

HIPAA

Privacy Policy
and
Procedure Manual

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AAPECS EYE CARE 279 INDEPENDENCE BLVD VA BCH, VA 23462	
POLICY: ACCESS TO PHI	DATE: 04/10/03
CATEGORY: PRIVACY	REVISED:

POLICY

AAPECS recognizes an individual's right of access to inspect and obtain a copy of PHI about the individual as long as the PHI is maintained.

PROCEDURE

A. Request for Access

An authorized individual must request in writing to inspect or to obtain a copy of the individual's PHI that is maintained in the designated records set (medical record AAPECS must determine whether it will grant or deny the request within fifteen (15) days after receipt of the written request.

If the requested PHI is not maintained or accessible on-site, action must be taken no later than sixty (60) days from the receipt of the request.

If AAPECS is unable to take action within sixty (60) days from the receipt of the request, the time for such action may be extended no more than thirty (30) days. The individual must be provided with a written statement outlining the reasons for the delay and the date by which the action will be completed; this statement must be provided within the time limit set above.

B. Access to PHI

An authorized individual may have access, in whole or in part, to PHI, in accordance with the following:

1. The individual must request, in writing, access to inspect and/or copy PHI, and such request must be granted by AAPECS, unless there are grounds for denying the request.
2. AAPECS must notify the individual and provide the access to PHI requested including inspection or obtaining a copy, or both, in designated record sets. If the same PHI requested is maintained in more than one designated record set or at more than one location, the AAPECS will only provided the requested PHI once in response to a written request for access.
3. AAPECS must provide the individual with access to the PHI in the form or format requested by the individual if it is readily producible in such a form or format. If the information requested is not readily producible in the requested format, and provide the individual with access to the PHI in an alternative format to which the individual is agreeable. If the individual requests the records in electronic format, but AAPECS does not maintain its records in electronic format, then AAPECS may provide the requested records in paper format.

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4. **AAPECS** must provide the individual with a summary of the PHI requested, in lieu of providing access to the PHI, or may provide an explanation of the PHI to which access has been provided, if

(a) the individual agrees in advance to such a summary or explanation; and

(b) the individual agrees in advance to the fees imposed, if any **AAPECS** for such summary or explanation.

5. **AAPECS** must provide access as requested by the individual within fifteen (15) days after receipt of the request (unless an extension is requested by **AAPECS** in the manner set forth above), including arranging with the individual for a convenient time and place to inspect or obtain a copy of the PHI, or mailing the copy of the PHI at the individual's request. **AAPECS** may discuss the scope, format, and other aspects of the request for access with the individual as necessary to facilitate the timely provision of access.

6. If the individual requests a copy of the PHI or agrees to a summary or explanation of such information, **AAPECS** may impose a fee, based on rates set forth in § 8.01-413 of the Virginia Code, as amended. As of April 14, 2003, the fees permitted for copying records are as follows:

Paper records	\$0.50/page up to 50 pages
	\$0.25/page after 50 pages
Microfilm	\$1.00/page
X-rays	Reasonable charge
Searching and handling fees	not to exceed \$10
All postage and shipping costs	

C. Denial of Access to PHI

If **AAPECS** denies access to PHI, in whole or in part, **AAPECS** must comply with the following requirements:

1. **AAPECS** must, to the extent possible, give the individual access to any other PHI requested, after excluding the PHI that is being denied.

2. **AAPECS** must provide written denial to the individual within thirty (30) days following receipt of the request. The denial must be in plain language and contain the following:

(a) the basis of the denial;

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(b) if applicable (for denials listed in paragraph E), a statement of the individual's review rights, including a description of how the individual may exercise such review rights; and

(c) a description of how the individual may complain to the **[Privacy Officer]** or to Secretary of Health and Human Services. The description must include the name, title and telephone number of the contact person.

3. If **AAPECS** does not maintain the PHI that is the subject of the individuals request for access, but knows where the requested information is maintained, **AAPECS** must inform the individual where to direct the request for access.

4. If the individual has requested a review of the denial, **AAPECS** will designate a licensed health care professional, who was not directly involved in the denial, to review the decision to deny access. The designated reviewing official must determine within thirty (30) days whether to uphold the denial to access the requested PHI. This denial should contain the designated reviewing official's determination in writing.

D. Non-Reviewable Grounds for Denial of Access to PHI

After reviewing a written request from an individual, **AAPECS** may deny an individual access without providing the individual an opportunity to request a review of such denial in the following circumstances:

1. Psychotherapy notes.
2. Information compiled in reasonable anticipation of, or for use in a civil, criminal or administrative action or proceeding.
3. Information is subject to, or exempt from, the Clinical Laboratory Improvements Amendments of 1988. (CLIA states that clinical laboratories may provide clinical laboratory test records and reports only to "authorized persons," as defined by state law. The individual who is the subject of such information is not always included in this set of authorized persons. Therefore, covered clinical laboratories are not required to provide an individual access to this information if CLIA prohibits them from doing so. In addition, the following laboratories, or relevant components of them, are exempt from complying with the access requirement: research laboratories that test human specimens but do not report patient specific results for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of individual patients.)
4. An inmate's request to obtain copy of PHI if that disclosure would jeopardize the individual, other inmates, or the safety of any officer, employee, or other person at the correctional institution, or a person responsible for transporting the inmate.

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5. The individual agreed to temporary denial of access when consenting to participate in research that includes treatment, and the research is not yet complete.

6. The records are subject to the Privacy Act of 1974. (The Privacy Act of 1974 regulates federal records, including medical records. Certain federal agencies and contractors are subject to the Privacy Act of 1974. Note: this may not be applicable to AAPECS)

7. The PHI was obtained from someone other than a healthcare provider under a promise of confidentiality and access would likely reveal the source of the PHI.

E. Reviewable Grounds for Denial

AAPECS may deny an individual access, but must give the individual an opportunity for review in accordance with paragraph C above, in the following circumstances:

1. The licensed healthcare provider has determined that the access is likely to endanger the life or physical safety of the individual or another person.

2. The PHI makes reference to another person (who is not a healthcare provider) and it is determined that the access requested is likely to cause substantial harm to such other person or the individual.

3. The request for access is made by the legally authorized personal representative and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to the individual or other person.

EXAMPLES

1. The patient wants to look at and copy her records from a visit 5 years ago, but those records are maintained off-site. Grant the request and inform the patient that you have 60 days in which to produce the records because they are maintained off-site. You may charge the patient for copies in accordance with B.6 above.

2. If after 50 days the storage company cannot locate the records, exercise your right to extend the deadline by 30 days by writing to the patient and explaining that the storage company is still looking for the records.

3. Patient Minor Daughter has been seen repeatedly for an injury and you suspect that Dad has been abusing patient Minor Daughter. You record your suspicions in patient Minor Daughter's record. Dad requests access to the records. If a doctor, nurse or other licensed health professional in your office believes that releasing this information to Dad will cause harm to patient

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Minor Daughter, then send Dad a letter that denies the requests and tells him how he can have the denial reviewed.

4. The patient wants to review his x-rays, but you recently sent them to the patient's primary care physician because the patient requested that you do so. You can deny the request and tell the patient to direct his request to the primary care physician.

5. If you are being sued for medical malpractice by a patient and the patient requests access to her records, call your attorney. You may deny the request since the information in being used in a civil action against you.

Sources:

45 C.F.R. § 164.524

65 Fed. Reg. 250, p. 82554-82558, 82731-82736

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POLICY

AAPECS recognizes an individual's right to request and receive an accounting of disclosures of his/her PHI made during the previous six (6) years. Disclosures made prior to April 14, 2003 are excluded from the requirement.

PROCEDURE

A. Request for an Accounting

1. An individual must submit a written request for an accounting to the **[Privacy Officer]**.

2. AAPECS must provide an accounting of disclosures within sixty (60) days of receipt of the request. If AAPECS cannot honor the request within the 60-day period, the time for completing such request may be extended no more than thirty (30) days. The individual must be provided with a written request outlining the reasons for the delay and the date by which the action will be completed.

3. The individual is entitled to one (1) free accounting per 12-month period.

4. If the individual has request more than one accounting during a 12-month period, AAPECS must notify the individual of the costs associated with providing the accounting and give the individual the opportunity to accept, modify or withdraw his/her request for an accounting. If the individual decides to pay for the accounting, **[Entity Name]** may charge the individual as follows:

Paper records	\$0.50/page up to 50 pages \$0.25/page after 50 pages
Microfilm	\$1.00/page
X-rays	Reasonable charge
Searching and handling fees	not to exceed \$10
All postage and shipping costs	

Note: these fees are current as of April 14, 2003. Section 8.01-413 of the Virginia Code may be revised periodically.

5. **[AAPECS /Privacy Officer]** must gather and prepare the accounting, including disclosures made by business associates. **[AAPECS /Privacy Officer]** must contact the business associates and request that they provide information necessary to prepare the accounting. The accounting must include the following information for each disclosure:

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- (a) date of the disclosure;
- (b) description of the PHI disclosed;
- (c) reason(s) for the disclosure; and
- (d) name and address of the person or entity to whom the PHI was disclosed.

6. AAPECS must notify the individual when the accounting is ready, requesting payment if charges are due, but otherwise transmitting the disclosure accounting to the individual.

B. Disclosures Subject to Accounting

1. AAPECS must document the following disclosures:

- (a) uses and disclosures required by law;
- (b) uses and disclosures for public health activities;
- (c) disclosures about victims of abuse, neglect, or domestic violence;
- (d) uses and disclosures for health oversight activities;
- (e) disclosures for judicial and administrative proceedings;
- (f) disclosures for law enforcement purposes;
- (g) uses and disclosures about decedents;
- (h) uses and disclosures for cadaveric organ, eye, or tissue donation purposes;
- (i) uses and disclosures for research purposes;
- (j) uses and disclosures to avert a serious threat to health or safety;
- (k) uses and disclosures for specialized government functions; and
- (l) disclosures for workers' compensation (for purposes other than treatment, payment or health care operations).

For a description of each of the above, please see the Policy entitled "Uses and Disclosures of PHI -- Permitted or Required."

2. All of the above listed disclosures must be logged into **[book or field in computer program by [Privacy Officer].**

C. Exceptions to Accounting

1. AAPECS is not required to account for these disclosures:

- (a) disclosures made prior to April 14, 2003;

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- (b) disclosures made to the individual or the individual's personal representative;
- (c) disclosures made for treatment, payment, or health care operations;
- (d) disclosures made pursuant a valid authorization;
- (e) disclosures made for notification of persons involved in an individual's care;
- (f) disclosures for national security or intelligence purposes; or
- (g) disclosures made to correctional institutions or law enforcement officials regarding inmates.

2. A temporary suspension of the right to accounting of disclosures is allowed for health oversight agencies or law enforcement officials contingent on such agencies or officials submission to **AAPECS** of a statement that indicates that an accounting of disclosure will impede an investigation that involves the individual in question. The statement should include a time frame for the exclusion period. The statement may be oral but in that case the temporary suspension is limited to thirty (30) days, unless appropriate written documentation is submitted within thirty (30) days. Although the accounting of disclosure is not being released during this period, **AAPECS** should continue tracking and storing the information for future release.

EXAMPLES

1. On April 15, 2003, patient Smith requests an accounting of disclosures made during the past 6 years. You must only account for disclosures made on or after April 14, 2003. Patient Smith does not have a right to receive an accounting for disclosures made prior to April 14, 2003. You may not charge patient Smith for this accounting.

2. On November 14, 2003, patient Smith requests an accounting of disclosures made during the past 6 years. You must only account for disclosures made between April 14, 2003 and November 14, 2003. You must call patient Jones and inform him that he is only entitled to 1 free accounting per 12 month period (which he requested and received in April). In addition, you must inform patient Smith of the costs of copying. Patient Smith may either elect to proceed and pay the copying fee, or may modify or withdraw his request for an accounting.

3. On April 14, 2012, patient Smith requests an accounting of disclosures made during the past 6 years. You must account for disclosures made between April 14, 2006 and April 14, 2012.

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45 C.F.R. § 164.528
65 Fed. Reg. 250, p. 82559-82561, 82739-82744

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POLICY

AAPECS permits an individual or their personal representative to request that amendments be made to the individual's PHI.

PROCEDURE

A. Request for Amendment

1. An individual may make a request to amend his/her PHI by submitting such request in writing to the **[Privacy Officer]**. The request must define the error made in the record as well as the reason for the change.

2. The **[Privacy Officer]** will notify the health care professional of the individual's request to change or amend his/her PHI. The individual's health care professional will determine if the individual's PHI should be amended as requested by the individual.

3. AAPECS must notify the individual in writing within sixty (60) days of receiving the request if it will accept or deny the request. If AAPECS is unable to act on the request within the 60-day period, the time for completing such request may be extended by no more than thirty (30) days if the individual is provided with a written statement outlining the reason for the delay and the date by which the action will be completed.

