state government and other third-parties when prudent or required.

Level of Violation	Description/Examples	<u>Minimum</u> Disciplinary Action	
Level II	<p>Deliberate unauthorized use, disclosure or access of PHI <u>not</u> with malice or for personal gain</p> <ul style="list-style-type: none"> Using, disclosing or accessing PHI without a legitimate need to know, which includes doing so due to curiosity or concern for a patient who is a family member, friend, neighbor, co-worker, famous, infamous, a public figure, etc. Using, disclosing or accessing more PHI than is required to perform your job duties. 	<p>Individuals subject to direct disciplinary action by Harris Health (i.e. Harris Health employees – including employed physicians, volunteers and students of Harris Health-sponsored programs, such as Harris Health’s School of X-Ray Technology)</p> <p>First Offense – Written reprimand or three (3) day suspension without pay, depending on the seriousness of the violation and the potential risk to the patient(s) involved***; repeat Privacy training</p> <p>Second Offense – Three (3) day suspension without pay and repeat Privacy training or termination, depending on the seriousness of the violation and the potential risk to the patient(s) involved</p> <p>Third Offense – Termination</p>	<p>Individuals <u>not</u> subject to direct disciplinary action by Harris Health (i.e. Medical Staff members, residents, fellows, students subject to Affiliation Agreements with Harris Health, Allied Health Professionals, Advanced Practice Professionals, Vendors, etc.)</p> <p>Any offense - The Privacy Officer or other designated individual (“Privacy Official”) of the institution with direct disciplinary control of the individual will be notified.</p> <p>The Privacy Official must notify Harris Health of the disciplinary/corrective action taken.</p> <p>Harris Health, either through its Medical Staff Bylaws or otherwise, may initiate termination of privileges or ask that the individual no longer participate in any program at any Harris Health facility if an agreement regarding appropriate disciplinary/corrective action can not be reached or if the Privacy Official fails to contact Harris Health regarding the violation.</p>

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		<p>***Factors considered in determining the seriousness of the violation and potential risk to the patient(s) involved include, but are not limited to: the type of information involved (e.g. HIV, financial information, etc.); the number of patients affected; and whether the PHI was disclosed to a person or organization not affiliated with Harris Health or covered by HIPAA</p>	
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ATTACHMENT A Continued Sanctions for Privacy/Security Violations and/or Breaches

This Sanctions Matrix sets forth the MINIMUM disciplinary actions to be imposed for violations or breaches of patient confidentiality, patient privacy, HIPAA or other federal or state privacy or security related regulations, or Harris Health privacy and/or security policies. Harsher sanctions, including termination, may be assessed for any violation or breach on a case-by-case basis. At any level, individuals may also be subject to civil and/or criminal penalties. Violations will be reported to the appropriate licensing Board(s), federal and state government and other third-parties when prudent or required.

Level of Violation	Description/Examples	<u>Minimum</u> Disciplinary Action	
Level III	<p>Deliberate unauthorized use, disclosure or access of PHI for malice or personal gain</p> <ul style="list-style-type: none"> • Using, Disclosing, or Accessing PHI for personal gain • Selling PHI • Tampering with or destroying PHI for personal gain 	<p>Individuals subject to direct disciplinary action by Harris Health</p> <p>(i.e. Harris Health employees – including employed physicians, volunteers and students of Harris Health-sponsored programs, such as Harris Health’s School of X-Ray Technology)</p> <p>Any offense - Termination</p>	<p>Individuals <u>not</u> subject to direct disciplinary action by Harris Health</p> <p>(i.e. Medical Staff members, residents, fellows, students subject to Affiliation Agreements with Harris Health, Allied Health Professionals, Advanced Practice Professionals, Vendors, etc.)</p> <p>Any offense - The Privacy Officer or other designated individual (“Privacy Official”) of the institution with direct disciplinary control of the individual will be notified.</p> <p>The Privacy Official must notify Harris Health of the disciplinary/corrective action taken.</p> <p>Harris Health, either through its Medical Staff Bylaws or otherwise, may initiate termination of privileges or ask that the individual no longer participate in any program at any Harris Health facility if an agreement regarding appropriate disciplinary/corrective action can not be reached or if the Privacy Official fails to contact Harris Health regarding the violation.</p>

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REFERENCES/BIBLIOGRAPHY:

Harris Health System Policy and Procedure 3.11.101 Privacy Officer, Roles, and Responsibilities

Harris Health System Policy and Procedure 3.11.801 Security Official Roles and Responsibilities

45 Code of Federal Regulations (C.F.R.) §164.530(e) (1)

42 Code of Federal Regulations (C.F.R.) §416.50(g).

OFFICE OF PRIMARY RESPONSIBILITY:

The Ambulatory Surgical Center (ASC) at LBJ

REVIEW/REVISION HISTORY:

Effective Date	Version# (If Applicable)	Review or Revision Date (Indicate Reviewed or Revised)	Approved by:
6/14/16	1.0		The Ambulatory Surgical Center (ASC) at LBJ Governing Body
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		Reviewed / Approved 02/14/2019	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/13/2020	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Revised / Approved 02/25/2021	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/17/2022	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/16/2023	The Ambulatory Surgical Center (ASC) at LBJ Governing Body

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POLICY AND REGULATIONS MANUAL

TITLE: USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION TO PERSONS INVOLVED IN THE PATIENT'S CARE AND FOR DISASTER RELIEF PURPOSES

PURPOSE: To provide guidance for the Use and Disclosure of Protected Health Information to persons involved in the patient's care or Payment and for disaster relief purposes.

POLICY STATEMENT:

the Ambulatory Surgical Center (ASC) at LBJ may disclose a patient's Protected Health Information (PHI): to persons involved in a patient's care; to persons involved in the payment for the patient's care; for the purposes of locating persons involved in a patient's care or to notify family members or others involved in a patient's care of the patient's location, general condition, or death; and for disaster relief purposes.

POLICY ELABORATIONS:

I. DEFINITIONS:

~~A. **AUTHORIZATION:** A signed written document that allows use and Disclosure of PHI for purposes other than treatment, payment, or health care operations, or as otherwise required by law.~~

~~C.A. **DISCLOSURE:** The release, transfer, provision of, access to, or divulging in any manner PHI outside of the ASC.~~

~~D.B. **INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION (IIHI):** Information that is a subset of health information, including demographic information collected from an individual, and:~~

1. Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
2. Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and
 - a. That identifies the individual; or

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- b. With respect to which there is a reasonable basis to believe the information can be used to identify the individual.

E.C. MINIMUM NECESSARY: The minimum PHI required to accomplish the intended purpose of the request, Use, or Disclosure of PHI when:

- 1. A workforce member uses PHI for a job specific function;
- 2. The ASC discloses PHI to an outside person or entity; or
- 3. The ASC requests PHI from an outside person or entity.

F.D. PAYMENT:

- 1. The activities undertaken by:
 - a. Except as prohibited under §45 C.F. R. §164.502(a)(5)(i), a health plan to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the health plan; or
 - b. A health care provider or health plan to obtain or provide reimbursement for the provision of health care.
- 2. The activities in paragraph (1) of this definition relate to the individual to whom health care is provided and include, but are not limited to:
 - a. Determination of eligibility or coverage (including coordination of benefits or the determination of cost sharing amounts), and adjudication or subrogation of health benefit claims;
 - b. Risk adjusting amounts due based on enrollee health status and demographic characteristics;
 - c. Billing, claims management, collection activities, obtaining payment under a contract for reinsurance (including stop-loss insurance and excess of loss insurance), and related health care data processing;
 - d. Review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;
 - e. Utilization review activities, including precertification and preauthorization of services, concurrent and retrospective review of services; and

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- f. Disclosure to consumer reporting agencies any of the following protected health information relating to collection of premiums or reimbursement:
- i. Name and address;
 - ii. Date of birth;
 - iii. Social Security number;
 - iv. Payment history;
 - v. Account number; and
 - vi. Name and address of the health care provider and/or health plan.

~~G. **PERSONAL REPRESENTATIVE:** A person with authority under the law to act on behalf of the patient.~~

H.E. **PROTECTED HEALTH INFORMATION (PHI):** Individually Identifiable Health Information that is created, received, transmitted or maintained by Harris Health on behalf of the ASC in any form or medium, that relates to the patient's healthcare condition, provision of healthcare, or payment for the provision of healthcare, as further defined in the (HIPAA) regulations. PHI includes, but is not limited to, the following identifiers:

1. Name;
2. All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code if, according to the current publicly available data from the Bureau of the Census:
 - a. The geographic unit formed by combining all zip codes with the same three initial digits contains more than twenty thousand (20,000) people; and
 - b. The initial three digits of a zip code for all such geographic units containing (20,000) or fewer people is changed to 000.
3. All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over eighty-nine (89) and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age ninety (90) or older;

4. Telephone numbers;
5. Fax numbers;
6. Electronic mail addresses;
7. Social security numbers;
8. Medical record numbers;
9. Health plan beneficiary numbers;
10. Account numbers;
11. Certificate/license numbers;
12. Vehicle identifiers and serial numbers, including license plate numbers;
13. Device identifiers and serial numbers;
14. Web Universal Resource Locators (URLs);
15. Internet Protocol (IP) address numbers;
16. Biometric identifiers, including finger and voice prints;
17. Full face photographic images and any comparable images; and
18. Any other unique identifying number, characteristic, or code, except as permitted for re-identification purposes.

~~J.F.~~ **G. USE:** Regarding PHI, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

~~K.G.~~ **H. WORKFORCE:** The members of the governing body of the Ambulatory Surgical Center (ASC) at LBJ, employees, medical staff, trainees, contractors, volunteers, and vendors.

II. USES AND DISCLOSURES RELATED TO INDIVIDUALS INVOLVED IN A PATIENT'S CARE AND INDIVIDUALS INVOLVED IN THE PAYMENT FOR A PATIENT'S CARE

~~A.~~ Patient has capacity and is present:

~~A.~~ If the patient is present and has capacity, Workforce members may disclose only the patient's PHI that is directly relevant to the care of the patient, or only the PHI that is directly relevant to the person's involvement in the payment of the patient's health care to family members, friends, or any other individual identified by the patient if:

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- a. The patient agrees;
- b. The patient does not object after being given an opportunity to object; or
- c. The Workforce member reasonably infers from using his or her professional judgment that the patient does not object.

~~A.B.~~ Patient is incapacitated, not present, or an emergency exists:

1. If the patient is, not present, or the opportunity to agree or object to the Use or Disclosure cannot practicably be provided because of the patient's incapacity or an emergency circumstance, exist, Workforce members may Professional judgment determine whether the Disclosure is in the best interests of the patient-and, if so, Disclose only the PHI that is directly relevant to the person's involvement in the patient's care, or Disclose only the PHI that is directly relevant to the person's involvement in the Payment of the patient's care. .

~~B.C.~~ ~~C.~~ Patient is deceased:

1. If the patient is deceased, Workforce members may Disclose the patient's PHI to the patient's family member, friend, or other individual identified by the patient that was directly involved in the patient's care-or directly involved in the Payment related to the patient's health care.
2. Workforce members may only disclose that PHI that is directly relevant to the family member's, friend's, or other identified person's involvement in the patient's care,.
3. or disclose only the PHI that is directly relevant to the involvement in the Payment of the patient's care, unless doing so is inconsistent with the patient's prior expressed preference and that preference is known to the ASC.

III. USES AND DISCLOSURES FOR NOTIFICATION PURPOSES:

A. Patient has capacity and is present:

if a patient is present and has capacity, Workforce members may Disclose the patient PHI to notify or to assist in the notification of a patient's family member,

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friend, or other individual responsible for the care of the patient of the patient's general condition, location, or death if:

1. The patient agrees;
2. The patient does not object after having been given an opportunity to object; or
3. The Workforce member reasonably infers from using his or her professional judgment that the patient does not object.

If the patient is, not present, or the opportunity to agree or object to the use or Disclosure cannot practicably be provided because of the patient's incapacity or an emergency circumstance, Workforce members may and disclose a patient's PHI in order to notify or to assist in the notification of a patient's family member, a patient's friend, or other individual responsible for the care of the patient of the patient's general condition, location or death, if:

IV. DISCLOSURE OF PHI FOR DISASTER RELIEF PURPOSES:

- A. The ASC and Workforce members may Use PHI or Disclose PHI to a public or private entity, authorized by law or its by its charter to assist in disaster relief efforts for the purpose of coordinating with the entity to notify or assist in notifying a patient's family member, friend, or other individual responsible for the care of the patient, of the patient's location, general condition, or death.
- B. Workforce members must comply with the requirements of section III above.
- C. Workforce members may only permitted to disclose the Minimum Necessary amount of PHI.

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REFERENCES/BIBLIOGRAPHY:

Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (codified at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164), as amended

45 Code of Federal Regulations (C.F.R.) §164.510

Harris Health System Policy and Procedures 3.11.300 Authorization for Use and Disclosure of Protected Health Information for Purposes Other Than Treatment, Payment, and Health Care Operations.

OFFICE OF PRIMARY RESPONSIBILITY:

The Ambulatory Surgical Center (ASC) at LBJ

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		Reviewed / Approved 02/13/2020	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
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		Reviewed / Approved 02/16/2023	The Ambulatory Surgical Center (ASC) at LBJ Governing Body

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TITLE: INFORMATION SECURITY RISK ASSESSMENT

PURPOSE: To address regulatory and industry best practices and standards, an Information Security Risk Assessment program has been established to evaluate and document information security controls to appropriately mitigate risk from vendors, applications, medical devices or services to the Ambulatory Surgical Center (ASC) at LBJ

POLICY STATEMENT:

Pursuant to the Letter of Agreement between Harris Health System (“Harris Health”) and the Ambulatory Surgical Center (ASC) at LBJ, Harris Health will maintain an Information Security Risk Assessment program on behalf of the ASC as a security standard for all work locations. This program will require implementation of standards and procedures to prevent, detect, contain, and correct information security violations that occur within the ASC.

This policy applies to all ASC at LBJ Workforce members and Business Associates using or accessing the ASC’s information or information systems.

