POLICY & PROCEDURE

START DATE: 09/23/13 **NUMBER:**

REVIEW DATE: **REVISED DATE:**

COVERED ENTITY: Hogue Chiropractic Center, PLLC

TITLE: REPORTING BREACHES OF UNSECURED PROTECTED HEALTH INFORMATION

DEFINITION OF UNSECURED PHI

"Unsecured PHI" means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by the Secretary of the Department of Health and Human Services.

DEFINITION OF BREACH

A "breach" means the acquisition, access, use, or disclosure of PHI in a manner not permitted under the Privacy Rule which compromises the security or privacy of the protected health information.

A "breach" excludes:

1) Any unintentional acquisition, access, or use of PHI by an employee of the practice or a business associate if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted by the Privacy Rule;

2) Any inadvertent disclosure by a person who is authorized to access PHI at the practice or a business associate to another person authorized to access PHI at the practice or a business associate and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted by the Privacy Rule.

3) A disclosure of PHI were the practice or a business associate has a good faith belief that the unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

The acquisition, access, use, or disclosure of PHI in a manner not permitted under the Privacy Rule is presumed to be a breach unless the practice or a business associate demonstrates that

there is a low probability that the PHI has been compromised based on a risk assessment of at least the following 4 factors:

(i) The nature and extent of the PHI involved, including types of identifiers and the likelihood of reidentification;

(ii) the unauthorized person who used the PHI or to whom the disclosure was made;

(iii) whether the PHI was actually acquired or viewed; and

(iv) the extent to which the risk to the PHI has been mitigated.

NOTIFICATION REQUIREMENTS

Notice to Individuals

The practice shall, following the discovery of a breach of unsecured PHI, notify to each individual whose unsecured PHI has been, or is reasonably believed by the practice to have been, accessed, acquired, used, or disclosed as a result of a breach of PHI. Such notice shall occur without unreasonably delay and in no case later than 60 calendar days after the discovery of the breach.

A breach is treated as discovered by the practice, on the first day on which such breach is known to the practice (or an individual who is a workforce member or agent of the practice), or, by exercising reasonable due diligence, would have been known to the practice (or an individual who is a workforce member or agent of the practice).

The notice shall be written in plain language, and shall include, to the extent possible:

(A) a brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known;

(B) a description of the types of unsecured protected health information that were involved in the breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);

(C) any steps individuals should take to protect themselves from potential harm resulting from the breach;

(D) a brief description of what the practice is doing to investigate the breach, to mitigate harm to individuals, and to protect against further breaches; and

(E) contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site (if applicable) or postal address.

The practice shall send the notice by first-class mail to the individual at the last known address of the individual. If the practice knows that the individual is deceased, written notice shall be send to the next of kin or personal representative of the individual, if the practice has an address for such next of kin or personal representative. In the case in which there is insufficient or out-of-date contact information that precludes written notification to the affected individuals, a substitute form of notice reasonably calculated to reach the individual shall be provided. The practice will consult the Privacy Rule regulations in order to determine what type of substitute notice may be appropriate.

In any case deemed by the practice to require urgency because of possible imminent misuse of unsecured PHI, the practice may provide information to individuals by telephone or other means, as appropriate, in addition to the required written notice.

Notice to the Media

For a breach of unsecured PHI involving more than 500 residents of a State or jurisdiction, the practice shall, following the discovery of a breach, notify prominent medical outlets serving the State or jurisdiction without unreasonably delay and in no case later than 60 calendar days after the discovery of the breach.

Notice to the Secretary of the Department of Health and Human Services

The practice shall notify the Secretary of the Department of Health and Human Services following the discovery of a breach of unsecured PHI.

For breaches involving 500 or more individuals, the practice shall provide notice to the Secretary contemporaneously with the notice provided to the affected individuals.

For breaches involving 500 or less individuals, the practice shall maintain a log or other documentation of such breaches and no later than 60 days after the end of each calendar year, shall provide notice to the Secretary of the breaches discovered during the preceding calendar year, in a manner specified on the Secretary's web site.