4. The notice of acceptance or denial must be sent to the individual.

B. Denial of Request

1. AAPECS may deny a request for any of the following reasons:

(a) It determines that the PHI or record that is subject to the request was not created or maintained by it, unless the individual provides a reasonable basis to believe that the originator of the PHI is no longer available to act on the requested amendment;

(b) The PHI subject to the request is not part of the designated record set maintained by it;

(c) The PHI is accurate and complete;

(d) The individual is not allowed access to the PHI pursuant to the Access to PHI Policy.

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2. An individual may prepare a written statement of disagreement.

3. A denial must give the reason for the denial, tell the individual about his/her right to disagree with the denial, tell the individual that (if he/she does not file a statement of disagreement), he/she may request **AAPECS** to append the original request and the written denial to any future disclosures, and tell the individual how to file a complaint with the [**Privacy Officer**].

4. **AAPECS** may prepare a written rebuttal to the individual's statement of disagreement.

5. If the individual does not submit a written statement of disagreement and the individual requests that its request and related documentation be made part of his/her record, **AAPECS** must identify the record of PHI that is the subject of dispute and append or otherwise link the following information to the designated record set:

- (a) individual's request for amendment;
- (b) **AAPECS** 's denial of the request
- (c) individual's statement of disagreement (if any)
- (d) **AAPECS** 's rebuttal (if any).

This information must be included with any future disclosures of PHI to which the disagreement relates.

4. If the individual submits a written statement of disagreement, **AAPECS** must include all of the information listed above with any future disclosures of PHI to which the disagreement relates.

C. Acceptance of Request

If **AAPECS** accepts the request, it must make the appropriate amendment.

1. The author of the PHI can make a corrected entry by drawing a single line through the error and handwriting the correction above, below or beside the original entry. All corrections must be dated and signed. In addition, include a brief statement of why the amendment was made (i.e., "patient requested amendment" or "information documented in the incorrect chart"). Please see paragraph 5 below.

2. Copies of the amendment/correction form will be provided to those individuals or organizations the individual deems necessary.

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3. Copies of the amendment/correction form will also be provided AAPECS's business associates or others who may rely on that information to the detriment of the individual.

4. Disclosures will be documented for the purpose of accounting, with a notation indicating to whom the amendment/correction form was sent, the date, and the staff member processing the disclosure.

5. In most instances, the request to modify the individual's PHI should be permanently attached or linked to the incorrect entry, and a physical change to the record should not be made.

EXAMPLES

1. A patient sends a written request for amendment, but does not provide any support for such request. You are not required to act on the request. You should inform the patient of your requirements for requesting an amendment.

2. A patient requests that you amend PHI in your possession that was created by another physician. You learn from the patient that upon that physician's death she transferred her records to your office and you have been treating her since that time. You must treat the PHI as if you created it and agree to or deny the request for amendment according to the procedures listed above.

Sources:

45 C.F.R. § 164.526

65 Fed. Reg. 250 p. 82558-82559, 82736-82738

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POLICY

AAPECS will notify an individual or an individual's personal representative of the upcoming appointment. Appointment reminders must be made in a manner that reduces the risk of an unintentional disclosure of PHI.

PROCEDURE

A. Telephone Reminders

Reminder calls are made to the individual or the individual's personal representative [**the day before a scheduled appointment**]. These calls can be accomplished by printing out a list of scheduled appointments or via an on-screen review of such appointments.

1. The person making telephone reminders should attempt to talk directly to the individual or the individual's personal representative concerning the individual's appointment time.

2. A message may be left on the individual's messaging system or with another adult if the individual is not home. A reminder message should be limited to some or all of the following:

- (a) name of the individual;
- (b) appointment time and date;
- (c) AAPECS, physician name and telephone number;
- (d) referral is or is not needed;
- (e) co-pay is or is not required; or
- (f) reminder to bring all x-rays or other medical records.

3. A message left with someone other than the individual or on an answering machine should be restricted as much as practically possible to protect the individual's PHI. However, leave as much information as is necessary for the appointment reminder.

B. Appointment Cards

1. Appointment cards may be mailed to individuals as a reminder about an upcoming scheduled appointment.

2. If appointment cards are used, they will be mailed to the address given AAPECS by the individual upon registration or by another provider when service is rendered.

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AAPECS has or may have relationships with persons or entities who perform or assist in the performance of (in a capacity other than that of an employee) certain functions or activities involving the use and disclosure of PHI. Each business associate must provide **AAPECS** with satisfactory assurances that it will appropriately safeguard PHI.

PROCEDURE

Every business associate must enter into an agreement substantially in the form that appears in the appendix. **AAPECS** may want to consider further clarifying the services that will be performed or provided, payment for such services and indemnification provisions **AAPECS** should consider having business associate agreements reviewed by counsel.

If **AAPECS** has a written agreement with a business associate that was entered into on or before October 15, 2002, and such agreement will not require renewal or modification before April 14, 2003, then **AAPECS** has until April 14, 2004 to enter into a business associate agreement. If **AAPECS** (i) has no written agreement, (ii) has an oral agreement, or (iii) entered into an agreement after October 15, 2002, then **AAPECS** must enter into a business associate agreement by April 14, 2003.

The entities/persons that provide the following services are business associates:

1. Legal
2. Actuarial
3. Accounting
4. Consulting
5. Data aggregation
6. Management
7. Administrative
8. Accreditation
9. Financial
10. Software
11. Transcription
12. Claims processing or administration
13. Data analysis, processing or administration
14. Utilization review
15. Quality assurance
16. Billing
17. Benefit management
18. Practice management

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- 19. Imaging
- 20. Reading films or other tests
- 21. Document reproduction

AAPECS should consider entering into confidentiality agreements with the entities/persons who are not business associates and provide the following services:

- 1. Laboratory couriers
- 2. Document shredding
- 3. Document storage
- 4. Janitorial services

A sample confidentiality agreement appears in the appendix.

EXAMPLES

1. You hire a collection agency to bill and collect all accounts receivable. The collection agency is a business associate and you must execute a business associate agreement with the collection agency.

2. You are treating patient Smith for a knee replacement. The licensed physical therapist calls and needs information regarding patient Smith’s history and surgery. You are free to talk to the therapist and no business associate agreement is needed because your discussion is related to patient Smith’s treatment and coordination of care.

3. You are sued by patient Smith for medical malpractice. Your attorney is a business associate and you must execute an business associate agreement with the attorney. You do not need authorization from patient Smith in order to give your attorney copies of patient Smith’s medical records. If patient Smith requests that you provide copies of his medical records to his attorney, consider asking patient Smith to sign an authorization so you have written documentation of his request. If patient Smith’s attorney requests records by subpoena, follow the necessary procedures for providing such records.

Sources:

- 45 C.F.R. § 164.103, 164.504
- 65 Fed. Reg. 250 p. 82503-82507, 82640-82645
- 67 Fed. Reg. 157 p. 53248-53254, 53262-53266

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The health record is the property of **AAPECS** and shall be maintained to serve the individual, the health care providers and **AAPECS** in accordance with legal, accrediting, and regulatory agency requirements. All health records and information, including but not limited to PHI, shall be regarded as confidential and available only to authorized users per Virginia and federal guidelines.

PROCEDURE

A. Collection of PHI

1. The types and amount of PHI gathered and recorded about an individual shall be limited to that information intended to be used for the care and treatment of that individual.

2. All individuals engaged in the collection, handling, or dissemination of PHI shall be specifically informed of their responsibility to protect PHI and of the penalty for violation of this trust. Staff who feel they are inadequately trained or informed should address this issue with their supervisor or manager.

3. The collection of any PHI about an individual, whether by interview, observation, or review of documents, shall be conducted in a setting, which provides reasonable privacy and protects the information from unauthorized disclosure.

B. Storage of Health Records

1. Access to the areas housing health records shall be limited to persons designated by the [**Privacy Officer**] to have a legitimate need to access the area.

2. Health records should be kept in secure areas at all times when in use within the institution. If health records left unattended in areas accessible to unauthorized persons, precautions should be taken to minimize unauthorized disclosure. For example, records should be closed or turned face down.

3. Health records which are to be stored permanently, must be kept in a secure off-site location. The off-site facility (or agent) maintaining the health records should sign a business associate agreement. **AAPECS** recognizes that self-storage units may not be the best alternative for maintaining PHI off-site.

AAPECS does not use self-storage units for its medical records.

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AAPECS acknowledges that:

- the self-storage units are locked and secure.
- it is impractical to move the records and/or change the current storage arrangement.

C. Disposal of Health Records

AAPECS will contract with a disposal company for the proper destruction of health records. AAPECS must sign a business associate agreement (or a confidentiality agreement) with this disposal company. The disposal company should provide AAPECS with the proper certification to ensure that the health records have been destroyed.

Employees who need to discard paper (that contains PHI) in AAPECS's office should shred such paper or place it in a secure location for future destruction.

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AAPECS provides individuals with a process to make complaints if they believe the confidentiality of their PHI has been breached. AAPECS will to address all complaints from individuals who believe the confidentiality of their PHI has been breached.

PROCEDURE

A. Making a Complaint

1. All complaints regarding the privacy of PHI should be made in writing to:

AAPECS [Privacy Officer]

 Tel: _____

B. Investigation

1. Upon receiving the complaint, the [Privacy Officer] is to:
 - (a) document the complaint in the [complaint log/individual's file];
 - (b) document the date, time and name of person making the complaint;
 - (c) investigate the complaint;
 - (d) document the resolution of the complaint in the [complaint log/individual's file]; and
 - (e) communicate the outcome of the complaint with the individual filing the complaint.

2. Neither AAPECS nor any of its employees will intimidate or retaliate against an individual who exercises his/her right to file a complaint.

C. Complaints to OCR

An individual also has a right to complain to the Office of Civil Rights ("OCR"), the agency that will enforce the Privacy Rule.

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Sources:
45 C.F.R. § 164.530
65 Fed. Reg. 250 p. 82562-82563, 82746, 82748

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POLICY

AAPECS will provide each individual with a notice that describes how AAPECS may use and disclose an individual's PHI, the individual's rights with respect to his/her PHI and AAPECS 's responsibilities with respect to PHI.

PROCEDURE

A. Dissemination of Notice

1. A Notice of Privacy Practices should be given to each individual upon his/her first visit to, or contact with, AAPECS after April 14, 2003. Every attempt should be made to have the individual acknowledge receipt of the Notice of Privacy Practices. The acknowledgement of receipt should be documented or maintained in the individual's medical record. If the individual refuses to acknowledge receipt, AAPECS must document the individual's refusal.

Note that if an individual calls the office and treatment is provided over the phone, then AAPECS must mail a Notice of Privacy Practices to the individual on the same day. If the individual calls to make an appointment, it is not necessary to mail the Notice of Privacy Practices because no medical services (i.e., treatment) have been delivered.

2. A Notice of Privacy Practices should be readily available to any individual desiring a copy.

3. The Notice of Privacy Practices must be posted **[in the reception area]**.

4. The Notice of Privacy Practices must be posted on AAPECS 's web site, if AAPECS maintains a web site.

5. If after April 14, 2003, a individual's first contact/service delivery (i.e., treatment) with the physician is at a hospital, then the physician must provide the individual with a copy of AAPECS's Notice of Privacy Practices at the hospital or mail to the individual the Notice of Privacy Practices as soon as possible thereafter.

The following is the only exception to this rule: the physician, as a member of the medical staff at the hospital, may be asked (or required) to agree to participate in an organized health care arrangement ("OHCA") and provide a joint Notice of Privacy Practices to individuals he/she sees at the hospital. As part of an OHCA, the physician may rely on the Notice of Privacy Practices provided to the individual by the hospital. If the physician subsequently sees the individual in AAPECS's office, then AAPECS must provide the individual with a copy if its Notice of Privacy Practices at that time.

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B. Revision of Notice

1. If the Notice of Privacy Practices is revised, all copies of the previous Notice should be discarded. The revised Notice must also be prominently displayed **[in the reception area]** and given to all individuals who have not yet received the Notice of Privacy Practices.

2. Individuals who previously received the Notice of Privacy Practices are entitled to receive a copy of the revised Notice of Privacy Practices upon request.

EXAMPLE

1. On April 15, 2003, a patient calls and wants to speak with his physician about treatment. Over the phone, the physician speaks with the patient about and/or prescribes treatment. On April 15, 2003, you must mail your Notice of Privacy Practices to the patient. Remember to ask the patient to return the acknowledgment. Document in the patient's chart the date you mailed the Notice of Privacy Practices (because the patient is not likely to return the acknowledgment).

2. On May 1, 2003, you change something in your Notice of Privacy Practices. Give the new Notice of Privacy Practices to all patients who have contact with the office after that date. Patients who received the Notice of Privacy Practices prior to May 1, 2003 have the right to request a copy of the new Notice of Privacy Practices.