POLICY ELABORATIONS:

I. DEFINITIONS:

- A. **ACCEPTANCE OF RISK FORM:** A form generated by Information Security that must be signed by senior business stakeholders in the event that a risk related to a vendor or technology system (“System”) is determined to be unacceptable by Information Security but the business still wants to implement the system or service. The form documents the business stakeholders’ receipt of the Risk Assessment Decision and their acknowledgement of the risks identified therein and must be approved and signed off on by the data owner, Chief Information Officer (CIO), and Chief Risk and Compliance Officer (CRCO).
- B. **ELECTRONIC PROTECTED HEALTH INFORMATION (ePHI):** Protected health information that is created, received, maintained, or transmitted by electronic means.
- C. **INFORMATION SECURITY RISK ASSESSMENT (ISRA):** The process of identifying risks to organizational operations (including mission, functions, image, reputation), and organizational assets, resulting from the operation of an

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information system. This process incorporates threat and vulnerability analyses, and considers mitigations provided by security controls planned or in place.

- D. **INFORMATION SYSTEM:** Any telecommunications and/or computer related equipment or interconnected system or subsystems of equipment used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of voice and/or data (digital or analog); including software, firmware, and hardware.
- E. **INHERENT RISK:** The level of risk present with a vendor, application, or service without considering controls. This is based on a number of factors, including but not limited to, types and volumes of data, business dependency, and regulatory impacts.
- F. **LEGACY SYSTEM:** An information system that is based on outdated technologies, but is critical to day-to-day operations.
- G. **RISK:** A factor, event, element, or course that exposes Harris Health to liability, potential financial loss, and/or data loss.
- H. **RISK ASSESSMENT DECISION FORM:** The Risk Assessment Decision Form (RAD) is used to communicate Risk Assessment decisions to the data owner and the project manager, including any required conditions for approval.
- I. **RISK ASSESSMENT REPORT:** The Risk Assessment Report is used to document necessary security controls based on the information provided in the System Security Validation Document (SSVD) and other supporting documentation.
- J. **SYSTEM SECURITY VALIDATION DOCUMENT (SSVD):** The SSVD is a validation document used to collect the information required to facilitate an information security risk assessment.

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- K. **THREAT:** Any circumstance or event with the potential to cause harm to an information system in the form of destruction, disclosure, adverse modification of data, and/or denial of service, or something or someone that can intentionally or accidentally exploit a vulnerability.
- L. **VULNERABILITY:** A weakness identified with a vendor, application, or service that a potential threat actor could exploit to harm the confidentiality, availability, or integrity of Harris Health's data or affect patient safety
- M. **WORKFORCE:** The members of the governing body of the Ambulatory Surgical Center (ASC) at LBJ, employees, medical staff, trainees, contractors, volunteers, and vendors.

II. ROLES AND RESPONSIBILITIES:

- A. Pursuant to the Letter of Agreement between Harris Health and the ASC, Harris Health's Information Security department will oversee Risk Assessment activities related to HIPAA security on behalf of the ASC.
- B. **DATA OWNER:** Has administrative control and is accountable for adhering to the conditions of approval as stated in the RAD. Additionally, has management responsibility for controlling the use and disposition of an application, record, or database resource. The data owner is, in many cases, external to Information Security or Information Technology. This role must be a Harris Health employee with a title of Director or above.
- C. **CHIEF COMPLIANCE & RISK OFFICER (CCRO):** In the event that a vendor, application or service is not approved by the Chief Cyber & Information Security Officer (CCISO) after the completion of an ISRA, the CCRO may accept the risk in conjunction with the Chief Information Officer (CIO) and the highest departmental Senior Business Leader (EVP/Sr. EVP) through the Acceptance of Risk Form. The CCRO retains the ultimate responsibility for accepting the security risks identified in the ISRA.
- D. **CHIEF INFORMATION OFFICER (CIO):** In the event that a vendor, application or service is not approved by the CCISO after the completion of an

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ISRA, the CIO may accept the risk in conjunction with the Chief Compliance Officer (CRCO) and the highest departmental Senior Business Leader (EVP/Sr. EVP) through the Acceptance of Risk Form.

- E. **CHIEF CYBER & INFORMATION SECURITY OFFICER (CCISO):** The CCISO is responsible for reviewing the Risk Assessment Report and Risk Assessment Decision Form concerning a vendor, application, or service. The CCISO acts in an advisory capacity when determining risk and does not own the security risks identified in the ISRA.
- F. **INFORMATION CUSTODIAN:** The Information Custodian has technical control and is responsible for the safekeeping and maintenance of data and the management of underlying systems that retains data. The Information Custodian provides technical information and details of the system, vendor or service to the Risk Assessor/Analyst.
- G. **PROJECT MANAGER:** The Project Manager is responsible for notifying Information Security of new technology solutions or system changes/upgrades being introduced to the Harris Health environment so an ISRA can begin. The Project Manager is further responsible for providing the Risk Assessor/Analyst with any information required to complete a Risk Assessment Report.
- H. **RISK ASSESSOR/ANALYST:** The Risk Assessor/Analyst is responsible for facilitating the ISRA process with the project manager/data owner, evaluating the security risks posed by a vendor, application, or service, and completing the Risk Assessment Report. The Risk Assessor/Analyst will provide the Risk Assessment Report and Risk Assessment Decision Form to the CCISO for final review approval.
- I. **SYSTEM ADMINISTRATOR:** The System Administrator is responsible for the maintenance and operation of computer systems. The day-to-day activities may include but are not limited to user account creation, modification, termination, system backups, and/or system configuration changes. These activities may be performed independent of, or in conjunction with, Harris Health Information Security and Information Technology.

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- J. **USER:** Any person who reads, enters, updates, sends, copies or prints information using any information system. Users must have an informational need to know and must be authorized by the Data Owner information owner.

III. INFORMATION SECURITY RISK ASSESSMENT:

- A. An ISRA must be performed before purchasing or implementing a new technology solution; applying changes in production that may impact security safeguards (e.g. upgrades, downgrades, modifications, etc.), including legacy systems or affecting production data. The ISRA must be performed regardless of the type of data to be stored, processed or transmitted
- B. The data owner/project manager is responsible for initiating a risk assessment process by creating a helpdesk ticket, which will be assigned to the Information Security Risk Assessment team.
- C. The Risk Assessor/Analyst will work with project managers, data owners and system administrators to conduct an information security risk assessment and document threats, vulnerabilities and impact to the confidentiality, integrity, and availability of EPHI that Harris Health creates, receives, maintains, or transmits in accordance to HIPAA requirements.
- D. Risk Assessments are structured and performed in accordance with the relevant security controls contained in the National Institute of Standards and Technology (NIST), Health Information Trust Alliance (HITRUST), Payment Card Industry (PCI) and other Cybersecurity Framework (CSF) as deemed necessary.
- E. The timeline to complete a Risk Assessment depends on whether all required information has been provided to the Information Security Risk Assessment team for review. Once all information has been received, it takes approximately 20 business days to complete the Risk Assessment.
- F. The ISRA consists of determining the inherent risks associated with a vendor, application, or service that could impact the confidentiality, integrity, or availability of Harris Health infrastructure or data. Security controls of the vendor, application, or service will be considered during the ISRA process and based on

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the findings, a risk determination together with control recommendations will be provided to the business stakeholders (e.g. Data Owner, Project Manager).

- G. Information Security will conduct risk re-assessments at least every two years, or as needed, to ensure that the security controls recommended during the initial risk assessment were implemented and data/infrastructure is reasonably and appropriately protected.
- H. The Data Owner must sign off on the Risk Assessment Decision Form to acknowledge reading, understanding, and agreeing to abide by the conditions for approval listed in the Risk Assessment Decision Form (if any).
- I. The Acceptance of Risk Form requires sign off by the highest departmental Senior Business leader (EP/Sr. EVP), CIO, and CCRO should the business choose to implement a vendor solution, application or service against Information Security's advisory.

REFERENCES/BIBLIOGRAPHY:

42 Code of Federal Regulations (C.F.R.) §416.5(g).

OFFICE OF PRIMARY RESPONSIBILITY:

The Ambulatory Surgical Center (ASC) at LBJ

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		Reviewed / Approved 02/13/2020	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/25/2021	The Ambulatory Surgical Center (ASC) at LBJ Governing Body

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Policy No: [ASC-P-4003](#)
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Effective Date: 8/5/16

TITLE: CONFLICT OF INTEREST

PURPOSE: To provide guidelines to Workforce members for conducting the business of the Ambulatory Surgical Center (ASC) at LBJ free from the influence of personal and private interests.

POLICY STATEMENT:

The Ambulatory Surgical Center (ASC) at LBJ (“ASC”) workforce members are prohibited from having a direct or indirect interest, including financial and personal interests, engaging in a business transaction or professional activity, or incurring any obligation that conflicts with or creates the appearance of a conflict with the interests of the ASC, the interests of Harris Health System, or with the performance of the workforce member’s duties. These interests and activities require disclosure to Harris Health System’s Corporate Compliance Officer and may be considered conflicts of interests.

POLICY ELABORATIONS:

I. DEFINITIONS:

- A. **CONFLICTS OF INTEREST (COI):** Any situation in which a workforce member has direct or indirect interests, including financial and personal interests, or business transactions or professional activities, that may compromise or appear to compromise: (1) the Workforce member’s business judgment; (2) the delivery of patient care; or (3) the Workforce member’s ability to do his or her job.
- B. **DISCLOSURE:** The workforce member’s notice to Harris Health System’s Corporate Compliance Officer of relevant information regarding any situation that may be considered a COI.
- C. **MEDICAL STAFF:** All physicians, dentists, and oral-maxillofacial surgeons who are appointed to the Medical Staff of the Ambulatory Surgical Center at LBJ who either (1) hold a faculty appointment at Baylor College of Medicine and/or the University of Texas Health Science Center at Houston or (2) are employed by Harris Health System on behalf of the Ambulatory Surgical Center at LBJ to provide healthcare services at the Ambulatory Surgical Center (ASC) at LBJ. Medical school faculty appointment status is not required for locum tenens or medical staff employed Harris Health System.

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- D. **RELATIVE:** Individuals including, but not limited to, a Workforce member’s fiancé, spouse, significant other, parents, step-parents, siblings, stepbrothers, stepsisters, children, adopted children, stepchildren, mothers- and fathers-in-law, son-and daughters-in-law, and brothers-and sisters-in-law.
- E. **WORKFORCE:** The members of the governing body of the Ambulatory Surgical Center (ASC) at LBJ, employees, medical staff, trainees, contractors, volunteers, and vendors.

II. APPLICATION:

- A. This policy applies to Workforce members.
- B. This policy does not apply to the governing body of the ASC who must comply with the Local Government Code Chapters 171 and 176 and the Texas Government Code Chapter 783.
- C. This policy does not apply to Medical Staff members. However, Medical Staff members are required to adhere to the Conflicts of Interest policies of their respective affiliated organizations (e.g., Baylor College of Medicine or the University of Texas Health Science Center at Houston). Medical staff members are also encouraged to report any potential Conflicts of Interest involving the ASC Workforce members, volunteers, or vendors in accordance with this policy.

III. WORKFORCE DISCLOSURE GUIDANCE:

Situations Requiring Disclosure:

- A. While it is not possible to list every situation or circumstance where a Conflict of Interest exists, the following list should serve as a useful guide for assisting Workforce members in identifying Conflicts of Interest. There is no substitute for the exercise of good judgment and Workforce members are expected to examine their decisions and activities to ensure that they are acting in the best interests of the ASC and Harris Health and the patients served by the ASC. Workforce members are also expected to refrain from engaging in activities that create the appearance of a Conflict of Interest that may damage the trust the community and patients have placed in the ASC and in Harris Health. The following examples are

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representative, but not all inclusive, of situations requiring Disclosure. If a Workforce member:

A.B. Examples of Situations or Relationships Requiring Disclosure include if a Workforce member:

1. Provides services, whether or not compensated, to an outside organization or individual that does business with or seeks to do business with the ASC or Harris Health or competes for business with the ASC or with Harris Health.
2. Has business dealings or has a relative with business dealings with an outside organization or individual that does or seeks to do business with the ASC or with Harris Health or who competes for business with the ASC or with Harris Health.
3. Has ownership or has a relative with ownership in an outside organization that does business with or seeks to do business with the ASC or with Harris Health or competes for business with the ASC or with Harris Health.
4. Has a close personal relationship with another individual, who does not meet the definition of Relative, but the relationship may have or appear to have an influence on (1) the Workforce member's business judgment; (2) the delivery of patient care; or (3) the Workforce member's performance of his or her job.
5. Refers Harris Health patients or ASC patients to an outside organization or individual that does business with or seeks to do business with the ASC or Harris Health or competes for business with the ASC or with Harris Health.
6. Is requested by or has a relative who is requested by the ASC or Harris Health to provide items or services outside the scope of the Workforce member's formal relationship to the ASC and/or Harris Health.
7. Receives any gift, favor, gratuity, loan, or free or discounted services from other Workforce members, including vendors, or patients that may compromise, may appear to compromise, or may have been given with the intent to influence: (1) the Workforce member's business judgment; (2) the delivery of patient care; or (3) the Workforce member's performance of his or her job.
8. Has an additional non-Harris Health or non-ASC job or engages in any outside activity that may compromise, appear to compromise, or influence: (1) the Workforce member's business judgment; (2) the delivery of patient care; or (3) the Workforce member's performance of his or her job.

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IV. CONFLICT OF INTEREST DISCLOSURE:

- A. If a Workforce member believes a COI exists or may exist, the COI must be immediately disclosed to Harris Health's Corporate Compliance Officer for further review and evaluation.
- B. A COI may be disclosed to Harris Health's Corporate Compliance Officer by completing the Disclosure Form and submitting it to the Office of Corporate Compliance. A COI may also be disclosed by calling the Office of Corporate Compliance directly.
- C. At the request of Harris Health's Corporate Compliance Officer, a COI Evaluation Survey will be completed by all Workforce members.
- D. All Workforce members must disclose all potential conflicts and a failure to do so may result in disciplinary action up to and including termination of the individual's relationship with the ASC and with Harris Health.

V. CONFLICT OF INTEREST MANAGEMENT:

- A. Harris Health's Corporate Compliance Officer and Harris Health's Office of Corporate Compliance are responsible for investigating all reported or discovered COIs on behalf of the ASC pursuant to the Letter of Agreement between Harris Health and the ASC.
- B. If at the conclusion of the investigation, it is determined that there is not a conflict or there is minimal risk of financial, operational, or reputational harm to Harris Health or the ASC, or the ASC's patients, or the community, then a report to the involved Workforce member and his or her administrator will be provided. No further action will be required.
- C. If at the conclusion of the investigation, it is determined that a COI exists, Harris Health's Corporate Compliance Officer, the Vice President of Legal Affairs for Harris Health, and the appropriate members of the ASC administration and Harris Health administration will determine how best to address or manage the COI and determine whether mitigating strategies may be acceptable.