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START DATE: 09/23/13 **NUMBER:**

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COVERED ENTITY: Hogue Chiropractic Center

TITLE: SALE OF PROTECTED HEALTH INFORMATION

PROHIBITION ON THE SALE OF PHI

The practice may not sell PHI.

A "sale of PHI" means, a disclosure of PHI by the practice where the practice directly or indirectly received remuneration from or on behalf of the recipient of the PHI in exchange for the PHI.

Sale of PHI does not include a disclosure of PHI:

(i) for public health purposes;

(ii) for research purposes where the only remuneration received by the practice is a reasonable cost-based free to cover the cost to prepare and transmit the PHI for such purposes;

(iii) for treatment and payment purposes in accordance with the Privacy Rule;

(iv) for the sale, transfer, merger, or consolidation of all or part of the practice and for related due diligence;

(v) to or by a business associate in connection with the business associate's performance of activities for the covered entity;

(vi) to a patient upon request; and

(vii) as required by law.

AUTHORIZATION REQUIRED

The practice shall obtain an authorization for any disclosure of PHI which is a sale of PHI. Such authorization shall state that the disclosure will result in remuneration to the practice. The authorization shall comply with the requirements of the Privacy Rule regulations.

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START DATE: 09/23/13 **NUMBER:**

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COVERED ENTITY: Hogue Chiropractic Center, PLLC

TITLE: USE OF PROTECTED HEALTH INFORMATION FOR MARKETING ACTIVITIES

DEFINITION OF "MARKETING"

"Marketing" means to make a communication about a product or service that encourages recipients of the communication to purchase or use the product or service.

"Marketing" does not include a communication made:

(i) to provide refill reminders or otherwise communicate about a drug or biologic that is currently being prescribed for the individual, only if any financial remuneration received the practice in exchange for making the communication (if any) is reasonably related to the practice's cost of making the communication; or

(ii) for treatment of an individual by the practice, including case management or care coordination for the individual or to direct or recommend alternative treatments, therapies, health care providers, or settings of care to the individual (except where the practice receives financial remuneration in exchange for making the communication).

AUTHORIZATION REQUIRED

The practice shall obtain an authorization for any use of disclosure of PHI for marketing, except if the communication is in the form of:

(A) a face-to-face communication made by the practice to an individual; or
(B) a promotional gift of nominal value provided by the practice (i.e. drug sample).

If the marketing involved financial remuneration to the practice, the authorization shall state that such remuneration is involved. The authorization shall comply with the requirement of the Privacy Rule regulations.

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START DATE: 09/23/13 **NUMBER:**

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COVERED ENTITY: Hogue Chiropractic Center, PLLC

TITLE: RESPONDING TO REQUESTS TO RESTRICT DISCLOSURE OF PROTECTED HEALTH INFORMATION TO HEALTH PLANS FROM INDIVIDUALS WHO PAY OUT-OF-POCKET FOR SERVICES

The practice shall agree to the request of an individual to restrict disclosure of PHI about the individual to a health plan if:

(A) the disclosure is for the purpose of carrying out payment or health care operations by law; and

(B) the PHI pertains solely to a health care item or service for which the individual, or person other than the health plan on behalf of the individual, has *paid the covered entity in full.*

The practice shall document this restriction.

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START DATE: 09/23/13 **NUMBER:**

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COVERED ENTITY: Hogue Chiropractic Center, PLLC

TITLE: REQUESTS FOR ACCESS TO PROTECTED HEALTH INFORMATION

FORM OF ACCESS REQUESTED

The practice shall provide an individual with access to the individual's PHI in the form and format requested by the individual, if it is readily producible in such form or format. If the PHI is not readily producible in such form or format, the practice shall provide the PHI in a readable hard copy form or such other form and format agreed to by the practice and the individual.

TIME AND MANNER OF ACCESS

The practice shall provide the access as requested by the individual in a timely manner, 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. The practice 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.