3. A patient has an appointment on April 15, 2003. You give the patient the Notice of Privacy Practices and ask the patient to acknowledge receipt of the Notice of Privacy Practices. The patient refuses to acknowledge receipt. Document, in the patient's record, that you gave the patient the Notice of Privacy Practices and that the patient refused to acknowledge receipt. You may not refuse to treat the patient.

4. Mom brings 3-year old Son in for treatment. Give the Notice of Privacy Practices to Mom and have Mom acknowledge receipt as the parent (personal representative) of 3-year old Son.

5. Mom brings 3-year old Son and 15-year old Daughter in for treatment. Give Mom a Notice of Privacy Practices for each child and have Mom acknowledge receipt for each child. The acknowledgments should be placed in the appropriate records.

Sources:

45 C.F.R. § 164.520

65 Fed. Reg. 250 p. 82547-82552, 82720-82726

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67 Fed. Reg. 157 p. 53238-53243

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POLICY

AAPECS will recognize an individual's personal representative as the individual with respect to uses and disclosures of the individual's PHI.

PROCEDURE

A. Personal Representatives.

1. Verify the identity of an individual's personal representative. Include any documentation in the individual's medical record.

2. A personal representative has the authority to act on behalf of the individual who is an unemancipated minor.

3. AAPECS may refuse to accept a person as a personal representative of an individual if it believes the individual has been or may be subjected to domestic violence, abuse or neglect, or the individual's life could be endangered by the person identified as the individual's personal representative.

4. AAPECS may exercise professional judgment and decide that it is not in the best interest of the individual to accept the person identified as the individual's personal representative should there be a threat of violence, abuse, neglect or endangerment of life.

B. Minors.

1. Generally, uses and disclosures of PHI about a minor to his/her parent, guardian or personal representative are governed by applicable State law. AAPECS may disclose PHI about a minor if Virginia law permits or requires such disclosure. AAPECS may not disclose PHI about a minor if Virginia law prohibits such disclosure.

2. A parent, guardian or personal representative may have access to PHI, including HIV test results, about the minor under Virginia law.

3. Unemancipated minor can override any decisions made by a parent, guardian or other person acting in loco parentis if he/she consents to the healthcare service. Document the decisions regarding consent to healthcare services provided to the unemancipated minor and the person(s) responsible for the decisions. If AAPECS has further questions, it should seek the advice of legal counsel.

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4. Minors are considered adults for authorizing release of PHI related to medical or health services:

(a) To determine the presence of or to treat venereal disease or any infectious or contagious disease that the State Board of Health requires to be reported; or

(b) Required in case of birth control, pregnancy or family planning except for the purposes of sexual sterilization.

Sources:

- 45 C.F.R. § 164.502(g)
- 65 Fed. Reg. 250 p. 82500-82501, 82633-82635
- 67 Fed. Reg. 157, p. 53199-53203
- Va. Code Ann. § 20-124.6
- Va. Code Ann. § 32.1-36.1
- Va. Code Ann. § 32.1-127.1:03
- Va. Code Ann. § 54.1-2969

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POLICY

AAPECS will designate one person to serve as its **[Privacy Officer]**.

RESPONSIBILITIES

The **[Privacy Officer]** is responsible for:

- ♦ Educating staff
- ♦ Developing and implementing all policies and procedures effecting PHI in accordance with HIPAA regulations
- ♦ Documenting, investigating and responding to all complaints made by individuals with respect to their PHI
- ♦ Sanctioning employees who violate AAPECS 's privacy policy and procedures
- ♦ Training.

Sources:

45 C.F.R. § 164.530

65 Fed. Reg. 250 p. 82561, 82744-82745

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AAPECS recognizes the sensitivity of psychotherapy notes and the additional protection afforded to such notes under the Privacy Rule.

PROCEDURE

A. Definition.

Psychotherapy notes are notes recorded (in any medium) by a health care provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint or family counseling session and that are separated from the rest of the individual's medical record. Psychotherapy notes capture the provider's impressions about the patient, contain details of the conversation considered inappropriate for the medical record and are used by the provider for future sessions.

B. Disclosure of Psychotherapy Notes.

1. If AAPECS is not the originator of the psychotherapy notes, AAPECS should direct the individual or requesting party seeking disclosure to the originator of the psychotherapy notes.

2. Generally, AAPECS may not use or disclose psychotherapy notes without a valid authorization from the individual.

3. AAPECS may use and disclose psychotherapy notes, without obtaining individual authorization, to carry out its own limited treatment, payment or health care operations as follows: (a) use by the originator of the notes for treatment, (b) use or disclosure for AAPECS 's own training programs for its mental health professionals, students, and trainees, and (c) use or disclosure by AAPECS to defend itself in a legal action or other proceeding brought by the individual.

Sources:

- 45 C.F.R. §§ 164.501, 164.508(a)(2)
- 65 Fed. Reg. 250 p. 82497, 82514-82515, 82652-82654
- 67 Fed. Reg. 157, p. 53220

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AAPECS will apply reasonable administrative, technical and physical safeguards to protect the privacy of PHI, and will reasonably safeguard PHI to limit incidental uses or disclosures following an otherwise permitted or required use or disclosure.

PROCEDURE

The following procedures must be used to protect PHI:

1. Reasonable efforts will be taken to protect PHI when medical records are in use or are in storage.
2. As necessary to facilitate care, medical records of individuals may be stored in the nurses station or in the intake area. Reasonable safeguards will be taken to ensure the protection of PHI. Employees are permitted access to these medical records to the extent required to perform their duties.
3. Persons with permission to access limited portions of an individual's medical record are to be provided access only to the specific information.
4. Persons without permission to access an individual's medical record are not provided access to the record.
5. Records not in use in the clinical area will stored in the medical records area. Clinical, administrative and billing employees may have access to medical records to the extent required to perform their duties.
6. Electronic/computerized records of any individual can only be accessed by those persons with permission to do so.

Sources:

45 C.F.R. § 164.530(c)
65 Fed. Reg. 250 p. 82561-82562, 82745

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AAPECS will sanction employees failing to comply with its policies and procedures regarding PHI, as well as federal regulations.

PROCEDURE

1. Employees must report to the **[Privacy Officer]** any use or disclosure of PHI which they believe violates the privacy of the PHI.

2. The Privacy Officer must investigate the report. The Privacy Officer must document:

- (a) Name of employee
- (b) Degree of violation
- (c) Location of violation
- (d) Date and time of violation
- (e) Disciplinary action provided.

A copy of all documentation must be placed in the employee's file.

3. The discipline will be determined according to:

- (a) The severity of the violation
- (b) If the violation was intentional or unintentional
- (c) If the violation indicates a pattern or practice of improper use or release of PHI.

4. The following disciplinary actions may be taken:

- (a) Counseling
- (b) Education
- (c) Written/verbal reprimand
- (d) Termination.

Sources:

45 C.F.R. §164.530(e)

65 Fed. Reg. 250 p. 82562, 82747

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POLICY

AAPECS must train all employees on its policies and procedures relating to PHI and document that training was received.

PROCEDURE

1. The training must be appropriate for each employee to carry out his or her healthcare function.
2. All existing staff must be trained on the policies and procedures regarding PHI prior to April 14, 2003.
3. All future staff shall be trained during orientation, or as soon as practicably possible, on the policies and procedures regarding PHI.
4. The date and name of each employee who received training must be documented by the Privacy Officer.
5. Whenever a material change occurs to AAPECS's policies and procedures, training will be provided within a reasonable period of time after such changes are effective to those employees whose job functions are affected.

Sources:

45 C.F.R. §164.530(b)
65 Fed. Reg. 250 p. 82561, 82745

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POLICY

AAPECS will attempt to verify the identity of any person requesting access to an individual's PHI.

PROCEDURE

1. Employees must request identification from any person requesting PHI about an individual if the identity or the authority of the requestor is not known to the employee.

2. Employees must obtain any documentation, statements or representations from the person requesting PHI about an individual. The documentation, statements or representations can be either verbal or written, however, employees should attempt to obtain written verification in all cases.

3. Employees may rely on the following as verification of identity when the disclosure of PHI is being requested by a public official:

(a) If the request is made in person, the person provides an ID badge, official credentials or other proof of status.

(b) If the request is in writing, the letter is written on the appropriate government letterhead.

(c) If the request is made by another person on behalf of a public official, a written statement on appropriate letterhead or other evidence or documentation such as a contract for services, memo or purchase order that establishes that the person is acting on behalf of the public official.

(d) An oral statement of legal authority if a written statement would be impractical.

(e) A request made in the form of a warrant, subpoena (which may be issued by either an attorney or the court), order or other legal process issued by a grand jury or other judicial body.

Sources:

45 C.F.R. §164.514(h)
65 Fed. Reg. 250 p. 82546-82547, 82718-82720

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POLICY

AAPECS encourages its employees and other persons to report improper uses and disclosures of PHI.

PROCEDURE

A. Reporting Improper Uses and Disclosures or Actions

1. Any person may file a confidential report with the **[Privacy Officer]**.
2. Reports alleging improper uses and disclosures of PHI or improper actions will be investigated.

B. Protection Against Retaliation for Reporting Improper Uses and Disclosures

1. AAPECS employee may not directly or indirectly use or attempt to use the official authority or influence of his or her position or office for the purpose of interfering with the right of a person to file a report.
2. The **[Privacy Officer]** will investigate or oversee the investigation of complaints from employees alleging such interferences or retaliation. If the complaint alleges that the **[Privacy Officer]** interfered or took retaliatory action, the complaint shall request **[Dr. Frenkel]** to appoint a person to investigate the complaint.
3. The **[Privacy Officer or other appointed person]** will impose the appropriate sanctions if any.

Sources:

45 C.F.R. §164.502(j)
65 Fed. Reg. 250 p. 82501-82502, 82636

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POLICY

AAPECS must continue to comply with state laws on workers' compensation while also complying with the Privacy Rule.

PROCEDURE

AAPECS may disclose PHI without authorization to comply with workers' compensation and similar programs established by law that provide benefits for work-related illnesses or injuries without regard to fault. AAPECS may disclose PHI regarding an individual to:

- (a) A party responsible for payment of workers' compensation benefits to the individual;
- (b) An agency responsible for administering and/or adjudicating the individual's claim for workers' compensation benefits; and
- (c) The individual's employer.

The minimum necessary standard applies to disclosures for purposes of workers' compensation. This standard permits AAPECS to disclose any PHI that is reasonably necessary for workers' compensation purposes and is intended to operate so as to permit information to be shared for such purposes to the full extent permitted by state or other law.

Sources:

45 C.F.R. §164.512
65 Fed. Reg. 250 p. 82542, 82707-82708
67 Fed. Reg. 157, p. 53198-53199

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POLICY

AAPECS will use and disclose PHI for treatment, payment and healthcare operations. All other disclosures require an authorization unless otherwise permitted by law.

PROCEDURE

A. Authorization

AAPECS must have proper, written authorization from the individual or the individual's personal representative before disclosing PHI, or requesting PHI for any purpose, except to carry out treatment or payment activities, or our health care operations or as permitted or required without authorization.

1. An authorization is required for marketing or fundraising activities, except as included as a part of treatment, payment or health care operations.
2. An authorization is required for use and disclosure of psychotherapy notes except for the following uses:
 - (a) by the originator of the psychotherapy notes for treatment;
 - (b) in training programs in which students, trainees, or practitioners in mental health learn under supervision to practice or improve their skills in group, joint, family, or individual counseling; or
 - (c) to defend a legal action or other proceeding brought by the individual.
3. With limited exceptions, AAPECS is prohibited from conditioning treatment, payment, or eligibility for benefits or enrollment on obtaining an authorization.
4. Individuals may revoke an authorization at any time by notifying **[Privacy Officer]** in writing.
5. There is no minimum necessary limitation on a use, disclosure or request of PHI (including psychotherapy notes) at the direction of the individual (or the individual's personal representative) pursuant to a valid authorization.

B. Valid Authorization Form

An authorization must be obtained on the "Authorization to Disclose PHI" form.

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1. The authorization must be **signed** by the individual (or the individual's personal representative) and **dated**. In addition, a valid authorization must contain an expiration date. The expiration date must be reasonable based on the specific request. For example, if an individual authorizes **AAPECS** to send his/her medical records to a new physician, then the expiration date should allow **AAPECS** sufficient time to provide the individual's new physician with the records.

2. If the authorization form is signed by the individual's personal representative, be sure that the authorization form shows the personal representative's name and the relationship that gives the personal representative authority to act on the individual's behalf.

3. The form contains certain statements that are required by law. No employee of **AAPECS** can alter any of these statements.

4. Ensure that every section of the authorization is complete before the individual or the individual's personal representative signs and dates the form.