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ATTACHMENT A

For a copy of the Conflict of Interest Disclosure Form please click here:

<http://policy/Policies/3.42%20Attachment%20A%20COI%20DISCLOSURE%20FORM.pdf>

[Viewing Conflict of Interest 3.42 \(policystat.com\)](#)

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Effective Date: 8/5/16

TITLE: MEDICAL RECORDS

PURPOSE: To establish The Ambulatory Surgical Center (ASC) at LBJ's 's process for medical record documentation.

POLICY STATEMENT:

The Ambulatory Surgical Center (ASC) at LBJ will maintain its patients' records in accordance with state laws by maintaining patient records in a confidential, complete, and accurate fashion, and by including all elements necessary to provide patients with adequate care.

POLICY ELABORATIONS:

Documentation in the medical record must be sufficient to identify the patient, support the patient's diagnosis, justify the treatment, document the course and results of treatment, and promote continuity of care among health care providers. Medical record documentation is to be timely, meaningful, authenticated, and legible. All relevant documents and entries should be entered into the medical record at the time the service is rendered, treatment is given, or the observations to be documented are made, or as soon as possible thereafter. The electronic medical record (EMR) must be used for documentation in all areas where its implementation has been completed.

Each entry in the medical record must contain accurate and complete patient identifying data, such as the medical record number, name, and patient's date of birth. Every individual documenting in the medical record is responsible for the entire content of his/her documentation, whether the content is original, copied and pasted, imported, and/or reused. Those who document are responsible for the accuracy, medical necessity, and documentation requirements of each of their notes.

Additional documentation requirements can be found in the Medical Staff Bylaws.

I. DEFINITIONS:

A. **AUTHENTICATION:** The information security process that verifies a user's identity, authorizes the individual to access an information system, and assigns responsibility to the user for entries he or she creates, modifies, or views. Validation of each user's information is performed, which requires a unique

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identification (ID) and password combination to login to the medical record system.

- B. **LICENSED INDEPENDENT PRACTITIONER (LIP):** Any individual permitted by law and by the Harris Health System to provide care and services, without relevant direction or supervision, within the scope of the individual's licensure, and consistent with individually granted clinical privileges
- C. **RESIDENT/INTERN/HOUSESTAFF/FELLOW - (HOUSESTAFF):** An individual who, licensed as appropriate, is a graduate of a medical, dental, osteopathic, or podiatric school and who is appointed to Harris Health System's professional graduate training program and who participates in patient care under the direction of Medical Staff members who have Clinical Privileges for the services provided by the Housestaff.
- D. **PROHIBITED ABBREVIATION:** Standard abbreviations commonly mistaken when interpreting a medical documentation and that can lead to errors in patient care.
- E. **UNLICENSED ASSISTIVE PERSONNEL (UAP):** An individual who is trained to function in an assistive role to the licensed registered nurse in the provision of patient/client care activities as delegated by the nurse. The term includes, but is not limited to nurse aides, orderlies, assistants, attendants, or technicians.

II. MEDICAL RECORD DOCUMENTATION GUIDELINES:

Guidelines for documenting in the medical record are attached in Appendix "A."

III. USE OF SYMBOLS AND ABBREVIATIONS:

Medical record entries must not contain prohibited abbreviations and symbols which are considered unsafe.

- A. Prohibited Abbreviations and Symbols:
 - 1. Any abbreviations, acronyms, or symbols that are on the Harris Health System's Prohibited Abbreviations List (Appendix B).

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2. If an abbreviation, acronym, or symbol has multiple meanings, its use should be avoided unless the intended meaning is clear from the content by which it is used.
- B. Any documentation containing Prohibited Abbreviations or questionable entries shall be referred to the author, for clarification and prior to implementation.
- C. Use of "Prohibited Abbreviations" shall be documented on the Adverse Drug Event Form.
- D. Non-compliance shall be reported to the author's immediate supervisors for corrective action.
- E. Events involving the use of Prohibited Abbreviations or symbols shall be communicated to the Medication Use Safety Committee (MUSC), service chiefs, directors, and/or administrators as deemed appropriate.

IV. HEALTHCARE PROFESSIONALS AUTHORIZED TO MAKE ENTRIES:

Only LIPs, Housestaff, UAPs, Nursing staff, and Allied Health Care professionals authorized by the ASC may make entries into a patient's medical record.

Nursing, Allied Health Professional Agency, and/or students are authorized to make entries in the medical record following the documentation guidelines set forth in Appendix C.

V. LOOSE MEDICAL DOCUMENT HANDLING:

Hardcopy medical record documents approved for inclusion in the legal medical record are to be scanned into the EMR by Harris Health's Health Information Management Department (HIM) or responsible clinic or ancillary staff.

Once an official medical record document is added to a medical record, it should not be removed except by a trained HIM employee. Documents will only be removed if one of the following has occurred:

- A. The document was filed in the wrong patient's record;
- B. The document is a duplicate of an original that is already contained in the record;
- C. The document is not an approved medical record document;or
- D. HIM approves the removal of the document.

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VI. LOOSE MEDICAL DOCUMENT HANDLING:

- A. Every entry in the medical record or electronic medical record screen must identify the patient by name and complete medical record number.
- B. If the HIM department receives documents with incomplete, illegible, and/or missing patient identification, an attempt will be made to properly identify the patient. Documents successfully identified will be incorporated into the medical record.
- C. Documents on patients who cannot be identified will be returned to the originating department. If the originating department cannot be identified, HIM will forward the documents to the appropriate clinic/nursing administrator for resolution. Upon receipt in the department or administrative area, one of the following will occur:
 - a. The patient will be identified, demographic information added and the document returned to HIM for filing; or
 - b. If the patient cannot be identified, the document will be properly destroyed.

REFERENCES/BIBLIOGRAPHY:

DNV (NIACHO) National Integrated Accreditation for Healthcare Organizations Standards.

Harris Health System Policy 4612 Student Access and Documentation Requirements

Harris Health System Policy 438 Order Processing

Harris Health System Policy 7.11 Patient Identification

Harris Health System Policy 4600 Transfer of Patients

Harris Health System Form #280723 Adverse Drug Event

Quad A Version 8.2

OFFICE OF PRIMARY RESPONSIBILITY:

The Ambulatory Surgical Center (ASC) at LBJ

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REVIEW/REVISION HISTORY:

Effective Date	Version # (If Applicable)	Review/ Revision Date (Indicate Reviewed or Revised)	Approved by:
8/5/16	1.0	8/5/16	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 03/29/2018	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/14/2019	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/13/2020	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/25/2021	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
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		Reviewed / Approved 02/16/2023	The Ambulatory Surgical Center (ASC) at LBJ Governing Body

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APPENDIX "A"

GUIDELINES FOR MEDICAL RECORD ENTRIES

PAPER MEDICAL RECORDS	ELECTRONIC MEDICAL RECORDS
<p><i>Documentation Timeline:</i></p> <p>Medical record entries must be completed in a timely manner. Entries shall be made when the treatment described is given or the observations to be documented are made, or as soon as possible thereafter.</p> <p>An entry should never be made in advance. Authors should review and sign their notes promptly.</p>	<p><i>Documentation Timeline:</i></p> <p>Medical record entries must be completed in a timely manner. Entries shall be made when the treatment described is given or the observations to be documented are made, or as soon as possible thereafter.</p> <p>An entry should never be made in advance. Authors should review and sign their notes promptly.</p>
<p><i>Date & Time:</i></p> <p>Every entry shall be dated and timed. Military time shall be used in 24-hour facilities. Standard time shall be used in ambulatory clinics.</p>	<p><i>Date & Time:</i></p> <p>Each electronic entry shall contain a system generated date and time</p>
<p><i>Error Corrections:</i></p> <p>Utilize the Line, Initial, Date (LID) concept as follows:</p> <ol style="list-style-type: none"> a. Draw a single line through the entry or portion of entry to be corrected (the original entry must still be legible/visible); b. Initial and Date; c. State the reason for the error, as applicable; d. Document the correct information; and e. Authenticate entry. 	<p><i>Error Corrections:</i></p> <p>EMR information cannot be altered after it is electronically signed or the document closed. Appropriate EMR error corrections must include:</p> <ol style="list-style-type: none"> a. An addendum; b. Documentation of the reason for the error correction; c. Documentation reflecting the correct information; and d. Authentication of the entry

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<p><i>Legibility:</i></p> <p>All entries must be legible. It is recommended that black or blue ink be used.</p>	<p><i>Legibility:</i></p> <p>Not applicable</p>
<p>PAPER MEDICAL RECORDS</p>	<p>ELECTRONIC MEDICAL RECORDS</p>
<p><i>Late Entries:</i></p> <p>If an entry is made retrospectively on a paper document, it must reflect the date and time the entry is actually made. Note the reason for the late entry, the current data and time, and authenticate the entry with a full signature.</p>	<p><i>Late entries:</i></p> <ul style="list-style-type: none"> a. All entries on all flow sheets that are entered late will be documented by adding the appropriate column of time that the care or observation was actually completed. b. All entries in notes that are added late will be documented with the correct date and time when they are entered. If an entry is made retrospectively, document the reason for the late entry.
<p><i>Authentication:</i></p> <p>Signatures must include first name or initial, last name, and employment/status (e.g., JMS) or licensure status (e.g., M.D.). Initials alone are not acceptable.</p> <p>For authenticating paper medical record documentation, handwritten signatures may be accompanied either by the author legibly writing his/her name in block print or by the use of a name stamp accompanied by a signature. The use of a signature stamp is not acceptable. In addition, the physician number or provider identification number should be documented.</p> <p>3. Faxed signatures are acceptable.</p>	<p><i>Authentication</i></p> <p>For authenticating electronic medical record documentation, electronic signatures are used.</p> <ul style="list-style-type: none"> a. Authentication is the information security process that verifies a user's identity and authorizes the individual to access an information system. b. Authentication assigns responsibility to the user for entries he or she creates, modifies, or views. c. Users shall not share their Harris Health System account(s), passwords, Personal Identification Numbers (PIN), security tokens (e.g., Smartcard), or similar information or devices used d. The individual identified by the electronic signature or method of electronic

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	<p>authentication is the only individual who may use it, as it denotes authorship of medical record documents in electronic medical records.</p>
<p><i>Data integrity:</i></p> <p>Entries shall not be altered, erased or removed (use of correction fluids and/or liquid paper is prohibited).</p>	<p><i>Data integrity:</i></p> <p>Electronic medical record information cannot be altered after it is electronically signed.</p>

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Functional Role: (source Harris Health System Policy 4410)
Attending Physician
Nurse Practitioner/Advanced Nurse Practitioner
Medical Student
Housestaff
Physician Assistant (PA)
Audiologist
Audiologist Technician
Cardiopulmonary Technician
Clinical Case Management (CCM) Program Coordinator
Certified Nurse Assistant (CNA)
Certified Nurse Anesthetist
Certified Nurse Midwife
Chaplain
Child Life Specialist
Clinical Clerical Specialist/Technician (CCT)
Clinical Nurse Case Manager (CNCM)

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CSHCN Grant Social Worker II
Dietitian/Nutritionist/Technician
Genetics Counselor
Ethicist
Health Educator
Infant Feeding Counselor/Breast Feeding Counselors
Interpreter
Licensed Chemical Dependency Counselor/Insight Case Manager
Licensed Professional Counselor
Licensed Vocational Nurse (LVN)
Nursing Student
Occupational Therapist, Assistant, Student
Patient Care Technician I, II, and III (PCT)
Pharmacist
Physical Therapist, Assistant, Student
Pulmonary Function Technician, Technologist
Psychiatric Technician
Recreational Therapist
Risk Manager
Quality (QMS) Resource Manager

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Quality QMS Coordinator
Quality Inpatient Director
Registered Nurse
Researcher
Respiratory Care Practitioner/Therapist
RN, Grants Implementation
Senior Clinical Nurse Case Manager
Social Worker Case Manager I, II
Speech Pathologist
T-Steps Clinician

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Policy No: [ASC-P-6000](#)

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Board Motion No: n/a

TITLE: ABUSE, NEGLECT, AND EXPLOITATION OF PATIENTS

PURPOSE: To outline the duties of members of the Ambulatory Surgical Center (ASC) at LBJ workforce regarding abuse, neglect, and exploitation of patients while at the ASC.

POLICY STATEMENT:

The Ambulatory Surgical Center (ASC) at LBJ (“ASC”) prohibits abuse, neglect, and exploitation of patients at the ASC. All workforce members shall report suspected or actual abuse, neglect and exploitation of patients where the alleged perpetrator is another patient, a visitor, or workforce member. ASC workforce members shall abide by mandatory reporting laws regarding abuse of a child, elderly persons, and disabled persons. For any allegation of abuse, neglect, or exploitation, an internal investigation shall be conducted and notifications shall be made to the appropriate legal and regulatory agencies. Workforce members shall cooperate with all investigations of reported, suspected, or actual abuse, neglect, and exploitation of a patient.