5. **AAPECS** must give the individual (or the personal representative) a copy of the signed authorization form. The signed authorization should be filed in the individual's medical record.

C. Authorization NOT Required

AAPECS is NOT required to obtain the individual's authorization to use or disclose PHI for the following:

1. Treatment, payment, and health care operations;
2. Disclosures to the individual who is the subject of the information;
3. Disclosures for purposes of the individual's care and notification if the individual is first given the opportunity to agree or object, and the individual agrees or does not object;
4. Required disclosures to the Secretary of Health and Human Services for enforcement of the rule;
5. Uses and disclosures:
 - (a) as required by law;
 - (b) for public health activities;
 - (c) about victims of abuse, neglect or domestic violence;
 - (d) for health oversight activities;

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- (e) for judicial and administrative proceedings;
- (f) for law enforcement purposes;
- (g) about decedents;
- (h) for cadaveric organ, eye or tissue donation purposes;
- (i) for research purposes
- (j) to avert a serious threat to health or safety;
- (k) for specialized government functions;
- (l) for workers' compensation.

D. Defective Authorizations

An authorization is not valid if it has any of the following defects:

1. It has expired.
2. It was not filled out completely.
3. The individual revoked the authorization.
4. It lacks a required element.
5. It is a compound authorization.

E. Compound Authorizations

An authorization for use or disclosure of PHI may not be combined with any other document to create a compound authorization except as follows:

1. An authorization for use and disclosures of PHI created for research that includes treatment.
2. An authorization for a use or disclosure of psychotherapy notes may only be combined with another authorization for a use or disclosure of psychotherapy notes.
3. An authorization, other than for psychotherapy notes, may be combined with another authorization except when a covered entity has conditioned the provision of treatment, payment, enrollment in the health plan, or eligibility for benefits on the provision of obtaining one of the authorizations.

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F. Prohibition on Conditioning of Authorizations

AAPECS must not condition treatment, payment, enrollment, or benefits eligibility on an individual providing AAPECS with an authorization we request. For example, if AAPECS requests that an individual sign an authorization allowing AAPECS to disclose the individual's PHI to a pharmaceutical manufacturer for the purpose of marketing a new product, AAPECS cannot refuse to treat the individual if the individual refuses to sign the authorization.

AAPECS may condition the provision of health care when the sole purpose is to create PHI for the benefit of a third party. For example, if an employer requests that an individual have a fitness for duty examination and the individual refuses to sign an authorization allowing AAPECS to disclose the results to the employer, then AAPECS may refuse to perform the examination.

G. Revocation of an Authorization

1. An individual may revoke an authorization at any time by giving written notice to AAPECS. The individual's authorization is no longer valid once AAPECS knows of the revocation.

2. A revocation will have no effect on uses and disclosures prior to the revocation.

AAPECS should coordinate all revocations with the [Privacy Officer] to ensure all appropriate actions or notifications are made.

EXAMPLES

1. If you want to use a patient's testimonial and picture in your next newsletter, you must obtain the patient's authorization before doing so.

2. On Monday, a patient gives you authorization to use her testimonial in a newsletter. On Wednesday, you print and mail the newsletter. On Thursday, the patient revokes her authorization. At this point, you have not violated the patient's right to privacy because you have acted pursuant to a valid authorization. You cannot (after Thursday when you know the authorization has been revoked) use the patient's testimonial in any future newsletters.

3. A patient is moving to Maryland and wants her records transferred to a new physician. The new physician should send you a signed and completed authorization, thereby allowing you to send the records. CAUTION – only send the PHI that is specifically requested. In this case if the new physician properly completed the authorization, it will be all the patient's medical records, but read the authorization.

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4. A patient comes in for a fitness for duty evaluation that was requested by his employer. If the patient refuses to sign an authorization the exam is useless because the employer needs the information. You can refuse to perform the exam.

Sources:

45 C.F.R. § 164.508

65 Fed. Reg. 250 p. 82513-82521, 82650-82662

67 Fed. Reg. 157 p. 53219-53226

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POLICY

AAPECS permits an individual to request restrictions on uses or disclosures of his/her PHI.

PROCEDURE

A. Request for Alternative Means of Communication

1. An individual may send a written request to the [Privacy Officer] requesting that AAPECS communication with the individual by an alternative means. AAPECS may not request an explanation from the individual as to why the PHI is to be provided via an alternative mean.

2. AAPECS will comply with any reasonable request. AAPECS must notify the individual in writing of the acceptance or denial of such request. If AAPECS agrees to such request, it must adhere to the agreed restrictions.

B. Request for Restrictions

1. An individual may send a written request to the [Privacy Officer] requesting that AAPECS restrict uses and disclosures of his/her PHI for:

- (a) treatment;
- (b) payment;
- (c) health care operations;
- (d) involvement in the individual's treatment or payment for treatment;
- (e) notification purposes.

2. AAPECS is not required to agree to any requested restriction, but may agree to any reasonable requested restriction. AAPECS must notify the individual in writing of its acceptance or denial. If AAPECS agrees to any request, it must adhere to the agreed restrictions.

3. The individual may terminate the restriction by notifying AAPECS in writing, or orally if the oral termination is documented.

EXAMPLES

1. The patient requests that you only send correspondence to, or call, his office. You must comply with this request if you deem it is reasonable and provide written notice of the patient of your acceptance or denial of the request.

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2. The patient requests that you only call her home after 11:30 p.m. on Tuesday nights. If you think this request is unreasonable, you are not required to accommodate it. You must provide the patient written notification of your acceptance or denial of the request.

3. The patient requests that you not use her PHI for purposes of payment. If you agree to this request, you will be unable to obtain reimbursement for services rendered. You are not required to accommodate this request. You must provide the patient written notification of your acceptance or denial of the request.

4. Patient Wife requests that you do not discuss her PHI with her Husband. If you determine that this request is reasonable, you may accommodate it. You must provide patient Wife written notification of your acceptance or denial of the request.

Sources:

45 C.F.R. § 164.502

45 C.F.R. § 164.522

65 Fed. Reg. 250 p. 82552-82554, 82726-82731

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POLICY

AAPECS may use and disclose PHI that has been de-identified.

PROCEDURE

A. Process for De-Identification of Protected Health Information

1. PHI is considered de-identified when there is no reasonable basis to believe that the information can be used to identify the individual.

2. There are two (2) methods for ensuring proper de-identification of PHI:

(a) The first method is to have the formula for de-identification reviewed using scientific principles and statistical methods to insure that the information being provided or a combination of the provided information plus other readily available information would not result in the individual identification of an individual. The review and name and qualifications of the reviewer must be documented prior to use of the de-identified information.

(b) The second method of de-identification is to remove all elements of PHI:

i. The following data must be removed:

- ♦ name
- ♦ location of individual (can use state, no location more specific)
- ♦ dates (all dates related to the subject of the information, e.g. birth dates, admission dates, discharge dates, encounter dates, surgery dates, etc)
- ♦ numerical identifiers (addresses, telephone numbers, e-mail, fax numbers, zip codes, social security numbers, driver's license numbers, vehicle identifiers, etc)

ii. The following data may be used:

- ♦ age (age 90 and over must be aggregated to prevent the identification of very old individuals)
- ♦ race
- ♦ ethnicity
- ♦ marital status

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- ♦ codes (a random or fictional code may be used to link cases or re-identify the health information at a later time; codes may not be a derivative of the individual's social security number or other identifiable numerical codes, e.g. birth date, fax number, etc.)

B. Re-Identification

1. AAPECS may assign a code to the de-identified information to allow such information to be re-identified.
2. The code may not be derived from or related to information about the individual and cannot otherwise be capable of being translated so as to identify the individual.
3. AAPECS may not use or disclose the code for any other purpose and may not disclose the mechanisms for re-identification.

Sources:

45 C.F.R. § 164.514
65 Fed. Reg. 250 p. 82542-82543, 82708-82712
67 Fed. Reg. 157 p. 53232-53234

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PURPOSE

AAPECS is permitted to use and disclose PHI for marketing purposes pursuant to a valid authorization, except as otherwise provided by law.

PROCEDURE

A. Authorization

1. AAPECS may use or disclose PHI without an authorization under the following circumstances:

- (a) marketing communication is a face-to-face encounter with the individual;
- (b) marketing communication involves products or services of only nominal value (i.e., sending calendars, pens or inexpensive sample products to generally promote the covered entity).

2. In situations other than those listed above, AAPECS must obtain an individual's authorization prior to marketing communications.

3. AAPECS is not involved in marketing when it communications to individuals about:

- (a) the participating providers and health plans in a network, the services offered by a provider, or the benefits covered by a health plan;
- (b) the individual's treatment;
- (c) case management or care coordination for that individual, or directions or recommendations for alternative treatments, therapies, health care providers or settings of care to that individual.

B. General Guidelines

- 1. Always identify AAPECS in the marketing communication.
- 2. State prominently in the marketing communication if someone is compensating AAPECS is being compensated, either directly or indirectly, by a third party for marketing this product or services.

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EXAMPLES

1. You advertise your services on the radio. No PHI is involved and no authorization is required.
2. You advertise your services on the radio and in the advertisement a patient gives a testimonial. You must obtain the patient's authorization to include his statements in the advertisement.
3. You give a patient a calendar that lists the office/physicians' names, address and phone number. This is a gift of nominal value and is not marketing.
4. You send your patients a quarterly newsletter which informs them of new developments in your field of medicine, health or wellness classes, etc. This is not marketing.

Sources:

54 C.F.R. §§ 164.501, 164.508
65 Fed. Reg. 250 p. 82493-82494, 82545-82546, 82716-82718
67 Fed. Reg. 157 p. 53183-53190

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POLICY

AAPECS will limit use and disclosure to the minimum amount of PHI necessary to accomplish the use or disclosure.

PROCEDURE

1. Routine disclosures, such as those for purposes of treatment, payment or health care operations, must be limited to the minimum amount necessary to achieve the purpose of the disclosure.

2. The minimum necessary standard does not apply to:
- (a) disclosures to or requests from health care providers for treatment of an individual;
 - (b) uses and disclosures made to the individual;
 - (c) uses and disclosures made pursuant to a valid authorization;
 - (d) disclosures made to the Secretary of Health and Human Services;
 - (e) uses and disclosures that are required by law and limited to the relevant requirements of such law.

3. For clinical purposes, the "minimum necessary" may be the entire medical record. For example, a physician needs access to the entire medical record to properly treat an individual. However, the person making appointment reminder calls does not need to have access to the entire medical record, but may need the individual's name, phone number and reason for the appointment.

Sources:

45 C.F.R. §§ 164.502, 164.514
65 Fed. Reg. 250 p. 82543-82545, 82712-82716
67 Fed. Reg. 157 p. 53195-53199

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POLICY

AAPECS may invite individuals to participate in research studies. AAPECS must obtain the individual's authorization to use and disclose PHI, unless otherwise exempted by law.

PROCEDURE

A. Authorization Required

AAPECS must obtain authorization from an individual when PHI is created for the purpose in whole or in part for research that includes treatment.

B. IRB Approval

AAPECS is not required to obtain authorization if AAPECS obtains approval from an Institutional Review Board (IRB) of a waiver of authorization.

C. Preparatory Research

Authorization is not required if AAPECS obtains from the researcher documentation that:

1. The disclosure or use is sought only to review PHI necessary to prepare research protocol or for similar purposes in preparation to research;
2. No PHI will be removed from AAPECS properties by the researcher during the course of the review; and
3. PHI for which use or access is sought is necessary for the research purpose.

D. Research About Decedent

Authorization is not required if AAPECS obtains from the researcher:

1. A confirmation that the use and or disclosure is only being used for research on the PHI of decedents;
2. Documentation, at AAPECS request, of the death of such individuals; and
3. Representation that PHI for the use or disclosure is necessary for research purposes.

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Sources:

45 C.F.R. §§ 165.508, 164.512, 164.514

65 Fed. Reg. 250 p. 82520-82521, 82535-82539, 82689-82703

67 Fed. Reg. 157 p. 53224-53232

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POLICY

AAPECS is permitted, or in certain situations required, to use and disclose PHI without obtaining authorization from an individual.