POLICY ELABORATIONS:

I. DEFINITIONS:

A. ABUSE:

1. **ABUSE OF A CHILD:** Abuse of a child includes the following acts or omissions by a person:
 - a. The mental or emotional injury to a child that results in an observable and material impairment in the child’s growth, development, or psychological functioning;
 - b. Causing or permitting the child to be in a situation in which the child sustains a potential mental or emotional injury that results in an observable and material impairment in the child’s growth, development, or psychological functioning;
 - c. Physical injury that results in potential substantial harm to the child, or the genuine threat of potential substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given for the injury, and excluding an accident

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- or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;
- d. Failure to make a reasonable effort to prevent an action by another person that results in potential physical injury that results in potential substantial harm to the child;
 - e. Sexual conduct potentially harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of indecency with a child, sexual assault, or aggravated sexual assault;
 - f. Failure to make a reasonable effort to prevent sexual conduct potentially harmful to a child;
 - g. Compelling or encouraging a child to engage in sexual conduct, including conduct that constitutes a potential offense of trafficking of persons, prostitution, or compelling prostitution;
 - h. Causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of a child, if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene or pornographic;
 - i. The use by a person of a controlled substance in a manner or to the extent that the use results in potential physical, mental, or emotional injury to a child;
 - j. Causing, expressly permitting, or encouraging a child to use a controlled substance; or
 - k. Causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child.
2. **ABUSE OF AN ELDERLY PERSON OR PERSON WITH A DISABILITY:** The negligent or willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment resulting in physical or emotional harm or pain to an elderly or disabled person by the person's caretaker, family member, and other individual who has an ongoing relationship with the person, or other person; or sexual abuse of an elderly or disabled person.
3. **ABUSE ALSO INCLUDES:** any act or failure to act by a Workforce member rendering care or treatment which was performed, or which was failed to be performed, knowingly, recklessly, or intentionally, and which caused, or may have caused, injury or death to an individual with mental illness, and includes acts such as

- a.the rape or sexual assault of an individual with mental illness;
- b.the striking of an individual with mental illness;
- c.the use of excessive force when placing an individual with mental illness in bodily restraints;
- d.the use of bodily or chemical restraints on an individual with mental illness which is not in compliance with federal and state laws and regulations; and/or
- e.coercive or restrictive actions that are illegal or not justified by the patient's condition and that are in response to the patient's request for discharge or refusal of medication, therapy or treatment.

4. ABUSE DOES NOT INCLUDE:

- a. the proper use of restraints or seclusion in accordance with federal or state laws or regulations or court order;
 - b. other actions taken in accordance with federal or state laws or regulations or court order;
 - c. actions a Workforce member may reasonably believe to be immediately necessary to avoid imminent harm to self, patients or clients, or other individuals if such actions are limited only to those actions reasonably believed to be necessary under the existing circumstances. Such actions do not include acts of unnecessary force or the inappropriate use of restraints or seclusion;
or
 - d. complaints related to the daily administrative operations of a facility (e.g., staffing ratios).
- B. ASSAULT:** Intentionally, knowingly, or recklessly causing bodily injury to another; threatening another with imminent bodily injury; or intentionally or knowingly causing physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative (e.g., pushing, shoving, hitting, kicking, biting, or striking another with a part of the actor's body or with an object).
- C. ATTENDING PHYSICIAN:** A physician selected by or assigned to an ASC patient who has primary responsibility for the patient's treatment and care.
- D. CHILD:** A person under eighteen (18) years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes.

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- E. **ELDERLY PERSON:** A person 65 years of age or older.
- F. **EXPLOITATION:** The illegal or improper act or process of a caretaker, family member, or other individual, who has an ongoing relationship with an Elderly Person or Person with a Disability that involves using, or attempting to use, the resources of the Elderly Person or Person with a Disability, including the person's Social Security number or other identifying information, for monetary or personal benefit, profit, or gain without the informed consent of the elderly or disabled person.
- G. **FORENSIC NURSE EXAMINER:** A registered nurse with specialized training and education to provide care, collect evidence and document injuries for patients and perpetrators of violence, abuse, neglect, and/or exploitation.
- H. **HEALTH CARE SERVICES PROVIDER:** A licensed physician; a licensed chiropractor; a licensed physical therapist; a licensed physician assistant; or a licensed registered nurse, a vocational nurse, or an advanced practice nurse.
- I. **ILLEGAL CONDUCT:** Conduct prohibited by law.
- J. **INCAPACITATED OR INCOMPETENT:** Lacking the ability, based on reasonable medical judgment, to understand and appreciate the nature and consequences of a treatment decision, including the significant benefits and harms of and reasonable alternatives to a proposed treatment decision.
- K. **NEGLECT:** act or omission by any Workforce member responsible for providing services in a Harris Health facility rendering care or treatment which caused or may have caused injury or death to an individual with mental illness or which placed an individual with mental illness at risk of injury or death, and includes an act or omission such as the failure to establish or carry out an appropriate individual program plan or treatment plan for an individual with mental illness, the failure to provide adequate nutrition, clothing, or health care to an individual with mental illness, or the failure to provide a safe environment for an individual with mental illness, including the failure to maintain adequate numbers of appropriately trained staff.

1. **NEGLECT OF A CHILD:**

a. Includes:

The leaving of a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;

b. The following acts or omissions by a person:

- i. Placing a child in or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or substantial risk of immediate harm to the child;
- ii. Failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child;
- iii. The failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding the failure caused primarily by financial inability unless relief services had been offered and refused;
- iv. Placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk of sexual conduct harmful to the child; or
- v. Placing a child in or failing to remove the child from a situation in which the child would be exposed to acts or omissions that constitute abuse committed against another child; or
- vi. The failure by the person responsible for the child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away

- c. Does not include the refusal by a person responsible for a Child's care, custody, or welfare to permit the Child to remain in or return to the Child's home resulting in the placement of the Child in the conservatorship of the Texas Department of Family and Protective Services if:
 - i. The Child has a severe emotional disturbance;
 - ii. the person's refusal is based solely on the person's inability to obtain mental health services necessary to protect the safety and well-being of the Child; and
 - iii. the person has exhausted all reasonable means available to the person to obtain the mental health services described by subparagraph (ii) above.

2. **NEGLECT OF AN ELDERLY OR PERSON WITH DISABILITY:** The failure to provide for one's self the goods or services, including medical services, which are necessary to avoid physical or emotional harm or pain or the failure of a caretaker to provide such goods or services.

L. **PATIENT:** An individual receiving medical care or treatment at the ASC.

M. **PERSON WITH A DISABILITY:** A person with a mental, physical, or intellectual or developmental disability that substantially impairs the person's ability to provide adequately for the person's care or protection and who is (a) 18 years of age or older or under eighteen (18) years of age; or (b) under 18 years of age and who has had the disabilities of minority removed.

N. **QUALIFIED LICENSED PRACTITIONER (QLP):** Any individual permitted by law and by Harris Health to provide care and services, without relevant direction or supervision, within the scope of the individual's license and consistent with individually granted clinical privileges.

- 1. Medical Doctor (MD);
- 2. Doctor of Osteopathy (DO);
- 3. Doctor of Dental Science with a Moderate Sedation Permit issued by the Texas State Board of Dental Examiners (DDS);
- 4. Certified Registered Nurse Anesthetist (CRNA);
- 5. Advance Practice Professionals; and

6. Doctor of Medical Dentistry (DMD).

O. **SEXUAL ASSAULT:**

1. Intentionally or knowingly causing the penetration of the anus or sexual organ of another person by any means, without the person's consent; causing the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or causing the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or
2. Intentionally or knowingly causing the penetration of the anus or sexual organ of a child by any means; causing the penetration of the mouth of a child by the sexual organ of the actor; causing the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; causing the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or causing the mouth of a child to contact the anus or sexual organ of another person, including the actor.

This definition includes the use of foreign objects. A Sexual Assault is without the consent of the other person if:

- a. the actor compels the other person to submit or participate by the use of physical force or violence;
- b. the actor compels the other person to submit or participate by threatening to use force of violence against the other person, and the other person believes that the actor has the present ability to execute the threat;
- c. the other person has not consented and the actor knows the other person is unconscious or physical unable to resist;
- d. the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of the resisting it;
- e. the other person has not consented and the actor knows the other person is unaware that sexual assault is occurring;

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- f. the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge;
- g. the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat;
- h. the actor is a public servant who coerces the other person to submit or participate;
- i. the actor is a mental health services provider or a health care services provider who causes the other person, who is a Patient or former Patient of the actor, to submit or participate by exploiting the other person's emotional dependency on the actor;
- j. the actor is a clergyman who causes the other person to submit or participate by exploiting the other person's emotional dependency on the clergyman in the clergyman's professional character as spiritual advisor; or
- k. the actor is an employee of a facility where the other person is a resident, unless the employee and resident are formally or informally married to each other.

For this definition only, a "child" means a person younger than seventeen (17) years of age.

- P. **SEXUAL HARASSMENT:** Unwelcome sexual advances, request for sexual favors and other verbal or physical harassment of a sexual nature. Harassment does not have to be of a sexual nature and can include offensive remarks about a person's sex.
- Q. **UNETHICAL CONDUCT:** Conduct that is prohibited by the ethical standards adopted by state or national professional organizations for their respective professions or by rules established by the state licensing agency for the respective profession.
- R. **UNPROFESSIONAL CONDUCT:** Conduct prohibited under rules adopted by the state licensing agency for the respective profession.

- S. **VERBAL OR EMOTIONAL ABUSE:** The use of words to cause harm to another person. This may include shouting, insulting, demeaning, intimidating, threatening, shaming, or the use of other derogatory language.
- T. **WORKFORCE MEMBERS:** For purposes of this policy, Harris Health employees, medical staff, trainees, and volunteers.

II. TYPES OF ABUSE, NEGLIGENCE, AND EXPLOITATION REQUIRING INVESTIGATION:

A. Physical Abuse/Assault:

- 1. Allegations of Abuse (as defined above) shall require investigation.
- 2. Allegations of, or the presence of, any suspicious injuries on a Child, a Disabled Person, an Elderly Person, or an otherwise Incapacitated or Incompetent person shall require investigation. All physical injuries shall be documented. Serious injuries require immediate intervention.
- 3. An appropriate LIP assigned to the Patient shall be notified that injuries are present and shall provide necessary medical treatment.

B. Sexual Assault:

- 1. Allegations or suspicions of Sexual Assault shall require investigation. Examples of Sexual Assault include, but are not limited to:
 - a. Injuries to the breasts, genitalia, and anal areas;
 - b. Presence of a newly acquired sexually transmitted infection in a Child, Elderly Person, Disabled Person, or otherwise Incapacitated or Incompetent person shall require investigation;
 - c. Presence of semen or sperm in or on a Child, Elderly Person, Disabled Person, or otherwise Incapacitated or Incompetent person shall require investigation; or
 - d. Verbal allegations of a sexual nature.
- 2. Allegations or suspicions of Sexual Harassment shall require investigation.

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- C. Verbal or Emotional Abuse. Allegations or suspicions of Verbal or Emotional Abuse shall require investigation. Examples of Verbal or Emotional Abuse include, but are not limited to:
1. Name calling, ridiculing, insulting a Patient;
 2. De-valuing the thoughts of a Patient;
 3. Isolating a Patient; and
 4. Propositioning a Patient.
- D. Exploitation. Any allegations of suspicions of Exploitation shall require investigation. Examples of Exploitation include, but are not limited to:
1. Stealing from or defrauding a Patient;
 2. Withholding money from a Patient needed to buy food or obtain medical treatment;
 3. Denying a Patient access to his or her own financial resources;
 4. Taking a Patient's Social Security or Supplemental Security Income (SSI) checks; and
 5. Human trafficking.
- E. Sexual Harassment. Any allegation of suspicions of Sexual Harassment shall require investigation. Examples of Sexual Harassment include, but are not limited to:
1. Requesting sex from a Patient;
 2. Inappropriate touching of a Patient; and
 3. Repeated requests to a Patient for dates.
- F. Neglect: Any allegation of failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness.
- G. Illegal or Unethical Conduct: All allegations of Illegal or Unethical Conduct by a Workforce member shall require investigation.
- H. Unprofessional Conduct: All allegations of Unprofessional Conduct by a Workforce member shall require investigation. All of the above noted actions in

paragraphs (A) – (G) are examples of Unprofessional Conduct. However, this is not an exhaustive list of what could qualify as Unprofessional Conduct.

III. IDENTIFICATION OF ALLEGATIONS REQUIRING INVESTIGATION AND REPORTING:

Abuse, Neglect, Exploitation of Patients, or Illegal, Unethical, or Unprofessional Conduct by a Workforce member may be identified through any of the following manners including, but not limited to:

1. Workforce Members witness the alleged Abuse, Neglect, Exploitation of a Patient, or Illegal, Unethical, or Unprofessional Conduct;
2. The Patient makes an outcry, disclosing the alleged Abuse, Neglect, Exploitation, or Illegal, Unethical, or Unprofessional Conduct;
3. A Patient not involved in the alleged Abuse, Neglect, Exploitation, or Illegal, Unethical, or Unprofessional Conduct notifies Workforce Members
4. During the course of providing Patient care, Workforce Members identifies suspicious injuries or other findings or notes comments made by the Patient;
5. Alleged Abuse, Neglect, Exploitation, or Illegal, Unethical, or Unprofessional Conduct is suspected in a Patient or Patient population who cannot consent (e.g., a Child, an unconscious Patient, an Incapacitated or Incompetent Patient, a Patient who is under psychiatric care who is unable to make his/her own decisions); or
6. A visitor reports an allegation of Abuse, Neglect, Exploitation of a Patient, or Illegal, Unethical, or Unprofessional Conduct.

IV. MANAGEMENT PLAN IN CASES OF ALLEGATIONS OF ABUSE, NEGLIGENCE, AND EXPLOITATION OF PATIENTS:

A. Prevention:

1. Screening of Staff:
 - a. All Workforce Members must be screened for criminal charges and/or convictions as outlined in Harris Health System Policy 6.12 Employment.

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- b. All Harris Health employees must be screened through the Texas Department of Aging and Disability Services Employee Misconduct Registry at least once annually.
 - c. All employment applications for licensed Workforce members will be screened through the applicable licensing board by Harris Health.
2. Screening of Patients. Patients shall be screened for Abuse, Neglect, and Exploitation upon arrival at the Ambulatory Surgical Center (ASC) at LBJ.
3. Training of Staff Regarding Abuse, Neglect and Exploitation of Patients:
- a. Health Care Workers and other Workforce members who interact with Patients shall receive training and education regarding Abuse, Neglect, and Exploitation of Patients during Harris Health’s general orientation and annually thereafter, pursuant to the Letter of Agreement between Harris Health and the ASC.
 - b. Specialty areas such as Rehabilitation and Psychiatric Services shall receive additional training per applicable federal and state laws or regulatory requirements.
- B. Responding to Abuse, Neglect, and Exploitation Allegations. Upon identification of suspicion of Abuse, Neglect, Exploitation of a Patient, or Illegal, Unethical, or Unprofessional Conduct Workforce Members shall follow the procedures set forth in Attachment A.

REFERENCES/BIBLIOGRAPHY:

42 C.F.R. § 483.13(c), Resident behavior and facility practices.

25 T.A.C. § 133.47, Abuse and Neglect Issues.

TEX. FAMILY CODE Chapter 261, Investigation of Report of Child Abuse or Neglect.