PROCEDURE

A. For Treatment

PHI may be used and disclosed by AAPECS to physicians and other health care personnel as necessary to facilitate the treatment of individuals. Treatment includes:

1. Provision, coordination and management of health care and related services
2. Coordination of care with a third party
3. Consultation between health care providers if both are involved in the treatment of the individual
4. Referral from one health care provider to another, such as a general practitioner to a specialist

B. For Payment

PHI may be used and disclosed by AAPECS to obtain reimbursement for health care services provided to individuals. Payment may include:

1. Activities to obtain or provide reimbursement for the provision of health care
2. Billing, claims management, collection activities and related health care data processing
3. Utilization review activities
4. Resolution of payment and coverage disputes

C. For Health Care Operation

PHI may be used and disclosed for the operation of AAPECS 's business. Health care operations may include the following:

1. General administrative and business activities

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2. Licensing or credentialing activities
3. Reviewing competence or qualifications of health care professionals
4. Evaluating practitioner and provider performance
5. Peer review activities
6. Conducting training in which participants can learn under supervision to practice to improve their skills
7. Conducting quality assessment and improvement activities
8. Case management and care coordination
9. Contacting health care providers and individuals with information about treatment alternatives
10. Conducting and arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs
11. Business planning and development
12. Resolution of internal grievances
13. Resolution of disputes from individuals

D. Required by Law

PHI may be used and disclosed in accordance with any legal mandate. Such uses and disclosures may include:

1. Reporting to law enforcement or others as required by federal or state law.
2. Uses and disclosures to determine Medicare conditions of participation.
3. Uses and disclosures to comply with health reporting requirements.

E. For Public Health Activities

PHI may be used and disclosed for public health activities. Such activities may include the following reports to the proper agencies, entities or persons:

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1. Prevent or control a disease, injury or disability;
2. Report a communicable disease;
3. Report a birth;
4. Report a death;
5. Report child abuse or neglect;
6. Report adverse effects of food or dietary supplements;
7. Report defects or problems with a biologic product;
8. Report defective products to enable product recalls, repairs or replacements;
9. Follow up with the use of products to comply with the requirements of the Food and Drug Administration;
10. Investigate a work-related illness or injury.

F. For Victims of Abuse, Neglect or Domestic Violence

In the event that the AAPECS believes an individual is a victim of abuse, neglect or domestic violence, PHI will be provided to a government authority, social service, protective services agency or other agency authorized by law to receive report of such abuse, neglect or domestic violence.

1. AAPECS will inform the individual of the use or disclosure, AAPECS believes that informing the individual is likely to place the individual at risk of serious harm AAPECS will not inform the individual's personal representative of the use or disclosure of the individual's PHI to report the abuse, neglect or domestic violence if AAPECS believes the personal representative is responsible for the abuse, neglect or other injury that has already occurred.
2. The individual may object to the use or disclosure of his or her PHI.
3. AAPECS can overrule the individual's objection if AAPECS determines that the use or disclosure is necessary to prevent serious harm to the individual or other potential victims.
4. If the individual is unable to agree to have the information reported about abuse, neglect or domestic violence, a law enforcement or public health official will act upon the information only if it is determined that waiting until the individual agrees to report the information could adversely affect the outcome.

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EXAMPLES

1. You are treating Minor Son for injuries you believe are the result of abuse inflicted by Dad. You are required by state law to report such abuse. You do not have to inform Dad or Mom (as personal representative) that you reported the abuse.

2. You are treating Wife for injuries you believe are the result of domestic violence inflicted by Husband. You are required by state law to report such domestic violence. You must inform Wife of your report, unless you believe informing Wife will place her at risk of serious harm.

G. For Health Oversight Activities

PHI may be used and disclosed to a health oversight agency for the purpose of conducting audits, civil, administrative or criminal investigations, inspections, licensure, disciplinary actions or other activities necessary for the operations of AAPECS.

H. For Judicial and Administrative Proceedings

PHI may be used and disclosed in judicial and administrative proceedings, such as pursuant to a subpoena or in response to a court order.

Under Virginia law, no party to an action can request the issuance of a subpoena for an opposing party's medical records unless a copy of the request for the subpoena is provided to opposing counsel or the opposing party if they are *pro se*. A party who is proceeding *pro se* is a party who is unrepresented in the case. In addition, no party to an action can request a subpoena to be issued for medical records of a non-party witness unless a copy of the request for the subpoena is also provided to the non-party witness simultaneously with the request.

In cases where attorneys represent litigants, it is presumed that the attorney, who is required to be served with a copy of the subpoena, can assert his client's rights by filing an appropriate motion to quash the subpoena if the attorney feels that the records are not relevant to the case or the request is intended to embarrass his client or is otherwise intrusive on the privacy of the client.

In cases where the medical records being subpoenaed are those of a *pro se* party or a non-party witness, the party requesting the subpoena must include a statement informing the *pro se* litigant or the non-party witness of their rights and remedies, which must be in bold face capital letters, and explain to such individual the meaning of the subpoena and the fact that it is requesting a doctor or health care provider to provide the records. The *pro se* or non-party witness patient must be told that if he or she believes the record should not be disclosed and wishes to object to the disclosure, the patient can file a motion with the clerk to quash the subpoena. It also tells the

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patient that if the patient is filing a motion to quash, the patient must notify the doctor or health care provider that the patient is filing the motion so that the provider knows to send the records to the clerk in a sealed envelope or package for safekeeping while the motion is then decided.

NOTICE TO PROVIDERS IN SUBPOENAS - All subpoenas, regardless of whether the patient is represented or unrepresented or the patient is a non-party witness, must now include the below notice, which must be in bold face capital letters:

NOTICE TO PROVIDERS:

IF YOU RECEIVE NOTICE THAT YOUR PATIENT HAS FILED A MOTION TO QUASH (OBJECTING TO) THIS SUBPOENA, OR IF YOU FILE A MOTION TO QUASH THIS SUBPOENA, SEND THE RECORDS ONLY TO THE CLERK OF THE COURT WHICH ISSUED THE SUBPOENA USING THE FOLLOWING PROCEDURE: PLACE THE RECORDS IN A SEALED ENVELOPE AND ATTACH TO THE SEALED ENVELOPE A COVER LETTER TO THE CLERK OF COURT WHICH STATES THAT CONFIDENTIAL HEALTH CARE RECORDS ARE ENCLOSED AND ARE TO BE HELD UNDER SEAL PENDING THE COURT'S RULING ON THE MOTION TO QUASH THE SUBPOENA. THE SEALED ENVELOPE AND THE COVER LETTER SHALL BE PLACED IN AN OUTER ENVELOPE OR PACKAGE FOR TRANSMITTAL TO THE COURT.

Responding to Subpoenas.

Unless AAPECS has actual receipt of a notice that a motion to quash the subpoena has been filed, or unless AAPECS intends to file its own motion to quash (because of the high degree of sensitivity of the information or because the patient may be incapacitated and not fully understand or comprehend the need to file a motion to quash), AAPECS must provide a copy of all records as **required by the subpoena or court order** for such records. If a motion to quash has been received, or AAPECS is filing a motion to quash, then the records must be produced under seal by placing the same in an outer envelope with a letter to the clerk of court informing the clerk they are being provided to be held under seal pending the court's ruling on the motion to quash the subpoena. If the motion to quash is granted, the records will be returned AAPECS in the same sealed envelope. In the event the judge orders the sealed envelope opened so that he can review the records in his office to evaluate the motion, the records will be returned with the judge's order quashing the subpoena.

When an attorney requests records of a *pro se* litigant or a non-party witness, the records are not to be produced until 10 days after the date on which AAPECS was served with the subpoena and not later than 20 days after the date of such service. This will give the *pro se* litigant

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or the non-party witness time to seek counsel or to make his/her own motion with the clerk of court to quash the subpoena.

Producing the Records Pursuant to Subpoena

1. Produce copies unless the subpoena requires originals.
2. Include the following statement: "I hereby certify that the attached records of _____ are true and correct copies of original records maintained by Dr. Frenkel, and that I am authorized to release these records in lieu of originals." Sign and include title of the person signing.
3. You can charge for the following fees (as of April 14, 2003) for copying subpoenaed records:

Paper records: \$0.50/page up to 50 pages
 \$0.25/page after 50 pages
Microfilm: \$1.00/page
X-rays: Reasonable charge
Searching and handling fees not to exceed \$10
All postage and shipping costs

I. For Law Enforcement Purposes

PHI may be used and disclosed to law enforcement for the following purposes:

1. PHI may be used and disclosed about suspects, fugitives, material witnesses and missing persons to law enforcement officials seeking to identify or locate such persons. The PHI disclosed must be limited to the following:
 - (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)
 - (h) Description of distinguishing physical characteristics

No DNA or DNA analysis, dental records or typing, samples or analysis of body fluids or tissues may be disclosed.

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2. PHI may be used and disclosed if AAPECS believes such PHI constitutes evidence of a crime that occurred on AAPECS 's premises.

3. In an emergency situation, PHI may be used and disclosed if it is necessary to alert law enforcement to the commission and nature of a crime, the location of such crime or the victim(s) of such crime, and the identity, description and location of the perpetrator or such crime.

4. AAPECS may provide information about certain types of wounds or other physical injuries upon court order, court-ordered warrant, subpoena, summons, grand jury subpoena, civil investigative demand or other similar process when it is determined that the information is relevant and material to the investigation and that de-identified information could not be used.

EXAMPLES

1. You extract a bullet from a patient’s leg. At the request of a law enforcement official, you may provide the bullet and limited information (of the type listed in I.1 above), such as the patient’s name and date and time of treatment.

2. One of your employees is shot in the leg during office hours by a patient. You may disclose any evidence of criminal conduct that occurred in your office.

3. The news media contacts you about the shooting. You may disclose PHI about the patient if it will aid in the apprehension of the patient.

J. About Decedents

1. PHI may be used and disclosed to coroners or medical examiners to identify a deceased individual, determine the cause of death or other duties authorized by law.

2. PHI may be used and disclosed to funeral directors as necessary to carry out their duties with respect to the deceased individual.

3. As of April 14, 2003, Section 32.1-127.1:03 of the Virginia Code allows providers to disclose the medical record of a deceased individual to the personal representative or executor of the deceased, or if there is no personal representative or executor, to the following person in order of priority: a spouse, an adult son or daughter, either parent, an adult brother or sister, or any other relative of the deceased patient in order of blood relationship.

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K. For Cadaveric Organ, Eye or Tissue Donation Purposes

PHI may be used and disclosed to organ procurement organizations or other entities for the purpose of facilitating organ, eye or tissue donation or transplantation.

L. To Avert Serious Threat to Health or Safety

PHI may be used and disclosed if AAPECS believes the PHI will prevent or lessen a serious/imminent threat to the health or safety of a person or the public. The PHI may be provided to the person(s) who are the target of the threat or for the identification or apprehension of an individual making the threat. AAPECS may release PHI to law enforcement officials when it appears that an individual has escaped from a correctional institution or from lawful custody.

M. For Specialized Government Functions

1. PHI may be disclosed to Armed Forces personnel for military activities, but only if the appropriate military authority has published a notice in the Federal Register stating the its authority and the purposes for the PHI.

2. PHI may be disclosed to the Department of Veterans Affairs (DVA) about an individual who is a member of the Armed Forces upon separation or discharge from the military service for the purpose of determining eligibility of benefits administered by the Secretary of Veterans Affairs.

3. PHI may be disclosed to authorized federal officials to conduct national security and intelligence activities.

4. PHI may be disclosed to authorized federal officials to provide protective services to the President, to foreign heads of state or for the conduct of investigations.

5. PHI may be disclosed to the Department of State to make medical suitability determinations for security clearance or for mandatory service abroad.

6. PHI may be disclosed to a correctional institution or law enforcement official having custody of an inmate to provide healthcare to the person, to ensure the health and safety of the individual or other inmates, to ensure the health and safety of the officers, employees or others at the correctional facility, to ensure the health and safety of those responsible for the transportation of the inmates, to ensure the health and safety of law enforcement on the premises of the facility and to maintain the safety and security of the facility.

N. For Workers' Compensation

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PHI may be used and disclosed to comply with laws relating to workers' compensation or other similar programs that provide benefits for work-related injuries or illness. *See* the policy of workers' compensation.

Sources:

45 C.F.R. §§164.506, 164.512

65 Fed. Reg. 250 p. 82509-82513, 82648-82650, 82524-82542

67 Fed. Reg. 157 p. 53208-53219

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POLICY

AAPECS may use or disclose PHI without obtaining the individual's authorization if the individual is informed in advance of the use of the PHI and the individual has the chance to agree or object to the disclosure of his or her PHI.

PROCEDURE

A. Facility Directory

AAPECS may include an individual's information in the AAPECS 's directory only if the following procedures are followed.

1. Inform the individual that AAPECS will include his or her name, location and "one-word" condition (e.g., fair) in the facility directory, unless the individual does not want to be included in the directory. The individual may request that his or her information not appear in the directory, or that AAPECS limit the information in the directory.

2. If the individual has the opportunity to agree or object to inclusion in the facility directory and the individual agrees, AAPECS may disclose the "one-word" condition and the location of the individual in the facility to persons that inquire about the individual by name.

3. If the individual has the opportunity to agree or object to inclusion in the facility directory and the individual agrees, AAPECS may disclose the individual's name, "one-word" condition, location and religious affiliation to members of the clergy.

4. If the individual is unable to agree or object, AAPECS must use professional judgment and consider the individual's best interest when determining whether to disclose PHI about the individual.