TEX. HEALTH AND SAFETY CODE Chapter 161, Subchapter L, Abuse, Neglect, and Unprofessional or Unethical Conduct in Health Care Facilities.

TEX. HEALTH AND SAFETY CODE CHAPTER 166.002, Advance Directives, Definitions.

TEX. HUMAN RESOURCES CODE Chapter 48, Investigations and Protective Services for Elderly and Disabled Persons.

TEX. PENAL CODE Chapter 22, Assaultive Offenses.

Quad A Version 8.2

OFFICE OF PRIMARY RESPONSIBILITY:

The Ambulatory Surgical Center (ASC) at LBJ

REVIEW/REVISION HISTORY:

Effective Date	Version # (If Applicable)	Review/ Revision Date (Indicate Reviewed or Revised)	Approved by:
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		Reviewed / Approved 02/14/2019	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
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		Reviewed / Approved	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
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AMBULATORY SURGICAL CENTER AT LBJ

Policy No: [ASC-P-6003](#)
Page Number: 1 of 4
Effective Date: 8/5/16
Board Motion No: n/a

TITLE: FIRE DRILL/ALARM PROCEDURE

PURPOSE: To establish the protocol to be followed in the event of a fire alarm or fire drill at the Ambulatory Surgical Center (ASC) at LBJ.

POLICY STATEMENT:

To protect Workforce members of the Ambulatory Surgical Center (ASC) at LBJ (“ASC”), and patients of the ASC from a fire, the ASC will follow Harris Health System’s (“Harris Health”) Emergency Preparedness Guide and will treat every fire alarm as a serious event.

I. PROCEDURE:

A. If a fire alarm (“Code Red”) is triggered in the ASC or if a fire is identified in the ASC, the following actions must be taken pursuant to recommendations by the Houston Fire Department (**RACE**):

1. **Rescue** patients, evacuate to a safe area;
2. **Alarm** - Pull nearest fire alarm, dial ext. x37800, give exact location and announce to the ASC that a “Code Red” exists;

Note: if you are unable to contact the operator, dial the Houston Fire Department at 9-911. Do not panic or shout fire.

3. **Contain** fire, close doors/windows; and
4. **Extinguish**/Evacuate department/unit.

B. When operating the fire extinguisher, workforce members must adhere to the following procedure (**PASS**):

1. **Pull** the pin;
2. **Aim** at the base of the fire;
3. **Squeeze** the trigger; and
4. **Sweep** from side to side.

C. Documentation Requirements after a Fire Drill or Fire Alarm:

1. The ASC Administrator must document the ASC’s response to a drill or actual fire on the Code Red Form (attached here to as Attachment A).

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2. The ASC Administrator must complete the appropriate form(s) if a patient, visitor, or a Workforce member is injured.
3. If an actual fire incident occurs at the ASC, the Administrator or designee shall submit a Texas Department of State Health Services Ambulatory Surgical Center Incident Reporting Form within ten (10) business days of the incident.

REFERENCES/BIBLIOGRAPHY:

American Association for Accreditation of Ambulatory Surgery Facilities Version 8.1

Emergency Preparedness Guide

BTGH Fire Safety Plan Policy FP

Texas Department of State Health Services Ambulatory Surgical Center Incident Reporting Form

OFFICE OF PRIMARY RESPONSIBILITY:

The Ambulatory Surgical Center (ASC) at LBJ

REVIEW/REVISION HISTORY:

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ATTACHMENT "A"

[Link to the Harris Health System Code Red Report form](#)

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ATTACHMENT "B"

**TEXAS DEPARTMENT OF STATE HEALTH SERVICES AMBULATORY
SURGICAL CENTER INCIDENT REPORTING FORM**

Name of Facility: _____

Facility License #: _____

Telephone: _____

Contact person(s): _____

Reporting Information – (incidents must be reported within 10 business days):

1. Date of this report: _____

2. Date of incident: _____

3. Type of incident:

- Death of a patient while under the care of the ASC
- The transfer of a patient to a hospital
- Patient development of complications within 24 hours of discharge from the ASC resulting in admission to a hospital
- A patient stay exceeding 23 hours
- Occurrence of fire in the ASC
- Theft of drugs and/or diversion of controlled drugs

4. Summary of reportable incident; what happened and how it was handled (*attach a separate sheet if necessary*):

Return

this form and any attachments within 10 business days of the incident to: Texas Department of State Health Services Regulatory Licensing Unit - Facility Licensing Group Attn: Consolidated Programs Delivery Code 2835 PO Box 149347 Austin, Texas 78714-9347 Fax: (512) 834-451

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Policy No: [ASC-P-6006](#)
Page Number: 1 of 4
Effective Date: 8/5/16
Board Motion No: n/a

TITLE: LATEX ALLERGY POLICY

PURPOSE: To identify Ambulatory Surgical Center (ASC) at LBJ Workforce members who have latex allergies or who are at risk for latex allergies; and to provide a safe environment for Ambulatory Surgical Center (ASC) at LBJ workforce members with known latex allergies.

POLICY STATEMENT:

The Ambulatory Surgical Center (ASC) at LBJ (“ASC”) is committed to providing a safe environment for Workforce members who are allergic to latex. Safety measures will be put in place to protect Workforce members who have disclosed or have identified latex allergies.

POLICY ELABORATIONS:

I. DEFINITIONS:

- A. **ALLERGEN:** A substance that in some individuals can cause an allergic or hypersensitivity reaction but is not normally considered harmful.
- B. **ALLERGENIC:** A substance that can elicit a hypersensitivity reaction in certain individuals.
- C. **ALLERGIC CONTACT DERMATITIS:** A delayed T-cell mediated hypersensitivity response attributed to chemicals (e.g., antigen) used in latex and some synthetic manufacturing processes and absorbed through the skin.
- D. **ALLERGY:** An immune reaction to an environmental agent that results in a symptomatic reaction.
- E. **ANTIGEN:** Any molecule or substance, more often a protein that has the ability to bind to an antibody.
- F. **LATEX ALLERGY:** An adverse reaction to products made from latex or natural rubber; a localized or systemic allergic response to one or more specific proteins (i.e., antigen) found in latex to which the individual has been sensitized and had developed antibodies.
- G. **LATEX PRECAUTIONS:** Interventions to prevent reaction in individuals allergic to latex proteins.

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- H. **LATEX-SAFE:** An environment in which every reasonable effort has been made to remove high-allergen and airborne latex sources from coming into direct contact with affected individuals.
- I. **SENSITIVITY:** A clinical manifestation of symptoms or response that develops after sensitization.
- J. **SENSITIZATION:** The development of immunological memory in response to exposure to an antigen.
- K. **WORKFORCE:** Employees, medical staff, trainees, contractors, volunteers, and vendors.

II. IDENTIFICATION OF A LATEX ALLERGY:

- A. An ASC Workforce member will be considered latex allergic if ~~they or she~~ has a history of allergic symptoms associated with exposure to latex products. These allergic symptoms can include:
 - 1. Contact urticarial or dermatitis (rash);
 - 2. Urticaria (hives);
 - 3. Angioedema (swelling of eyes, hands, mouth, etc.)
 - 4. Rhinitis (runny nose, sneezing);
 - 5. Conjunctivitis or watery eyes;
 - 6. Wheezing/bronchospasm/asthma; and
 - 7. Anaphylaxis (systemic allergic reaction).
- B. ASC Workforce members having a high index of suspicion for a latex allergy will be considered latex allergic.

III. GUIDELINES:

- A. Pursuant to the Letter of Agreement between Harris Health System (“Harris Health”) and the ASC, Harris Health’s Employee Health Services will facilitate the management of latex allergies identified for ASC Workforce members.

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- B. Identification of known or suspected latex allergy in ASC Workforce members is accomplished at the time of hire or when an ASC Workforce member notifies Harris Health's Occupational Health.
- C. Education of ASC Workforce members regarding latex allergy awareness will be covered during orientation by the Learning Resource Center pursuant to the Letter of Agreement between Harris Health and the ASC.
- D. New employees as part of the hiring requirements will visit the Harris Health's Occupational Health clinic and complete an employee health questionnaire.
- E. ASC Workforce members with a possible or existing latex sensitivity will be referred to Harris Health's Occupational Health for an assessment and/or further referral. Diagnosis and treatment will be provided as medically indicated by his or her personal physician or an Employee Health Services physician.
- F. Pursuant to the Letter of Agreement between Harris Health and the ASC, the ASC will arrange for the use of latex free products through Harris Health's Material's Management department for ASC Workforce members with latex allergies.

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REFERENCES/BIBLIOGRAPHY:

National Institute for Occupational Safety and Health, available at <https://www.cdc.gov/niosh/docs/97-135/>.

OFFICE OF PRIMARY RESPONSIBILITY:

The Ambulatory Surgical Center (ASC) at LBJ

REVIEW/REVISION HISTORY:

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Ambulatory Surgical Center (ASC) at LBJ

Policy No: [ASC-P-6010](#)

Page Number: 1 of 16

Effective Date: 4/13/2017

Board Motion No: n/a

TITLE: OPERATING AND SAFETY PROCEDURES FOR THE MEDICAL USE OF X-RAYS AT THE AMBULATORY SURGICAL CENTER (ASC) AT LBJ.

PURPOSE: To provide guidelines for safe radiation use to all workforce members who use radiation at the Ambulatory Surgical Center (ASC) at LBJ and management in complying with the objectives of the Texas Department of State Health Services, Bureau of Radiation Control regulations and the institutional health and safety policies.

POLICY STATEMENT:

The Texas Administrative Code establishes procedures that serve to minimize radiation exposure to patients and workforce members. These procedures also comply with the rules enforced by the Texas State Health Services (DSHS) Radiation Control. As a result, it is the policy of the Ambulatory Surgical Center (ASC) at LBJ (“ASC”) that all workforce members who work with radiation maintain a safe environment by adhering to the Texas Administrative Code’s procedures and adhering to DSHS’s rules regarding radiation. It is vital that faculty, staff, and students have enough information available to aid them in the safe conduct of their daily work activities relating to radiation. To that end, the Texas Department of State Health Services (TDSHS) has granted a registration to the Harris Health System authorizing the use of radiation producing devices. An essential component of that authorization is the Operating and Safety Procedures Manual for Medical Use of X-rays.

POLICY ELABORATIONS:

I. DEFINITIONS:

- A. **IMAGING RECEPTOR:** A device that changes an x-ray beam into a visible image. An image receptor may be a radiographic film and cassette, a phosphorescent screen (used in fluoroscopy or computed radiography), or a special detector placed on a table or upright bucky diaphragm (used in direct digital radiography).
- B. **RADIATION SAFETY OFFICER:** The individual responsible for the safe use of radiation and regulatory compliance within the Ambulatory Surgical Center (ASC) at LBJ. This individual has been designated by the Governing Body of the Ambulatory Surgical Center (ASC) at LBJ to assure that all radiologic services are provided in accordance with the requirements of 42 C.F.R. §416.49 and any other applicable state law requirements.

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Ambulatory Surgical Center (ASC) at LBJ

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Effective Date: 4/13/2017

Board Motion No: n/a

- C. **WORKFORCE:** Employees, medical staff, trainees, contractors, volunteers, and vendors.

II. INTRODUCTION

- A. The fundamental objective of the use of radiation is to obtain optimum diagnostic information or therapeutic effect with minimum exposure of the patient, the personnel concerned, and the general public.
- B. Further advice concerning hazards associated with specific devices and the development of new or unfamiliar activities should be obtained through consultation with the Radiation Safety Officer (RSO).
- C. Workforce members operating x-ray producing devices must be familiar with the requirements set forth in this Policy and must conduct their operations in accordance with them.
- D. The Operating and Safety Procedures are required by Title 25 of the Texas Administrative Code. This Policy establishes procedures that will minimize radiation exposure to patients and Workforce members. They are provided to comply with rules enforced by the Texas Department of State Health Services (DSHS), Radiation Control.
1. The rules require that each x-ray facility be registered with DSHS, Radiation Control. The certificate of registration contains conditions and restrictions that apply to the operation of the x-ray machines in this facility as well as a listing of the sections of the rules that apply.
 2. The rules require that a Radiation Safety Officer (RSO) be designated. The RSO has the responsibility and authority for assuring safe radiation practices and serves as the contact person between the facility and the DSHS, Radiation Control.
 3. The name of the current radiation safety officer is provided on the Certificate of Registration that is located in the Radiology Department at LBJ Hospital. Questions or concerns regarding radiation safety will be directed to the RSO of the ASC.
 4. These rules are available for review at <http://www.dshs.state.tx.us/radiation/rules.shtm> or at the website of the State of Texas Department of State Health Services.

This Policy is designed to inform and educate Workforce members that operate around x-ray producing devices on the safety features and regulatory requirements and to ensure safe radiological working conditions. As such, documentation of annual review and understanding by Workforce members of x-ray producing devices shall be kept on file. The documentation must include the name and signature of the individual, the date, and initials of the RSO.

III. GENERAL RESPONSIBILITIES:

A. All Workforce members who work with radiation shall:

1. Properly wear an assigned radiation monitor while at work, if such a monitor has been assigned to them.
2. Utilize all appropriate radiation protection measures including:
 - a) Wearing all appropriate personal protective equipment including leaded gloves, lead aprons, or leaded glasses where appropriate;
 - b) Using additional protective barriers and other shields when possible;
 - c) Using mechanical devices whenever their aid will reduce exposure;
 - d) Follow the technique chart provided for each unit;
 - e) Complying with requests from the RSO regarding personnel dosimetry and operating procedures;
 - f) Verifying appropriate training is completed prior to operating x-ray producing devices; and
 - g) Providing signature verification of annual review of these operating and safety procedures.
3. Notifying the Radiation Safety Office of any new radiation producing devices and repairs to existing equipment;
4. Contacting the Radiation Safety Officer for shielding calculations for rooms proposed for a different type of x-ray modality or for a new installation of an x-ray producing device;
5. Notifying the Radiation Safety Office of any stolen or lost x-ray producing devices;
6. Complying with proper procedure when hiring/terminating employment or the use of x-ray producing devices; and

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Ambulatory Surgical Center (ASC) at LBJ

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7. Conducting all radiation safety related procedures specific to your particular working environment (for example: portable radiography, CT, fluoroscopy, etc.).
- B. The Department of State Health Services' (DSHS) rules require that the ASC designate a Radiation Safety Officer (RSO). The RSO has the responsibility and authority for assuring safe radiation practices occur in the ASC and serves as the contact person between the ASC and DSHS Radiation Control.
- C. The Radiation Safety Officer is responsible for:
1. Reviewing all proposals for use of x-ray producing devices and recommending action to the Radiation Safety Committee;
 2. Inspecting facilities and equipment through radiation safety evaluations and monitoring all facilities in which radiation-producing equipment resides;
 3. Acting as consultant in the design of all new facilities using x-ray producing devices for the purpose of providing protection against radiation exposure;
 4. Preparing and disseminating information on radiation safety for faculty, staff, and students as necessary;
 5. Providing personnel monitoring services, including the reviewing and recording of commercially processed dosimeter reports;
 6. Reviewing and performing, as necessary, lead apron/protective device evaluations and removing any devices that are not in compliance;
 7. Reviewing completed medical physics testing and recommending action to the various departments;
 8. Preparing registration and certification amendments and technical renewals as well as acting as the primary contact for correspondence with state radiation control authorities on a timely basis;
 9. Investigating incidents involving radiation exposures including overexposures, incidents, theft, loss of devices, and accidents;
 10. Notifying the Texas Department of State Health Services of all reportable incidents including overexposures, theft, loss of x-ray producing devices and submitting reports as required;
 11. Ensuring that radiation doses are maintained as low as (is) reasonably achievable (ALARA); and
 12. Maintaining records required by the Texas Department of State Health Services for inspection purposes.

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D. The Radiation Safety Committee (RSC) is responsible for:

1. The RSC incorporates multiple departments including the ASC. Attendance at the quarterly RSC meeting can include, but is not limited to: Laboratory, Risk Management, Cardiac Cath Lab, Nursing, Radiation Therapy, PET/CT, Nuclear Medicine and Radiology Administration, and is presided over by the Radiation Safety Officer (RSO) or designee.
2. The RSC provides quarterly review and approval of Radiology departmental policies, Radioactive Materials License amendments, employee radiation monitoring records and other topics as they relate to Radiation Safety within the Harris Health System. Approving policies and practices regarding the registration of radiation producing devices at Harris Health System and the implementation of the approved policies as delegated to the Radiation Safety Officer.
3. Reviewing periodic audits performed by the RSO.
4. Maintaining minutes of the meeting delineating the date, members presence, review actions including committee response, appended conditions, recommended actions, Audits, RPP, ALARA reviews, and RSO reports.

E. Radiation Protocol Committee (RPC):

1. The Texas Administrative Code 289.227 requires the establishment of a RPC for facilities that perform Fluoro Guided Interventional (FGI) procedures and/or Computed Tomography (CT).
2. The required members for the RPC are the RSO's, radiologists, physicists, Harris Health Administration, and additional staff members deemed necessary.
3. The records of the meeting minutes, Reference Levels, and actions taken by the RPC are kept on a share drive maintained by Harris Health System.

III. APPROVAL AND AUTHORIZATION

A. **Registration:** Harris Health System has been issued a registration to possess radiation producing devices by the Texas Department of State Health Services.

1. The registration, R01642, currently covers the use of radiation producing devices at Ben Taub General Hospital and the Baylor College of Medicine

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(BCM) affiliated Ambulatory Care Services.

2. The registration, R18411, currently covers the use of radiation producing devices at LBJ Hospital and the University of Texas (UT) affiliated Ambulatory Care Services.

B. **Regulations:** All radiation producing machines are regulated by state and federal laws (e.g. the Texas Administrative Code (TAC) and the Food and Drug Administration. The ASC will comply with the required regulations. This handbook establishes procedures to comply with the regulations enforced by the Texas Department of State Health Services (TDSHS) Bureau of Radiation Control. [25 TAC §289.227(i)(2)].

C. **Procedure for X-ray Producing Devices Authorization:** To be authorized to operate an x-ray producing device, the individual must meet the appropriate operator requirements. Each operator for human use shall meet the appropriate credentialing requirements of rules issued pursuant to Medical Radiologic Technologist Act Texas Civil Statutes Article 4512m, See[§289.226(t)] Students are defined as individuals enrolled in a radiologic technology program which meets the requirements of the Texas Department of State Health Services, Medical Radiologic Technologists Board, (25 TAC 143.5). Students will NOT work in a radiographic exposure room or operate a mobile unit without the oversight of a supervising staff technologist.

IV. PROCEDURES:

A. Radiologic services will only be provided when integral to procedures performed at the ASC.

B. Credentialing Requirements for Operators of X-Ray Machines:

1. All operators of X-Ray machines, including fluoroscopy, must meet appropriate credentialing requirements of the Medical Radiologic Technologist (MRT) Certification Act, Occupations Code, Chapter 601.

C. **Radiation Exposure Assessment & Dosimeter Application:** Personnel are monitored with commercial dosimeters.

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1. Any adult who is likely to receive a dose from occupational exposure to radiation in excess of 500 millirem in a year must use an individual monitoring device.
2. Individual monitoring devices must be worn at the unshielded location of the whole body likely to receive the highest exposure. When a protective apron is worn, the location of the individual monitoring device is typically at the neck (collar).
3. The individual monitoring device shall be assigned to one individual and must be worn only by that individual.
4. Persons working in low exposure areas are furnished with bimonthly or quarterly dosimeters. Monthly dosimeters are assigned to personnel working in higher exposure risk positions (i.e. X-ray technicians, Radiology residents, etc).
5. In accordance with 25TAC §289.202(f), dosimeters will be issued to any person likely to receive greater than 10% of the annual allowable limit.
6. An individual's dosimeter history may be reviewed by the Radiation Safety Officer and if found to be less than 10% of the annual dose for an adult worker, consideration may be given to discontinue the dosimeter.
7. Occupationally exposed individuals are entitled to records of their radiation exposure and may view their reports at any time. Radiation exposure reports will be posted in a conspicuous location in the relevant departments.
8. When individual monitoring devices are not being worn they will be stored in an area that is away from rooms where radiation machines are in use.
9. The RSO is responsible for the occupational dose records while the department director/manager or designee is responsible for exchanging the individual monitoring devices provided by the RSO. Original dosimetry reports are available from the RSO's office and may be stored on a share drive.
10. If you are working for another employer and receive an occupational dose, you should report that dose to the RSO so that it can be included in your annual record of occupational dose.
11. The RSO or designee will review radiation monitor readings after each cycle of monitoring and note any readings that are in excess of the norm for that person's responsibilities. The RSO will review such findings with the individual and arrange plans to improve radiation management. A note of such findings and the resultant review with the employee will be reported to the PI committee. If an individual's exposure exceeds the annual limits

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established by State of Texas regulations and for which notification is required, the State will be notified and proper documentation maintained as required by regulation.

D. Individual Monitoring Requirements:

1. The maximum permissible radiation dose limits are found in 25 TAC §289.202(f). Any Workforce member who is likely to receive a dose from occupational exposure to radiation in excess of 500 millirem in a year, must use an individual monitoring device.
 - a) Occupationally exposed Workforce members are entitled to records of their radiation exposure and may view their radiation exposure reports at any time. Radiation exposure reports will be posed in a conspicuous location in the ASC.
2. Occupationally exposed pregnant Workforce members must report their pregnancy to the RSO before special protection measures and counseling related to their job responsibilities can be developed to protect the conceptus. Workforce members are encouraged to announce their pregnancy to the RSO as soon as possible. All information regarding a Workforce member's pregnancy will be treated as confidential to the extent the law permits.
3. Individual monitoring devices must be worn at the unshielded location of the body likely to receive the highest amount of radiation exposure. When a protective apron is worn, the location of the individual monitoring device is typically at the neck (collar).
 - a) Additional individual monitoring devices that are used to monitor the dose of radiation to the embryo/fetus of a pregnant Workforce member must be located at the level of the uterus or as close as possible to the embryo/fetus under any protective apron being worn by the woman.
4. An individual monitoring device shall be assigned to one individual and must be worn only by that individual.
5. When wearing a protective apron during the fluoroscopy procedures, multiple individual monitoring devices may be worn. When multiple

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devices are worn, occupational doses shall be determined in accordance with Section 289.231(m)(3)(C) of the Texas Administrative Code.

6. When individual monitoring devices are not being worn, the devices must be stored in an area that is away from rooms where radiation machines are in use.
 7. The RSO is responsible for the occupational dose records while the department director/manager or designee is responsible for exchanging the individual monitoring devices provided by the RSO. Original dosimetry reports are located in the RSO's office.
 8. If a Workforce member is also working for an employer that is not the ASC and receives an occupational dose of radiation, that Workforce member must report their dosages to the RSO, so that those dosages may be included in the Workforce member's annual record of occupational doses.
 9. The RSO or his or her designee will review radiation monitor readings after each cycle of monitoring and note any readings that are in excess of the norm for that Workforce member's responsibilities. The RSO will review such findings with the Workforce member and arrange plans to improve radiation management. If a Workforce member's exposure exceeds the annual limits established by law, the State will be notified and proper documentation will be maintained as required.
- E. Termination of Authorized User/Operator Employment termination includes separation from Harris Health System or the employee terminates operations involving radiation producing devices. Upon termination the designated department personnel must complete the following steps:
1. Notify the Radiation Safety Office as soon as possible of the termination.
 2. Return all personnel dosimeters
- F. Use of Protective Devices and Apparel
1. Workforce members must use protective devices and apparel, such as lead aprons, gloves, and shields to reduce exposure to an amount that is as low as reasonably achievable. Protective devices must be used or provided in the following situations:
 - a) When it is necessary for an individual other than the patient to remain in the room or hold a patient;

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- b) When a Workforce member must hold the image receptor;
- c) When it is necessary to protect other patients who cannot be moved out of the room; or
- d) When the gonads are within five (5) centimeters of the X-Ray beam, shields must be used unless the use of the shield interferes with the diagnostic procedure.

- 2. If fluoroscopic procedures are being performed, protective devices (lead drapes, hinged sliding panels) shall be in place unless they interfere with the sterile field. All individuals in the fluoroscopic room must wear protective aprons of 0.5 mm lead equivalent material or must stand behind and equivalently protective shield.
- 3. Protective devices can be found in a designated location within the ASC.
- 4. Protective apparel shall be checked annually for defects by the Nursing Clinical Manager or his or her designee shall inspect the apparel for holes, cracks, or tears. This check can be done by visually inspecting the apparel or feeling the protective apparel, or it may be done by X-Raying the items. A record will be kept of this check.
- 5. If any apparel is found to be defective at the time of the annual check or on any other occasion, the apparel shall be removed from service at the ASC until it has been cleared by additional imaging evaluation. Further evaluation of lead apparel will be supervised by a medical physicist. Apparel that does not pass the annual inspection will be permanently removed from the ASC and documented accordingly on the lead apparel inventory spreadsheet.
- 6. The ASC hereby adopts and will follow Harris Health System Radiology Department's policy for Lead Apparel Inspection and Inventory. This policy addresses the specifics of the lead apparel inspection process and the guidelines for maintaining inventory.

G. Holding of Patients and/or Image Receptor

- 1. If a patient or imaging receptor (IR) must be supported during a radiation procedure, Workforce members must use a mechanical holding device when circumstances permit. Mechanical devices cannot be routinely used during situations when the patient is not cooperative or physical barriers to their use prevent their use or when the correct position cannot be achieved.

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2. If it becomes necessary for an individual to hold a patient or an IR, the individual should not be pregnant. The individual must wear protective apparel and keep out of the direct beam. If feasible, a non-occupationally exposed individual should hold the patient and/or the IR.

H. Posting Notices:

1. The rooms in the ASC in which the X-Ray machines are located and operated are radiation areas. As a result, access to these areas must be restricted.
2. The radiation area must be designated as such with a sign that states "Caution Radiation Area," or other similar language.

I. Radiation Dose to Operators

1. The occupational dose limits of radiation for Workforce members are set forth in Section 289.231(m) of the Texas Administrative Code.
2. If a Workforce member is pregnant or becomes pregnant, she may voluntarily inform the RSO in writing of the pregnancy, the RSO will ensure that procedures are put in place to restrict the dose to the embryo/fetus to not more than 0.5 rem (500 mrem) during the entire pregnancy. The Workforce member is required to follow the instructions of the RSO to maintain doses within these limits.
3. If a Workforce member suspects that there has been an excessive exposure or a radiation incident, that Workforce member must immediately notify the RSO.

J. Operation of X-Ray Machines:

1. Ordering X-Ray Exams:
 - a) No X-Ray exam shall be taken unless it is ordered by a physician. The order must be placed in the patient's electronic medical record.
2. Operator Position During Exposure:
 - a) The operator must be able to continuously view and communicate with the patient.

- b) During the exposure, the operator must be positioned so that the operator's exposure is as low as reasonably achievable and he or she must be at least six (6) feet from the machine or be protected by a lead apron, gloves, and/or other shielding.
3. Use of a Technique Chart:
- a) Technique charts aide in reducing the exposure of radiation to the operator and patient and should be used for all exposures
 - b) Technique charts should be displayed in the vicinity of the control panel of each X-Ray machine and may be in writing, electronically, or graphically displayed.
4. Restriction and Alignment of the Beam:
- a) The useful X-Ray beam shall be restricted to the area of clinical interest.
5. Use of Fluoroscopic Machines:
- a) When using the Fluoroscopic machines, Workforce members must reset the five (5) minute cumulative timing device before each fluoroscopic procedure.
 - b) For mobile Fluoroscopy (i.e. C-arm) units, a thirty (30) centimeter (cm) source-to-skin (SSD) spacer must be used unless the procedure falls under the conditions of paragraph G(5)(c) below.
 - c) A twenty (20) centimeter SSD spacer may be used for mobile fluoroscopy during any procedure in which the thirty (30) centimeter separator device presents a potential obstruction to the procedure as judged by the physician performing the procedure or by the radiologic technologist in charge of the machine. The X-Ray tube will be maintained at a reasonable distance from the patient as is consistent with the procedure.
6. Use of Mobile or Portable Machines:
- a) The operator shall notify other persons within a 10-foot radius that they should remain outside the six-foot zone while the exposure is

being made. Stat acquisitions may be acquired if other Workforce members cannot vacate the six-foot zone due to other obligations. The operator must wear a lead apron or be protected by other shielding (e.g., the machine); and should never be in line with the direct beam.