B. Involvement in the Individual's Care and Notification

1. AAPECS may disclose PHI to the person involved in the individual's care if such PHI is related to the care or payment for the care. Persons involved in an individual's care may include a spouse, family member, personal representative, other relative, close personal friend, or other person specifically named by the individual.

2. AAPECS may disclose PHI to notify family members, personal representatives, or other persons responsible for the individual's care with respect to the individual's location, condition or death.

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3. If the individual is present and has the capacity to make his or her own decisions, **AAPECS** may disclose PHI only if **AAPECS**:

(a) The individual agrees to the disclosure of PHI to third parties involved in his or her care.

(b) **AAPECS** provides the individual with an opportunity to agree or object to the disclosure and the individual does not object.

(c) **AAPECS** reasonably infers from the circumstances that the individual does not object.

EXAMPLES

1. Patient Wife is having outpatient surgery and Husband accompanies patient Wife. You may speak with Husband following the surgery and discuss patient Wife’s condition.

2. Patient Adult Son comes in for treatment frequently and Mom accompanies patient Adult Son every time. Patient Adult Son needs a prescription and Mom wants to pick it up. You may release the prescription to Mom because it is reasonable to infer that Mom is involved in patient Adult Son’s care.

3. Estranged Son from California calls and requests information about patient Elderly Dad. You may ask for verification from Estranged Son (i.e., fax a copy of driver’s license or power of attorney) before disclosing any information about patient Elderly Dad to Estranged Son. If you do not receive satisfactory assurances from Estranged Son that he is involved in patient Elderly Dad’s care, you can refuse to disclose information to Estranged Son. Patient Elderly Dad may give you permission to disclose information or may request that you not disclose information to Estranged Son.

Sources:

45 C.F.R. §164.510

65 Fed. Reg. 250 p. 82521-82524, 82662-82666

HIPAA PRIVACY POLICY AND PROCEDURES

Section 1. Privacy

Appendix

AAPECS

REQUEST FOR ACCESS TO PHI

REQUEST SECTION

As required by the Health Information Portability and Accountability Act of 1996 you have a right to request the opportunity to inspect and copy protected health information ("PHI") that pertains to you. AAPECS will evaluate your request and will either grant it or explain the reason why the request will not be granted. In the event that your inspection request is not granted you may request that the decision be reviewed by someone other than the person who originally denied the request.

I, _____ (*print name*), hereby request to inspect the following PHI pertaining to me. I understand that AAPECS may charge me reasonable fees to copy my PHI if my request is granted.

Describe PHI you want to inspect and/or copy: _____

Signature

Date

(Office use only)

Date received:	Reviewed by:
Received by:	Review Date:

The request for access is hereby:

Granted _____

Denied _____

If the request is denied, indicate the reason for the denial below.

Reviewer's Comments:

AAPECS

DENIAL OF ACCESS TO PHI

AAPECS is denying your request to access your PHI for the following reasons:

- A written request is required
- Information is not a "designated record set" per HIPAA guidelines
- Information consists of psychotherapy notes
- Information is sequestered for a legal proceeding
- Information is protected by CLIA
- Confidential information which could cause harm
- Privacy Act of 1974 allows for the protection of this information
- Information is being used for research purposes at this time
- Information is protected due to security reasons
- We do not have the information which you have requested. We suggest you contact:

· Other _____

You may have the right to appeal this decision. Please contact us if you have questions concerning this denial.

[Name]
[Address]
[Phone Number]

AAPECS

GRANT OF ACCESS TO PHI

Patient Name: _____
Address: _____

AAPECS is granting your request to access your PHI. Please contact the person listed below to arrange a convenient time to view your PHI.

[Name]
[Address]
[Phone Number]

AAPECS

REQUEST FOR ACCOUNTING OF DISCLOSURES OF PHI

As required by the Health Information Portability and Accountability Act of 1996 you have a right to request an accounting of disclosures of protected health information ("PHI") that pertains to you. This list will indicate the dates the disclosure(s) were made, person(s)/entities receiving your information, a brief description of the information disclosed and the reason(s) for the disclosure. The list will not include disclosures for treatment, payment or health care operations, or disclosures made pursuant to an authorization that you signed. You may request up to six (6) years of disclosures, but we are not required to account for any disclosures of your PHI prior to April 14, 2003.

We will provide this list of disclosures within sixty (60) days of receipt of this request.

Please complete the following section:

I hereby request an accounting of disclosures of my PHI made from _____ [insert date] to _____ [insert date]. Please send this list to the following address.

Name

Address

City, State, Zip Code

Signature

Date

I understand that I am entitled to one (1) free accounting of disclosures per twelve (12) month period. If I have received my free accounting of disclosures, [Entity Name] will contact me and inform me of the cost I must pay in order to receive the accounting and allow me to modify or cancel my request for an accounting of disclosures.

(Office use only)

Date received:	Reviewed by:
Received by:	Review Date:

AAPECS

RESPONSE TO REQUEST FOR ACCOUNTING OF DISCLOSURES OF PHI

- Enclosed please find the accounting of disclosures you requested on [insert date] _____. A copy of your request is also enclosed.
- On _____, you requested an accounting of disclosures. You are only entitled to one (1) free accounting in a 12-month period. Your recent request is the second [**or third, etc.**] request in the 12-month period. The cost to process your request will be \$ _____. If you would like to receive the accounting of disclosures you must pay the above fee in advance. You may modify or cancel your request by contacting the person listed below.

[Name]

[Address]

[Phone Number]

Signature

Date

AAPECS

BUSINESS ASSOCIATE AGREEMENT

This BUSINESS ASSOCIATE AGREEMENT ("Agreement"), effective _____, 2002 ("Effective Date"), is entered into by and between _____, with an address at _____ (the "Business Associate"), and _____, with an address at _____ (the "Covered Entity") (each a "Party" and collectively the "Parties").

RECITALS:

- A. The Covered Entity is a [_____] (Describe type of entity) which [_____] (Describe what the CE does).
- B. The Covered Entity desires that the Business Associate perform certain services.
- C. The Parties desire to protect the confidentiality and integrity of Protected Health Information ("PHI") and to prevent inappropriate uses and disclosures of PHI in accordance with the Standards for Privacy of Individually Identifiable Health Information (the "Privacy Rule").

1. PERMITTED USES AND DISCLOSURES OF PHI

1.1 Services. The Services provided by the Business Associate to the Covered Entity may involve the use and disclosure of PHI. Except as otherwise specified herein, the Business Associate may make any and all uses of PHI necessary to perform the Services. All other uses not authorized by this Agreement are prohibited. Moreover, the Business Associate may disclose PHI for the purposes authorized by this Agreement only, (i) to its employees, subcontractors and agents, in accordance with Section 2.1(e), (ii) as directed by the Covered Entity, or (iii) as otherwise permitted by the terms of this Agreement including, but not limited to, Section 1.2(b) below.

1.2 Business Activities of the Business Associate. Unless otherwise limited herein, the Business Associate may:

(a) Use the PHI in its possession for its proper management and administration and to fulfill any present or future legal responsibilities of the Business Associate provided that such uses are permitted under state and federal confidentiality laws; and

(b) Disclose the PHI in its possession to third parties for the purpose of its proper management and administration or to fulfill any present or future legal responsibilities of the Business Associate, provided that the Business Associate represents to the Covered Entity, in writing, that (i) the disclosures are required by law, as provided for in 45 C.F.R. § 164.512 or (ii) the Business Associate has received from the third party written assurances regarding its confidential handling of such PHI as required under 45 C.F.R. §§ 164.504(e)(4).

1.3 Additional Activities of the Business Associate. In addition to using the PHI to perform the Services set forth in Section 1.1 of this Agreement, the Business Associate may:

(a) Aggregate the PHI in its possession with the PHI of other covered entities that the Business Associate has in its possession through its capacity as a business associate to said other covered entities provided that the purpose of such aggregation is to provide the Covered Entity with data analyses relating to the Health Care Operations of the Covered Entity. Under no circumstances may the Business Associate disclose PHI of one Covered Entity to another Covered Entity absent the explicit authorization of the Covered Entity; and

(b) De-identify any and all PHI provided that the de-identification conforms to the requirements of 45 C.F.R. § 164.514(b), and further provided that the Covered Entity maintains the documentation required by 45 C.F.R. § 164.514(b) which may be in the form of a written assurance from the Business Associate. Pursuant to 45 C.F.R. § 164.502(d)(2), de-identified information does not constitute PHI and is not subject to the terms of this Agreement.

2. RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI

2.1 Responsibilities of the Business Associate. With regard to its use and/or disclosure of PHI, the Business Associate hereby agrees to do the following:

(a) Use and/or disclose the PHI only as permitted or required by this Agreement or as otherwise required by law;

(b) Use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement;

(c) Mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement;

(d) Report to the designated Privacy Officer of the Covered Entity, in writing, any use and/or disclosure of the PHI that is not permitted or required by this Agreement of which Business Associate becomes aware within _____ days of the Business Associate's discovery of such unauthorized use and/or disclosure;

(e) Require all of its agents, including subcontractors, to whom it provides PHI that is received from, or created or received by, the Business Associate on behalf of the Covered Entity to agree, in writing, to adhere to the same restrictions and conditions on the use and/or disclosure of PHI that apply to the Business Associate pursuant to Section 3 of this Agreement;

(f) Make available all internal practices, records, books, agreements, policies and procedures relating to the use and/or disclosure of PHI to the Secretary for purposes of determining the Covered Entity's compliance with the Privacy Regulation;

(g) Upon prior written request, make available during normal business hours at Business Associate's offices all records, books, agreements, policies and procedures relating to the

use and/or disclosure of PHI to the Covered Entity within _____ days for purposes of enabling the Covered Entity to determine the Business Associate's compliance with the terms of this Agreement;

(h) Document disclosures of PHI and information related to such disclosures as would be required to permit the Covered Entity to respond to a request by an Individual for an accounting of the disclosures of the Individual's PHI in accordance with 45 C.F.R. § 164.528;

(i) Provide the Covered Entity or an Individual, in time and manner designated by Covered Entity information collected in accordance with Section 2.1(h) of this Agreement, to permit the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528;

(j) Subject to Section 5.4 below, return to the Covered Entity or destroy, within _____ days of the termination of this Agreement, the PHI in its possession and retain no copies (which for purposes of this Agreement shall mean destroy all backup tapes); and

(k) Disclose to its subcontractors, agents or other third parties, and request from the Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder. **[This provision is permitted, but not required under the current regulations]**

2.2 Responsibilities of the Covered Entity. With regard to the use and/or disclosure of PHI by the Business Associate, the Covered Entity hereby agrees:

(a) To inform the Business Associate of any changes in the form of notice of privacy practices (the "Notice") that the Covered Entity provides to Individuals pursuant to 45 C.F.R. § 164.520, and provide the Business Associate a copy of the Notice currently in use;

(b) To inform the Business Associate of any changes in, or withdrawal of, the permission or authorization provided to the Covered Entity by Individuals;

(c) To inform the Business Associate of any opt-outs exercised by any Individual from fundraising activities of the Covered Entity pursuant to 45 C.F.R. § 164.514(f);

(d) To notify the Business Associate, in writing and in a timely manner, of any arrangements permitted or required of the Covered Entity under 45 C.F.R. parts 160 and 164 that may impact in any manner the use and/or disclosure of PHI by the Business Associate under this Agreement, including, but not limited to, restrictions on use and/or disclosure of PHI as provided for in 45 C.F.R. § 164.522 agreed to by the Covered Entity; and

(e) That the Business Associate may make any use and/or disclosure of PHI permitted under 45 C.F.R. § 164.512 except uses or disclosure for research are not permitted without prior approval by the covered entity.

3. ADDITIONAL RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI
[This section is permitted, but not required under the current regulations.]

3.1 Responsibilities of the Business Associate with Respect to Handling of Designated Record Set. In the event that the Parties mutually agree in writing that the PHI constitutes a Designated Record Set, the Business Associate hereby agrees to do the following:

(a) At the request of, and in the time and manner designated by the Covered Entity, provide access to the PHI to the Covered Entity or the Individual to whom such PHI relates or his or her authorized representative in order to meet a request by such Individual under 45 C.F.R. § 164.524; and

(b) At the request of, and in the time and manner designated by the Covered Entity, make any amendment(s) to the PHI that the Covered Entity directs pursuant to 45 C.F.R. § 164.526. Provided, however, that the Covered Entity makes the determination that the amendment(s) are necessary because the PHI that is the subject of the amendment(s) has been, or could foreseeably be, relied upon by the Business Associate or others to the detriment of the Individual who is the subject of the PHI to be amended.

(c) Notify the Business Associate, in writing, of any PHI that Covered Entity seeks to make available to an Individual pursuant to 45 C.F.R. § 164.524 and the time, manner and form in which the Business Associate shall provide such access; and

(d) Notify the Business Associate, in writing, of any amendment(s) to the PHI in the possession of the Business Associate that the Business Associate shall make and inform the Business Associate of the time, form and manner in which such amendment(s) shall be made.