- b) Any person required to assist with holding patients during portable examinations shall be provided with a lead apron and instructed on how to hold the patient or cassette without being directly exposed. Such instructions might include the use of leaded gloves.
- c) Each portable x-ray machine will be equipped with the following devices:
 - (1) A time control cable having a length of at least six feet;
 - (2) A variable aperture light localizing collimator (cone) which will restrict the x-ray beam; and
 - (3) A technique chart must be available for all mobile procedures. The technique charts should take into account: (1) the size of the patient; (2) the projection; (3) the kVp; (4) the tube current, if applicable; (5) the mAs, if applicable; and (6) the exposure time if applicable.

7. Alternative Processing Systems:

- a) The ASC uses digital processing techniques. Processing will be done according to the manufacturer's recommendations, which are located in the office of the Quality Control Coordinator for Harris Health.

8. Digital Imaging Acquisition Systems:

- a) The ASC uses a digital imaging acquisition system. Processing will follow the quality assurance/quality control protocol for image processing established by the manufacturer or, if a manufacturer's protocol is not available, by the registrant.

9. Quality Assurance Program:

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- a) A Quality Assurance Program has been established by Harris Health. Pursuant to the Letter of Agreement between Harris Health and the ASC, the ASC will rely on this program.
- b) The Quality Assurance Program requires the commitment of Workforce members to ensure quality diagnostic imaging. Quality Assurance tests will be performed at routine intervals, acceptability limits established, and corrective action taken when applicability limits are exceeded.
- c) The Quality Assurance Program also ensures the following:
 - (1) Radiographic equipment receives an annual preventive maintenance by service personnel. Annually, Harris Health's medical physicist is responsible for performing calibration verification surveys and equipment evaluations. Quality control on radiographic equipment is performed according to schedules specified by the Radiation Safety Officer. Any suspected malfunction or problems identified on with the equipment should be immediately reported to Harris Health's Biomedical Engineering department.
 - (2) An annual inventory of all radiation machines is maintained by the Radiation Safety Officer.

V. X-RAY SYSTEMS NEEDING CORRECTION OR REPAIR

- A. In order to achieve compliance with State regulations, the correction or repair shall begin within 30 days following the failure and shall be performed according to a plan designated by the registrant. Correction or repair shall be completed no longer than 90 days from discovery unless authorized by the agency.
- B. Records of x-ray system corrections or repairs shall be maintained. These records include the repairs made and any tests, measurements or numerical readings done to verify completion.
- C. Digital imaging acquisition system quality control: Our facility uses a digital imaging acquisition system. Processing will follow the quality assurance/quality control protocol for image processing established by the manufacturer or, if no manufacturer's protocol is available, by the registrant.

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- D. Quality Assurance Program: A QA program has been established and requires the commitment of practitioners and staff to ensure quality diagnostic imaging. QA tests will be performed at routine intervals, acceptability limits established and corrective action will be taken when acceptability limits are exceeded. It is our goal to ensure optimum diagnostic imaging with reduced repeats and minimal patient exposure.
1. Radiographic equipment receives an annual preventive maintenance by service personnel. Annually, or periodically (depending on the modality), the medical physicist is responsible for performing calibration verification surveys and equipment evaluations. QC, required by regulation, on radiographic equipment is performed according to schedules specified by the RSO. Technologists are to report any suspected malfunction or problems of equipment immediately to Biomedical Engineering.
 2. CT Scanners receive preventative maintenance in accordance with the requirements for the machine. Documentation of PM's are maintained in Biomedical Services. Annually, the medical physicist is responsible for performing calibration verification surveys and other equipment evaluations to include dose measurements. Final reports are kept on file. Images for QC are stored in PACS. CT technologists will perform and document weekly quality assurance tests to verify that CT machines are within limits.

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REFERENCES/BIBLIOGRAPHY:

42 C.F.R. §416.49(b)(1).

§482.26(b)(1)

[G-1 Operating and Safety Procedures for Medical Use of X-rays.pdf \(hchd.local\)](#)

~~[American Association for Accreditation of Ambulatory Surgery Facilities Version 8.0](#)~~

~~[Quad A Version 8.2](#)~~

OFFICE OF PRIMARY RESPONSIBILITY:

The Ambulatory Surgical Center (ASC) at LBJ

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HARRISHEALTH SYSTEM

ASC Disaster Preparedness Plan

2024

TITLE: DISASTER PREPAREDNESS PLAN

PURPOSE: To provide a safe environment for patients, visitors, and workforce members at the Ambulatory Surgical Center (ASC) at LBJ.

POLICY STATEMENT:

The Ambulatory Surgical Center (ASC) at LBJ has a disaster preparedness plan in place to care for patients, workforce members, and other individuals who are on the ASC's premises when a major disruptive event occurs.

The governing body of the ASC is responsible for the development of this plan.

I. OBJECTIVE

To establish and maintain a program at the ASC that ensures an effective response to probable disasters or emergencies that may affect the ASC physical environment.

II. ELEMENTS OF DISASTER PREPAREDNESS PLAN:

The four phases of the ASC's emergency management activities are:

Mitigation - Measures taken to lessen the severity and impact of a disaster or emergency at the ASC.

Preparedness - Measures taken to ensure readiness and to identify resources that may be used should a disaster occur.

Response - Measures taken during a disaster to ensure the safety of patients, visitors, and Workforce members.

Recovery - Measures taken following a disaster or emergency to return the ASC to normal operations as quickly as possible.

III. HAZARD VULNERABILITY ANALYSIS:

The ASC has identified disaster situations that could affect the operations of the ASC in the Hazard Vulnerability Analysis, *see* Attachment A. Specific procedures are implemented in response to disasters which have been identified as "high probability."

IV. NIMS and HICS

The [National Incident Management System \(NIMS\)](#) guides all levels of government, nongovernmental organizations and the private sector to work together to prevent, protect against, mitigate, respond to and recover from incidents.

NIMS provides stakeholders across the whole community with the shared vocabulary, systems and processes to successfully deliver the capabilities described

in the [National Preparedness System](#). NIMS defines operational systems that guide how personnel work together during incidents.

- Local, state, territorial, and tribal nation jurisdictions are required to adopt NIMS in order to receive federal Preparedness grants.

HICS team charts depict the hospital command functions that have been identified and represent how authority and responsibility are distributed within the incident command team. The Incident Commander, who has overall responsibility for all activities within the Hospital Command Center (HCC), directs the activities at the Hospital Command Center (HCC). The Incident Commander may appoint other Command Staff personnel to assist. The Command staff generally includes a Liaison, Safety Officer, Public Information Officer, and other specialty appointed position (e.g., Medical Specialist). Many incidents that likely will occur involve injured or ill patients. Figure II-3 below shows a Hospital Incident Command System.

V. DISASTER PREPAREDNESS PLAN:

A. Activation of Plan:

1. As appropriate, the plan may be activated by the ASC Administrator. The centralized command post will be the nursing station between the pre-op and PACU areas.
2. The ASC command post will have a direct line of communication with LBJ's Incident Command Center (713-566-5105) and the Corporate Incident Command Center during a community or campus-wide disaster that may affect the operations of the ASC.

B. Authority & Responsibilities:

1. The ASC Administrator will serve as the coordinator of all disaster-related activities. If the ASC Administrator is not available, the person of highest authority at the ASC shall assume the role of coordinator, followed by the next person of highest authority.
2. The ASC command post will serve as a central resource for information and assignments regarding the disaster. Supply, space, security, and patient management will be directed from the command post by the ASC Administrator, or person of next highest authority, as appropriate, based on the size, type, and complexity of the emergency or disaster.

3. The ASC Administrator or his or her designee will notify Harris Health System's (Harris Health) Corporate Communications to handle all interactions with the news media regarding the disaster as well as the release of any information to the families of patients and/or victims, pursuant to the Letter of Agreement between Harris Health and the ASC.

(Media On-Call: 713-566-6430).

C. Communications:

1. As with the notification of external authorities, each emergency response procedure, as appropriate, has a method of notifying ASC Workforce members. Alternate methods of communication have been identified in the event there is a loss of telephone service.

- These include, but are not limited to, the use of back-up phones, email, digital pagers, cellular telephones, VOIP phones, hand held radio, Send Word Now, GETS (Government Emergency Telecommunication System) and Corporate Communications.

2. In the case of an actual disaster affecting the operations of the ASC, each emergency response procedure, as appropriate, has a method of notifying Harris Health response personnel (e.g., Emergency Alerts & Codes) and external authorities of emergencies. This is done by calling Harris Health Security Dispatcher (713-566-9001) who will notify 911.

3. At the discretion of the ASC Administrator or designee, off-duty Workforce members will be notified to report to the facility as needed. A Disaster Call List will be maintained by the ASC Administrator and designees for the purposes of notifying off-duty Workforce members should their assistance be necessary. The disaster call list will be kept in the emergency preparedness binder in the PreOP and PACU station.

D. Staff Identification:

1. For security purposes, (e.g., vehicular access, etc.), all ASC Workforce members will be identified as Essential Employees on the back of their ID badges in order to access any Harris Health facility (if safe to do so) during a community disaster. Employees will show their "Essential Personnel" logo on the back of their ID badge to law enforcement.

2. Each ASC Workforce will be designated as a "Recovery" team member at the time of hire.

3. ASC Workforce members will call the Employee Staffing Hotline Number (888-305-2979) to verify the necessity to return to the ASC if they have not been contacted or instructed to return to work by their supervisor.

4. Post-disaster, all Recovery Workforce members will report to the ASC command post for specific assignments.

E. Discontinuation of Services:

In the event of a disaster, the ASC Administrator or designee in consultation with the ASC Medical Director and Harris Health leadership will make the determination as to whether services will be continued, modified, or discontinued as appropriate.

F. Emergency Assets & Resources:

1. Emergency assets and resources are available. If specialty items are needed the ASC will contact Harris Health Supply Chain Management department. Harris Health support departments maintain a ninety-six (96) hour supply of assets, including: pharmaceuticals, medical and non-medical supplies, drinking water, and food.

2. In the event of a city-wide disaster, Harris Health's System Incident Command Team will announce steps to be taken to allocate resources.

G. Emergency Response:

1. The ASC response to disasters or emergencies follows an "All Hazards Approach" and is not designed to be all inclusive. If ASC Management can maintain the following "Critical Six" elements of an all hazard approach, the ASC can handle most likely any emergency. The "Critical Six" elements are:

- i. Maintain communications;
- ii. Maintain safety and security;
- iii. Maintain utilities;
- iv. Maintain assets and resources;
- v. Manage patients; and
- vi. Manage staff.

2. Security Threats:

In the event of a civil disturbance or security threat during normal business hours, the Administrator or designee will notify Harris Health's Department of Public Safety who will respond and notify the Houston Police

Department. Patients, visitors, and Workforce members will be discouraged from leaving the ASC until the situation is deemed safe by law enforcement. Please see Harris Health System's, *Active Shooter / Armed Intruder Procedures*, attached.

3. Utility/Power Failure:

In the event of a utility/power failure, the ASC is equipped with an auxiliary generator, which is activated by a power failure. Should the auxiliary generator fail, ASC Workforce members should be aware that equipment requiring electricity in the ASC will not be functional except those items on battery back-up. ASC Workforce members will be responsible for reporting the power failure. LBJ Facility Engineering staff will respond and be responsible for repair and notifying and requesting emergency service from utility vendors. Please see Harris Health System's *Facility Alert, Utilities Failure Procedure*, attached. During a power failure staff will safely complete or stop any procedure they have currently started if the physician deems it is safe to do so. No additional procedures will begin until ASC has returned to normal power. In the event of a power failure emergency, the ASC will implement the Electronic Medical Record Downtime procedure. (Reference policy 4616)

4. Hurricanes:

The ASC will not be operational during a hurricane. Cancellation of procedures will be the responsibility of the Administrator or designee in conjunction with the Harris Health's Incident Command. Generally, services should be stopped twenty-four (24) to forty-eight (48) hours prior to tropical winds (39 mph) reaching the Houston area. In addition, ASC Workforce members will be given adequate time to be released to their homes and families.

5. Tornados / Severe Weather:

The areas of concern during severe weather are the waiting area and/or areas that have exposed glass. Once alerted (overhead page, phone call, e-mail), ASC Workforce members shall move all visitors, patients, and fellow Workforce members away from windows and towards interior corridors or protected areas (stairwells). Workforce members will communicate with visitors and patients, lower patient beds to its lowest position, and clear pathways by moving emergency carts and equipment to interior rooms. Please see Harris Health System's, *Weather Alert Procedures*, attached.

H. Shelter-in-Place:

Shelter-in-Place is not intended to be a stand-alone response to an emergency. The ASC Administrator or designee should consider sheltering in place based on the emergent situation. Emergency situations likely to threaten the ASC are external threats such as a chemical release, tornado, ice storm, or severe weather event. All situations could warrant a sheltering place response inside the ASC.

I. Evacuation:

1. When it is determined that the environment cannot support adequate patient care and treatment, after consultation with the ASC Medical Director and Harris Health leadership the ASC will be evacuated.
2. In the event the ASC is evacuated, the Outpatient Center Administration and LBJ Administration will be notified of the evacuation.
3. Types Of Events Requiring Evacuation:
 - i. Fire/Explosion;
 - ii. Hazardous Material Incidents;
 - iii. Structural Damage/Failure;
 - iv. Extended Utility Failure;
 - v. Medical Gases Failure;
 - vi. Infectious Outbreak; and
 - vii. Tornado/Hurricane.
4. [The ASC Evacuation Plan](#) addresses specific procedures to be followed if an evacuation of the ASC is deemed appropriate, as well as alternate roles and responsibilities of key Workforce members.
 - i. External Requests for Information
 - ASC Incident Command will maintain a directory of evacuated patients and may share information such as whether an individual is at the facility, his or her location within the facility, and general condition to those making inquiries about patients, staff, or other building occupants.
 - During the course of the incident, requests for detailed patient information may be received from external sources (e.g., staff and patient families, media, public, emergency management, law enforcement, health department, insurance carriers).
 - Any person receiving such a request shall take the requestor's name, agency, telephone number, and nature of the inquiry and refer the matter to the ASC Incident Command Center.

- Consolidated information (e.g., number of patients evacuated, receiving hospitals) may be shared with local EOC or other coordinating agencies.
- No information shall be released without authorization from the ASC Incident Command.
- Information released to the public needs to be consistent and accurate. All information released to the general public or media will be released through the unified command Joint Information Center (JIC), if activated, or the ASC Incident Command Center.
 - Media relations will be accomplished in accordance with the Harris Health communications plan.

J. Reoccupation of the ASC after an Event:

1. Harris Health's Engineering/Planning department(s) will provide the ASC Administrator/Medical Director an assessment of damages and status of service operations.
2. Harris Health's Engineering/Planning department(s) will determine the overall readiness and/or operational limitations of the ASC and coordinate with the city of Houston and other appropriate agencies regarding the restoration of utilities and the type of services, if any, that the ASC can provide to the community.
3. All reports of property damage should be directed to Harris Health's Facilities Planning and Development department.
4. Evacuated areas of the ASC can be reoccupied only after thorough inspection and certification by Harris Health's Engineering/Facilities Planning and Development department deems areas safe to occupy.
5. Following an emergency event/disaster, workforce members will be contacted by the ASC Administrator or designee to advise a return-to-work status.

K. Alternate Care Sites:

1. An alternative care site will be identified and utilized when the ASC cannot adequately support patient care and treatment.
2. The specific type of disaster and the conditions in and around the ASC will dictate whether the evacuation, transfer, or relocation of patients to an alternate care site will be necessary.

3. The transfer of patients, staff, equipment, and any patient necessities will be coordinated between the ASC Administrator or his or her designee, the Harris Health Transfer Center, Medical Staff, and Harris Health Leadership. The ASC will follow [ASC-P-1007](#) in regards to patient transfer.

L. Staffing During a Disaster and Volunteers:

1. The ASC staff will follow Harris Health [Policy 6.22](#) Staffing During Disasters Emergency Events and Service Disruptions.

2. The ASC will not utilize volunteers.

M. Training:

An orientation program has been established to familiarize ASC Workforce members with the components of the Disaster Preparedness Plan. Orientation is completed by Workforce members upon hire at Harris Health’s New Employee Orientation. Additionally, Workforce members must complete annual training on the Disaster Preparedness Plan. Additional training will be completed by Workforce members on an as needed basis and based on reviews of data collected during drills and audits.

N. Drills: Testing, Evaluating, and Updating the Plan:

1. At least once every year the ASC will conduct an exercise to test the effectiveness of the Disaster Preparedness Plan. An exercise that is conducted in concert with State or local authorities qualifies as an annual test. While the exercise drill does not have to test the response to every identified hazard, the drill must test a significant portion of the Disaster Preparedness Plan.

Note: A real disaster event may be used for an exercise.

2. The following table includes the data evaluated in determining the effectiveness of the Emergency Management Plan.

Data	Source	When and Where Reported
Drill Hazard Vulnerability Analysis	Internal OEM	Annually (Quality Council & Gov. Body)
Drill Minutes and Critiques	Internal	Annually (Quality Council and Gov. Body)

Staff Education and Competency	Internal	Quarterly (Quality Council and Gov. Body)
Annual Evaluation of the EM Program	Internal	Annually (Quality Council and Gov. Body)

1. The ASC Administrator must prepare a written evaluation of each annual exercise. The evaluation must address issues identified during the exercise, propose resolutions to those issues, and update the Disaster Preparedness Plan accordingly. Specifically, the following must be evaluated:

- i. Emergency preparedness knowledge among Workforce members;
- ii. Workforce members' emergency preparedness skills;
- iii. Workforce members' participation levels;
- iv. Inspection activities;
- v. Emergency and incident reporting procedures; and
- vi. Testing applicable equipment.

O. Coordination of the Plan:

Because the Southeast Texas Regional Advisory Council (SETRAC) has determined that the ASC will not be integrated into the city-wide disaster response program, the ASC's role in the event of a community-side disaster will be minimal.

REFERENCES/BIBLIOGRAPHY:

American Association for Accreditation of Ambulatory Surgery Facilities Version 7 §400.20

Harris Health Emergency Operations Plan (EOP)

Emergency Alerts, Codes, and Response Policy No. 7100

Harris Health Civil Disturbance Response Plan No. 7112

Emergency Preparedness Guide

LBJGH Fire Safety Plan Policy FP

HCHD Fire Safety Risks Procedures Policy 7404

OFFICE OF PRIMARY RESPONSIBILITY:

The Ambulatory Surgical Center (ASC) at LBJ

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		Revised / Approved 02/18/2021	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
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		Revised / Approved 02/16/2023	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Revised / Approved 08/17/2023	The Ambulatory Surgical Center (ASC) at LBJ Governing Body

ATTACHMENT A

HAZARD VULNERABILITY ANALYSIS (HVA) RISK RATING

Ambulatory Surgical Center Top 10 Rated Events

2024 HAZARD VULNERABILITY ANALYSIS RISK RATING

Top 10 ASC Scored Events (Average)

Updated 12/27/2023

	Type Of Event	Risk
Rank	Top Rated Events from ASC HVAs	Relative Threat 0 – 100%
1	Power Outage	52%
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5	Cyber Attack	30%
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HARRISHEALTH
AMBULATORY SURGICAL CENTER AT LBJ
POLICY AND REGULATIONS MANUAL

Policy No: [ASC-P-6016](#)
Page Number: 1 of 7
Effective Date: 4/13/2017
Board Motion No: n/a

TITLE: EVACUATION PLAN AND PROCEDURES

PURPOSE: To establish the protocol to be followed in the event of an evacuation of the Ambulatory Surgical Center (ASC) at LBJ.

POLICY STATEMENT:

In the event of an emergency requiring a complete or partial evacuation of the Ambulatory Surgical Center (ASC) at LBJ, the ASC will follow this protocol to ensure safe and appropriate patient safety during the evacuation.

POLICY ELABORATIONS:

I. DEFINITIONS:

- A. **COMPLETE EVACUATION:** The movement of all Workforce members, patients, and visitors from the ASC when the ASC becomes unsafe or a threat poses a danger to all Workforce members, patients, and visitors (e.g., fire, flooding, structural damage). Complete Evacuation usually involves facility shutdown actions.
- B. **PARTIAL EVACUATION OR RELOCATION:** The movement of Workforce members, patients, and visitors to either:
 - 1. An area of relative safety in response to a given threat.
 - 2. Staging areas in preparation for evacuation (close proximity to exits).
- C. **HORIZONTAL EVACUATION:** The movement of Workforce members, patients, and visitors to a safe location on the same floor (preferably close to an emergency exit and in a different smoke compartment).
- D. **VERTICAL EVACUATION:** The movement of Workforce members, patients, and visitors to a safe location on a lower floor when a Horizontal Evacuation is unsafe or cannot meet the safety needs of Workforce members, patients, and visitors.
- E. **EVACUATION DEVICES:** Devices used to assist non-ambulatory patients during an evacuation, such as OR tables, beds, stretchers, blanket carriers, Stryker® chair, Paraslyde®, or MedSled®.

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- F. **PRE-EVENT EVACUATION:** An evacuation of Workforce members, patients, and visitors in advance of an impending disaster or when the ASC structure and surrounding environment is not immediately compromised. A Pre-Event Evacuation is appropriate when the ASC Administrator and Harris Health leadership believes the effects of an impending disaster may place Workforce members, patients, and visitors at unacceptable level of risk or when an evacuation after the event is likely to be extremely dangerous or impossible.
- G. **POST-EVENT EVACUATION:** The evacuation of Workforce members, patients, and visitors of the ASC when there is no advance warning regarding an event requiring evacuation or after a decision was made to shelter-in-place, but damages or danger has made evacuation necessary.
- H. **SEQUENCE OF EVACUATION:** The process of prioritizing the evacuation of patients, visitors, and Workforce members. In an emergent evacuation, priority should be given to those patients, visitors, and Workforce members who are in immediate danger. During a planned or urgent evacuation (<4 hours), evacuate those who need the least resources first (e.g., ambulatory).
- I. **SHELTER-IN-PLACE:** The process of securing patients, visitors, and Workforce members from a threat and does not involve evacuation. The decision to Shelter-In-Place is circumstance specific and must be made in relation to the risk to the patient(s), visitor(s), and/or Workforce member(s). It is appropriate to Shelter-In-Place in the following circumstances:
1. When the threat does not permit safe relocation or evacuation;
 2. When the movement poses a greater danger than the threat; and
 3. When it is not possible to move within a reasonable time frame.

II. EVACUATION PROCEDURES:

A. In General:

In the event of an internal or external disaster that requires either the Complete Evacuation or Partial Evacuation of the ASC or requires Workforce members, patients, and visitors to Shelter-in-Place, the following steps will be followed by all Workforce members:

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- a. All Workforce members who are not involved in direct patient care will report to the designated area of the ASC to receive instructions from the ASC Administrator or designee regarding the internal or external disaster. The designated area of the ASC that Workforce members must always report to during a disaster is the Pre-Op/PACU nursing station in the ASC.
- b. The ASC Administrator will determine, with the assistance of Harris Health leadership and/or the Houston Fire Department, whether a Complete Evacuation, Partial Evacuation, or Sheltering-In-Place is necessary.
- c. Once it is has been determined that the ASC needs to be evacuated or that Workforce members, patients, and visitors need to Shelter-In-Place, the ASC Administrator must report that information to all Workforce members present at the Pre-Op/PACU nursing station.
- d. Workforce members will begin executing the ASC Administrator's directions regarding the evacuation of the ASC.

B. Horizontal Evacuation:

1. Lobby:

The Health Unit Coordinator ("HUC") or the Patient Care Coordinator is responsible for receiving instructions from the ASC Administrator regarding the evacuation. The HUC or the Patient Care Coordinator will escort the patients and visitors to the designated area that the ASC Administrator, in consultation with the Houston Fire Department or other proper authorities, has deemed appropriate for Horizontal Evacuation.

2. Operating Room:

- a. In the event of a fire, tornado, or other environmental disaster requiring Horizontal Evacuation, the following steps must be followed:
 - 1) The surgeon must close and/or pack wound(s).
 - 2) After the wound is closed, the surgical technician will remove the drapes from the patient.

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- 3) The anesthesia provider must secure the patient's airway and ventilate with an Ambu® bag.
 - 4) The circulating nurse will obtain a stretcher for the patient and move the patient to the designated area for Horizontal Evacuation.
- b. In the event of a non-environmental disaster (e.g., active shooter):
- 1) The surgeon and the anesthesia provider must secure the patient to the best of his or her ability with consideration given to the specific threat posed.
 - 2) All Workforce members involved in the patient's care should either (1) Shelter-In-Place or evacuate to a safe area.

3. Pre-Op/PACU:

In the event of a fire, tornado, or other environmental disaster requiring Horizontal Evacuation:

- 1) All pending surgeries will be suspended.
- 2) All patients will be transported to the area designated as discharge for Horizontal Transfer.

4. Discharge Points:

- a. Discharge points in are the areas where patients will either be discharged home or discharged to a hospital during an evacuation of the ASC.
- b. During a Horizontal Evacuation, the ASC Administrator will report to Workforce members the specific locations to discharge "homebound" patients and to discharge patients requiring further care.

C. Vertical Evacuation:

1. Lobby:

The HUC or the Patient Care Coordinator is responsible for receiving instructions from the ASC Administrator regarding the

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evacuation. The HUC or Patient Care Coordinator will escort the patients and visitors to the designated areas that the ASC Administrator, in consultation with the Houston Fire Department or other proper authorities has deemed appropriate for the Vertical Evacuation.

2. Operating Room:

a. In the event of a fire, tornado, or other environmental disaster requiring a Vertical Evacuation, the following steps must be followed:

- 1) The surgeon must close and/or pack the wound(s).
- 2) After the wound is closed, the surgical technician will remove the drapes from the patient.
- 3) The anesthesia provider must secure the patient's airway and ventilate with an Ambu® bag.
- 4) The circulating nurse will obtain a stretcher for the patient and move the patient to the designated area for the Vertical Evacuation.

b. In the event of a non-environmental disaster (e.g., active shooter):

- 1) The surgeon and the anesthesia provider must secure the patient to the best of his or her ability with consideration given to the specific threat posed.
- 2) All Workforce members involved in the patient's care should either Shelter-In-Place or evacuate to a safe area.

3. Pre-Op/PACU:

In the event of a fire, tornado, or other environmental disaster requiring Vertical Evacuation:

- 1) All pending surgeries will be suspended.
- 2) All patients will be transported to the area designated for Vertical Transfer.

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REFERENCES/BIBLIOGRAPHY:

Quad A Version 8.2

OFFICE OF PRIMARY RESPONSIBILITY:

The Ambulatory Surgical Center (ASC) at LBJ

REVIEW/REVISION HISTORY:

Effective Date	Version # (If Applicable)	Review/ Revision Date (Indicate Reviewed or Revised)	Approved by:
4/13/2017	1.0		The Ambulatory Surgical Center (ASC) at LBJ Governing Body
	2.0	Revised / Approved 03/29/2018	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/14/2019	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Revised / Approved 02/13/2020	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Revised / Approved 02/25/2021	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Revised / Approved 02/17/2022	The Ambulatory Surgical Center (ASC) at LBJ Governing Body
		Reviewed / Approved 02/16/2023	The Ambulatory Surgical Center (ASC) at LBJ Governing Body

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Thursday, February 22, 2024

Consideration of Approval of Reviewed Policy and Procedures for the
Ambulatory Surgical Center at LBJ

As part of the regulatory requirements of the Ambulatory Surgical Center (ASC), the Governing Body is to review and approve the ASC's policies annually. Please find a summary of the policies and their changes.

- Policy 1000-1008 *No Changes*
- Policy 1010 *No Changes*
- Policy 2001 *No changes*
- Policy 2004-2006 *No changes*
- Policy 2010-2012 *No changes*
- Policy 2016 *No changes*
- Policy 2018-2021 *No changes*
- Policy 2023 *No changes*
- Policy 3000-3004 *No changes*
- Policy 4000-4002 *No changes*
- Policy 4004-4013 *No changes*
- Policy 5000-5001 *No Changes*
- Policy 5003-5008 *No changes*
- Policy 6000-6001 *No Changes*
- Policy 6004-6005 *No Changes*
- Policy 6008-6009 *No Changes*
- Policy 6011-6014 *No Changes*
- Policy 6017-6018 *No Changes*