4. TERMINATION

4.1 Effect of Termination. Upon the termination of this Agreement, the Business Associate agrees to **return or destroy all PHI pursuant** to 45 C.F.R. § 164.504(e)(2)(I), if it is feasible to do so. Prior to doing so, the Business Associate further agrees to recover any PHI in the possession of its subcontractors or agents. If it is not feasible for the Business Associate to return or destroy said PHI, the Business Associate will notify the Covered Entity in writing. Said notification shall include: (i) a statement that the Business Associate has determined that it is infeasible to return or destroy the PHI in its possession, and (ii) the specific reasons for such determination. The Business Associate further agrees to extend any and all protections, limitations and restrictions contained in this Agreement to the Business Associate's use and/or disclosure of any PHI retained after the termination of this Agreement, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the PHI infeasible. If it is infeasible for the Business Associate to obtain, from a subcontractor or agent any PHI in the possession of the subcontractor or agent, the Business Associate must provide a written explanation to the Covered Entity and require the subcontractors and agents to agree to extend any and all protections, limitations and restrictions contained in this Agreement to the subcontractors' and/or agents' use and/or disclosure of any PHI retained after the termination of this Agreement, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the PHI infeasible.

5. **MISCELLANEOUS**

5.1 Indemnification. The Business Associate hereby agrees to indemnify and hold harmless Covered Entity, its officers, directors, employees, agents, subcontractors, and affiliates (each of the foregoing as “Indemnified Party”) against any actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with any breach or violation of this Agreement or from any negligence or wrongful acts or omissions, including failure to perform its obligations under the Privacy Rule, by Business Associate or its officers, directors, employees, agents, subcontractors, and affiliates. Business Associate shall reimburse the Covered Entity for any and all actual and direct losses, liabilities, lost profits, fines, penalties, costs or expenses (including reasonable attorneys’ fees) which may be imposed upon the Covered Entity by reason of any suit, claim, action, proceeding or demand by any third party which results from the Business Associate’s breach hereunder. Business Associate’s obligation to indemnify the Covered Entity shall survive expiration or termination of this Agreement for any reason.

5.2 Notices. Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given below, and/or (other than for the delivery of fees) via facsimile to the facsimile telephone numbers listed below.

If to the Business Associate, to:

Attention: _____
Fax: _____

with a copy (which shall not constitute notice) to:

Attention: _____
Fax: _____

If to the Covered Entity, to:

Attention: Privacy Officer
Fax: _____

with a copy (which shall not constitute notice) to:

Attention: _____
Fax: _____

Each Party named above may change its address and that of its representative for notice by the giving of notice thereof in the manner hereinabove provided.

5.3 Definitions. All terms not defined herein shall have the meanings set forth in 45 C.F.R. Parts 160-164, as amended.

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed in its name and on its behalf effective as of _____, 2003.

COVERED ENTITY

BUSINESS ASSOCIATE

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

AAPECS

CONFIDENTIALITY AGREEMENT

THIS CONFIDENTIALITY AGREEMENT (the "Agreement"), dated _____, 2003, is entered into by and between _____ ("Covered Entity") and _____ ("Contractor") (each a "Party" and collectively the "Parties").

RECITALS

A. Covered Entity is a [_____](describe type of entity), which is required to comply with the Standards for Privacy of Individually Identifiable Health Information contained in the Health Insurance Portability and Accountability Act (the "Privacy Rule").

B. Covered Entity desires that Contractor [_____](describe the services to be performed or provided) (the "Services").

C. The Parties desire to protect the confidentiality and integrity of Protected Health Information ("PHI"), as defined in the Privacy Rule and to prevent inappropriate uses and disclosures of PHI.

AGREEMENT

1. Covered Entity maintains health information which identifies individuals, relates to the health care services provided to the individual, and/or relates to the payment for health care services provided to the individual ("Confidential Information").

2. During the performance of the Services, Contractor may be provided Confidential Information, or have access to areas where Confidential Information is maintained. Contractor acknowledges the need to protect the privacy of individuals and the Confidential Information.

3. Contractor agrees that Contractor, including its officers, directors, employees, agents, subcontractors and affiliates, will not access, use or disclose any Confidential Information.

4. Contractor agrees to immediately notify Covered Entity if any of its officers, directors, employees, agents, subcontractors and/or affiliates accesses, acquires, uses or discloses Confidential Information.

5. Contractor acknowledges that any breach of this Agreement may result in disciplinary action, including possible termination of the Services and that it may subject Contractor to liability and responsibility for any legal damages or awards resulting from such breach.

6. Contractor's obligation to maintain the privacy of Confidential Information will survive termination of this Agreement.

COVERED ENTITY

CONTRACTOR

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

AAPECS

REQUEST FOR AMENDMENT OF PHI

As required by the Health Insurance Portability and Accountability Act of 1996 you have a right to request that protected health information ("PHI") that pertains to you be amended if you believe that it is incorrect or incomplete. **AAPECS** will review your request and either grant your request or explain the reason why it will not be granted. In the event that your request is not granted you have the right to submit a statement of disagreement that will accompany the PHI in question for all future disclosures.

AMENDMENT REQUEST SECTION

Name: _____

Address: _____

I hereby request that the following PHI pertaining to me be amended (describe the information that you believe is incorrect or incomplete):

I believe that the information that you currently have on file is incomplete or incorrect for the following reasons:

I believe that the correct information is as follows:

Additionally, I request that the following people be notified of the correction, if granted. Please provide the name and address of each person listed below.

Signature

Date

NOTE: If this request for amendment is denied, you may append a written statement of disagreement by completing the appropriate section of this form. You may also request that this form be included with any subsequent disclosures by initialing the appropriate line in the section reserved for statements of disagreement. You may also register a formal complaint by contacting our **[Privacy Officer]** at _____.

AAPECS

RESPONSE TO REQUEST FOR AMENDMENT OF PHI

REVIEW SECTION

This section is to be completed by the reviewer:

Date received:	Reviewed by:
Received by:	Review Date:

This request for amendment is:

- Granted
- Denied; information is accurate and complete as is.
- Denied; information did not originate here
- Denied; information is not part of designated record set
- Denied; information is not available for inspection

Reviewer's Comments:

Signature

Date

STATEMENT OF DISAGREEMENT SECTION

This section is to be completed by the patient and returned to the [Privacy Officer] at AAPECS EYE CARE 279 Independence Blvd Va Bch, Va 23462.

_____(initial) I wish for this request for amendment to be included with all future disclosures of my health information.

I disagree with the stated reason for denial and my reasons for disagreement are as follows:

Signature

Date

REBUTTAL TO STATEMENT OF DISAGREEMENT

This section is to be completed by AAPECS.

AAPECS offers the following statement in rebuttal:

Signature

Date

AAPECS
AUTHORIZATION

To be completed by the health care provider

Patient name: _____ **ID Number:** _____

Persons/organizations providing the information: _____

Persons/organizations receiving the information: _____

Specific description of information (including date(s)): _____

The information described above will be used or disclosed for the following purpose(s): _____

Expiration date: _____

To be completed by the patient or personal representative

I hereby authorize the use or disclosure of my protected health information as described above.

I understand that this authorization is voluntary. I understand that ability to obtain treatment will not be affected if I do not sign this form, unless that treatment is for a fitness-for-duty evaluation or a research-related treatment.

I understand that if the organization authorized to receive the information is not a required to comply with the federal privacy protection regulations, then such information may be redisclosed and will no longer be protected.

I understand that I have a right to revoke this authorization by sending written notification to: **AAPECS EYE CARE 279 Independence Blvd Va Bch, Va 23462**. Any revocation will not affect disclosures made prior to AAPECS's receipt or knowledge of the revocation.

I understand that I have a right to inspect and receive a copy of the information described on this form.

I certify that I have received a copy of this authorization.

Signature of patient or patient's representative

Date

Printed name of patient's representative: _____

Relationship to the patient: _____

AAPECS

REVOCATION OF AUTHORIZATION

Please complete the sections below:

Name: _____

Address: _____

I hereby revoke the Authorization I gave to **AAPECS** on _____ [insert date].

On that date, I authorized **AAPECS** to disclose the following information:

to the following person/entity: _____

Signature

Date

(Office use only)

Date received:	Reviewed by:
Received by:	Review Date:

AAPECS

COMPLAINT FORM

As required by the Health Information Portability and Accountability Act of 1996 you have a right to file a complaint about our privacy policies, procedures or actions. **AAPECS** will not engage in any discriminatory or other retaliatory behavior against you because of this complaint. Please be as thorough and forthright as possible.

Please complete the sections below:

Name:
Address:
Phone:
What is the best way to reach you?
What are the best hours to reach you?

Details of your complaint: (Please be as specific as possible with dates, times and the specific policy, procedure or action taken; include the names, if any, of anyone in the office with whom you discussed this. Use the other side of this form if you need more room.)

Signature	Date
-----------	------

Print Name: _____

(Office use only)

Date received:	Reviewed by:
Received by:	Review Date:

Reviewer's Comments: _____

**AAPECS
CONFIDENTIAL COMMUNICATIONS REQUEST FORM**

I request that my PHI be given to me in the following manner:

Appointment reminders emailed/mailed/telephoned **(circle one)** to the following address/telephone number: _____

(Office use only)

AAPECS will/will not grant this request.

Date received:	Reviewed by:
Processed by:	Processed Date:

Laboratory results emailed/mailed/telephoned **(circle one)** as follows: _____

(Office use only)

AAPECS will/will not grant this request.

Date received:	Reviewed by:
Processed by:	Processed Date:

I prefer to be notified by my health care provider, or his/her staff in the following manner: _____

(Office use only)

AAPECS will/will not grant this request.

Date received:	Reviewed by:
Processed by:	Processed Date:

I understand in some circumstances my requests as listed above may not be practical **AAPECS**. I understand that **AAPECS** can in its sole discretion deny any of my requests. **AAPECS** has indicated below each request whether it will agree to or deny my request.

Signature

Date

AAPECS

REQUEST FOR RESTRICTIONS ON USES/DISCLOSURES OF PHI

Please complete the sections below:

Name: _____

Address: _____

I request that **AAPECS** restrict the uses and disclosures of my PHI in the following manner(s):

I do not want my PHI used or disclosed for:

- Treatment
- Payment
- Health Care Operations

I do not want my PHI used or disclosed to the following persons(s):

I understand that I may revoke or change my restrictions, if granted, by notifying **AAPECS** in writing.

Signature

Date

(Office use only)

Date received:	Reviewed by:
Processed by:	Processed Date:

- AAPECS** will grant your request.
- AAPECS** has denied your request.

AAPECS

NOTICE OF PRIVACY PRACTICES

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

OUR PLEDGE REGARDING PHI

This Notice of Privacy Practices is being provided to you as a requirement of the privacy regulations issued under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). This notice describes how AAPECS may use and disclose medical information about you to carry out treatment, payment or health care operations and for other purposes that are permitted or required by law. It also describes your rights to access and control medical information about you. Your medical information (i.e., "protected health information" or "PHI" for any purposes of HIPAA) is information about you, including demographic information, that may identify you and that relates to your past, present or future physical or mental health or condition. We are required by law to maintain the privacy of your PHI, and we must abide by the terms of this notice.

As required by law, we will only use or disclose your PHI in ways consistent with what is stated in our Privacy Notice.

The *effective date* of this Privacy Notice is **April 14, 2003**.

We reserve the right to change the terms of this Privacy Notice and to make a new Privacy Notice effective for all PHI we maintain. In the event of a change to our Privacy Notice, we will provide you with the new Privacy Notice upon request.

We have designated a Privacy Officer whom you may consult to ask questions and bring up concerns you might have about your PHI and how it is handled. You can reach our Privacy Officer by calling **552-0800** or writing to : AAPECS EYE CARE 279 Independence Blvd Va Bch, Va 23462.

ACKNOWLEDGMENT OF RECEIPT OF THIS PRIVACY NOTICE

You are receiving our current Privacy Notice and are asked to sign an acknowledgment that you have received it. You may provide the signed acknowledgment by: signing the last page of this Privacy Notice and returning it to reception desk or a nurse, physician or other staff member, or by mailing it to the following address:

**AAPECS EYE CARE
279 Independence Blvd
Va Bch, Va 23462**

Attention: Privacy Officer.

If, after April 14, 2003, your initial contact with our office is through electronic mail, you will be asked to acknowledge receipt of this Privacy Notice by replying to our electronic message that contains the Privacy Notice and typing the following in your reply message: "I acknowledge receipt of the Privacy Notice", and including the date and your name.

HOW WE MAY USE AND DISCLOSE PHI ABOUT YOU

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

For Treatment. We may use and disclose your PHI as reasonably necessary to provide for your treatment. We do not need to obtain your permission, written or otherwise, for us to do this. We may disclose PHI about you to doctors, nurses, technicians or other healthcare personnel who are involved in taking care of you. For example, a doctor treating you for a broken leg may need to know if you have diabetes because diabetes may slow the healing process. In addition, the doctor may need to tell the doctor treating you for diabetes that you have a broken leg, so that doctor can prescribe the appropriate medication.

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

For Health Care Operations. We may use and disclose PHI about you for healthcare operations. These uses and disclosures are necessary to run our office and make sure that all individuals receive quality care. For example, we may use PHI to review our treatment and services and to evaluate the performance of our staff in caring for you.

Appointment Reminders, Test Results. We may use and disclose PHI to contact you as a reminder that you have an appointment for treatment or medical care at our office. In addition, we may use and disclose PHI to notify you of test results.

Treatment Alternatives. We may use and disclose PHI to tell you about or recommend possible treatment options or alternatives that may be of interest to you.

Health-Related Benefits and Services. We may use and disclose PHI to tell you about health-related benefits or services that may be of interest to you.

Fundraising Activities. We may use PHI about you to contact you in an effort to raise money. We may disclose PHI to a [third party related to our office so that that third party may contact you in raising money]. We only would release contact information, such as your name, address

and phone number and the dates you received treatment or services. If you do not want us to contact you for fundraising efforts, you must notify the Privacy Officer in writing.

Individuals Involved in Your Care or Payment for Your Care. We may release PHI about you to a friend or family member who is involved in your medical care. We may also give information to someone who helps pay for your care. We may also tell your family or friends your condition and that you are in a hospital.

Research. Under certain circumstances, we may use and disclose PHI about you for research purposes. For example, a research project may involve comparing the health and recovery of all patients who received one medication to those who received another, for the same condition. All research projects, however, are subject to a special approval process. This process evaluates a proposed research project and its use of PHI, trying to balance the research needs with individuals' need for privacy of their PHI. Before we use or disclose PHI for research, the project will have been approved through this research approval process, but we may, however, disclose PHI about you to people preparing to conduct a research project, for example, to help them look for patients with specific medical needs, so long as the PHI they review does not leave our office. We will almost always ask for your specific permission if the researcher will have access to your name, address or other information that reveals who you are, or will be involved in your care.

As Required By Law. We will disclose PHI about you when required to do so by federal, state or local law.

To Avert a Serious Threat to Health or Safety. We may use and disclose PHI about you when necessary to prevent a serious threat to your health and safety or the health and safety of the public or another person. Any disclosure, however, would only be to someone able to help prevent the threat.

Organ and Tissue Donation. If you are an organ donor, we may release PHI to organizations that handle organ procurement or organ, eye or tissue transplantation or to an organ donation bank, as necessary to facilitate organ or tissue donation and transplantation.

Military and Veterans. If you are a member of the armed forces, we may release PHI about you as required by military command authorities. We may also release PHI about foreign military personnel to the appropriate foreign military authority.

Workers' Compensation. We may release PHI about you for workers' compensation or similar programs. These programs provide benefits for work-related injuries or illness.

Public Health Risks. We may disclose PHI about you for public health activities. These activities generally include the following:

- to prevent or control disease, injury or disability;
- to report births and deaths;
- to report child abuse or neglect;
- to report reactions to medications or problems with products;

- to notify people of recalls of products they may be using;
- to notify a person who may have been exposed to a disease or may be at risk for contracting or spreading a disease or condition;
- to notify the appropriate government authority if we believe a patient has been the victim of abuse, neglect or domestic violence.

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

Lawsuits and Disputes. If you are involved in a lawsuit or a dispute, we may disclose PHI about you in response to a court or administrative order. We may also disclose PHI about you in response to a subpoena, discovery request, or other lawful process by someone else involved in the dispute, but only if efforts have been made to tell you about the request or to obtain an order protecting the information requested.

Law Enforcement. We may release PHI if asked to do so by a law enforcement official:

- In response to a court order, subpoena, warrant, summons or similar process;
- To identify or locate a suspect, fugitive, material witness, or missing person;
- About the victim of a crime if, under certain limited circumstances, we are unable to obtain the person's agreement;
- About a death we believe may be the result of criminal conduct;
- About criminal conduct at our office; and
- In emergency circumstances to report a crime; the location of the crime or victims; or the identity, description or location of the person who committed the crime.

Coroners, Medical Examiners and Funeral Directors. We may release PHI to a coroner or medical examiner. This may be necessary, for example, to identify a deceased person or determine the cause of death. We may also release PHI about an individual to funeral directors as necessary to carry out their duties.

National Security and Intelligence Activities. We may release PHI about you to authorized federal officials for intelligence, counterintelligence, and other national security activities authorized by law.

Protective Services for the President and Others. We may disclose PHI about you to authorized federal officials so they may provide protection to the President, other authorized persons or foreign heads of state or conduct special investigations.

Inmates. If you are an inmate of a correctional institution or under the custody of a law enforcement official, we may release PHI about you to the correctional institution or law enforcement official. This release would be necessary (1) for the institution to provide you with health care; (2) to protect your health and safety or the health and safety of others; or (3) for the safety and security of the correctional institution.

Pursuant to an Authorization. We will require a signed authorization form before we disclose your PHI to a third party for reasons other than those listed above. We will retain a copy of any signed authorization you give us that is attached to a request to us for your PHI. We will also keep a record of when, to whom and what we provided in response to the request for disclosure. If you have signed an authorization for use or disclose your PHI, and decide you want to revoke the authorization, you have the right to revoke it. You must revoke the specific authorization in writing and deliver it to the Privacy Officer at **AAPECS EYE CARE 279 Independence Blvd Va Bch, Va 23462** before your revocation is effective. Once we receive the revocation, or have actual knowledge that you have revoked the authorization, we will make a note of it to assure that we do not make future disclosures pursuant to your original authorization.

YOUR RIGHTS REGARDING PHI ABOUT YOU

You have the following rights regarding PHI we maintain about you:

Right to Inspect and Copy. You have the right to inspect and copy PHI that may be used to make decisions about your care. Usually, this includes medical and billing records, but does not include psychotherapy notes.

To inspect and copy PHI that may be used to make decisions about you, you must submit your request in writing to the Privacy Officer at **AAPECS EYE CARE 279 Independence Blvd Va Bch, Va 23462**. If you request a copy of the information, we may charge a fee for the costs of copying, mailing or other supplies associated with your request.

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

Right to Amend. If you feel that PHI we have about you is incorrect or incomplete, you may ask us to amend the information. You have the right to request an amendment for as long as the information is kept by or for the **AAPECS**.

To request an amendment, your request must be made in writing and submitted to the Privacy Officer at **AAPECS EYE CARE 279 Independence Blvd Va Bch, Va 23462**. In addition, you must provide a reason that supports your request.

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

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

- Is accurate and complete.

Right to an Accounting of Disclosures. You have the right to request an accounting of certain disclosures of your PHI that we have made. (We do not have to provide an accounting of disclosures made for treatment, payment or healthcare operations, or pursuant to a signed authorization or where you did not orally deny authorization, or of certain disclosures required by law.)

To request this list or accounting of disclosures, you must submit your request in writing to the Privacy Officer at **AAPECS EYE CARE 279 Independence Blvd Va Bch, Va 23462**. Your request must state a time period which may not be longer than six years and may not include dates before April 14, 2003. Your request should indicate in what form you want the list (for example, on paper or electronically). The first list you request within a 12 month period will be free. For additional lists, we may charge you for the costs of providing the list. We will notify you of the cost involved and you may choose to withdraw or modify your request at that time before any costs are incurred.

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

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

To request restrictions, you must make your request in writing to the Privacy Officer at **AAPECS EYE CARE 279 Independence Blvd Va Bch, Va 23462**. In your request, you must tell us (1) what information you want to limit; (2) whether you want to limit our use, disclosure or both; and (3) to whom you want the limits to apply, for example, disclosures to your spouse.

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

To request confidential communications, you must make your request in writing to the Privacy Officer at **AAPECS EYE CARE 279 Independence Blvd Va Bch, Va 23462**. We will not ask you the reason for your request. We will accommodate all reasonable requests. Your request must specify how or where you wish to be contacted.

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

You may obtain a copy of this notice at our website, www.AAPECS.Com.

To obtain a paper copy of this notice, send your written request to the Privacy Officer at **AAPECS EYE CARE 279 Independence Blvd Va Bch, Va 23462.**

Our current Privacy Notice will also be posted in our office for you to review.

COMPLAINTS

If you believe your privacy rights have been violated, you may file a complaint with us. To file a complaint with the us, contact the Privacy Officer at **[(757) 552-0800]**. All complaints must be submitted in writing to the Privacy Officer at **AAPECS EYE CARE 279 Independence Blvd Va Bch, Va 23462.**

You also have the right to complain to the Office of Civil Rights.

You will not be penalized for filing a complaint.

ACKNOWLEDGMENT OF RECEIPT

I hereby acknowledge that I have received a copy of the Notice of Privacy Practices of **AAPECS**.

Patient's Name: _____

Patient's Signature: _____

Date: _____

If you are signing as the personal representative of the patient:

Personal Representative's Name: _____

Relationship to the Patient: _____

(Office use only)

AAPECS attempted to obtain written acknowledgment of receipt of the Notice of Privacy Practices, but acknowledgment could not be obtained because:

- Individual refused to sign
- An emergency situation prevented us from obtaining acknowledgment
- Other (please specify)

Employee signature: _____

Date: _____

GLOSSARY

Business Associate is a person or entity who (i) on behalf of AAPECS performs or assists in the performance of a function or activity involving the use or disclosure of PHI, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, practice management, repricing, or any other activity regulated by HIPAA; or (ii) provides, other than in the capacity of a member of the workforce of AAPECS, legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation or financial services to or for AAPECS] where the provision of such service involves the disclosure of PHI. “Workforce” means employees, volunteers, trainees and other persons whose work is directly controlled by AAPECS whether or not they are paid by AAPECS.

Covered Entity means a health plan, a health care clearinghouse and a health care provider who transmits PHI in electronic form in connection with a transaction to carry out financial or administrative activities related to health care. All covered entities must comply with HIPAA.

Designated Record Set means records maintained by or for AAPECS that are (i) medical and billing records, (ii) enrollment, payment, claims adjudication and case or medical management record systems, or (iii) used, in whole or in part, to make decisions about individuals.

Health Care Operations means activities that are related to the basic functions AAPECS. Health care operations include (i) conducting quality assessment and improvement activities, population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting health care providers and patients with information about treatment alternatives, and related functions that do not include treatment; (ii) reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, conducting training programs in which students, trainees or practitioners in areas of health care learn under the supervision to practice or improve their skills as health care providers, training of non-health care professionals, accreditation, certification, licensing or credentialing activities; (iii) underwriting, premium rating, and other activities relating to the creation, renewal or replacement of a contract of health insurance or health benefits; (iv) conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs; (v) business planning and development; (vi) business management and administrative activities, including but not limited to, implementation and compliance with HIPAA, customer service, resolution of internal grievances, the sale, transfer, merger or consolidation of all or part of a covered entity with another covered entity, and creating de-identified information, a limited data set or fundraising.

HIPAA means the Health Insurance Portability and Accountability Act of 1996.

Individual means the person who is the subject of the PHI.

Individually Identifiable Health Information means health information, including demographic information collected from an individual, that (i) is created or received by a covered entity, (ii)

relates to the past, present or future physical or mental 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 (iii) identifies the individual or could be used to identify the individual.

Minimum Necessary means the least amount of PHI necessary for a person to perform his/her job functions.

Payment means the activities undertaken by health care providers and health plans to obtain or provide reimbursement for the provision of health care. These activities include, but are not limited to, (i) determinations of eligibility or coverage, and adjudication or subrogation of health benefit claims; (ii) risk adjusting amounts due based on enrollee health status and demographic characteristics; (iii) billing, claims management, collection activities, obtaining payment under a contract for reinsurance, and related health care data processing; (iv) review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges; (v) utilization review activities, including precertification and preauthorization of services, concurrent and retrospective review of services; and (vi) disclosure to consumer reporting agencies of any of the following PHI relating to collection of premiums or reimbursement: (A) name and address, (B) date of birth, (C) social security number, (D) payment history, (E) account number and (F) name and address of the health care provider and/or health plan.

Personal Representative means a person authorized to act on behalf of an individual.

PHI means protected health information. PHI is individually identifiable health information that is (i) transmitted by electronic media, (ii) maintained as electronic media, or (iii) transmitted or maintained in any other form or medium, including but not limited to, paper and oral forms.

Privacy Rule means the rules relating to the privacy of individually identifiable health information.

Treatment means the provision, coordination or management of health care and related services by one or more health care providers, including the coordination and 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.