ACCESS TO PHI MAINTAINED IN AN ELECTRONIC FORMAT

If the practice maintains PHI in an electronic format, if an individual requests an electronic copy of such information, the practice shall provide the individual with access to the PHI in the electronic form or format requested, if it is readily producible in such form or format. If the PHI is not readily producible in such form or format, the practice will provide the PHI in a readable electronic format as agreed to by the practice and the individual.

PROVIDING A SUMMARY OF PHI

The practice may 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 summary or explanation; and (B) the individual agrees in advance to the fees imposed, if any, by the covered entity for such summary or explanation.

FEES FOR ACCESS TO PHI

The practice may charge a reasonable, cost-based fee; provided that the fee includes only the cost of: (i) labor for copying the PHI (whether in paper or electronic form); (ii) supplies for creating the paper copy or electronic media; (iii) postage, when the individual requests that the PHI be mailed; and (iv) preparing an explanation or summary of the PHI, if agreed to by the individual.

DENIAL OF ACCESS

If the practice denies access, in whole or in part, to PHI (for example, psychotherapy notes), the practice shall comply with the following requirements:

(1) the practice shall, to the extent possible, give the individual access to any other PHI requested, after excluding the PHI as to which the practice has a ground to deny access;

(2) the practice shall provide a timely, written denial to the individual. The denial shall be in plain language and shall include the specific information required by the Privacy Rule regulations.

If the individual has requested a review of a denial of access to PHI, the practice shall designate a licensed health care professional, who was not directly involved in the denial to review the decision to deny access. The practice shall promptly refer a request for review to such designated reviewing official. The designated reviewing official shall determine within a reasonable period of time, whether or not to deny the access. The practice shall promptly provide written notice to the individual of the determination of the designated reviewing official and take action to carry out the designated reviewing official.

DOCUMENTATION REQUIREMENT

The practice shall document the following and retain such documentation as required by the Privacy Rule, but in no event for less than 6 years:

(1) the designated record sets that are subject to access by individuals; and

(2) the titles of the persons or offices responsible for receiving and processing requests for access by individuals.

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START DATE: 09/23/13 **NUMBER:**

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COVERED ENTITY: Hogue Chiropractic Center, PLLC

TITLE: RESPONDING TO REQUESTS TO TRANSMIT COPIES OF PROTECTED HEALTH INFORMATION TO THIRD PERSONS

If an individual requests that the practice transmit a copy of the individual's PHI to another person designated by the individual, the practice shall provide the copy to the person designated by the individual. The individual's request shall be in writing, signed by the individual, and clearly identify the designated person and where to send the copy of the PHI.

The practice may charge a reasonable, cost-based fee; provided that the fee includes only the cost of: (i) labor for copying the PHI (whether in paper or electronic form); (ii) supplies for creating the paper copy or electronic media; (iii) postage, when the individual requests that the PHI be mailed; and (iv) preparing an explanation or summary of the PHI, if agreed to by the individual.

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START DATE: 09/23/13 **NUMBER:**

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COVERED ENTITY: Hogue Chiropractic Center, PLLC

TITLE: DISCLOSURE OF THE PROTECTED HEALTH INFORMATION OF DECEASED PATIENTS TO FAMILY MEMBERS

The practice shall protect the PHI of a deceased individual for a period of 50 years following the death of an individual. Note that this requirement does not prevent the practice from destroying PHI in accordance with its record destruction policy.

The practice shall treat a personal representative as the individual for purposes of the Privacy Rule.

The practice may disclose to a family member, or other persons who were involved in the individual's care or payment for health care prior to the individual's death, PHI of the individual that is relevant to such person's involvement, unless doing so in inconsistent with any prior expressed preference of the individual that is known to the practice.

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START DATE: 09/23/13 **NUMBER:**

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COVERED ENTITY: Hogue Chiropractic Center, PLLC

TITLE: DISCLOSURE OF IMMUNIZATION RECORDS

The practice may provide PHI to a school about an individual who is a student or prospective student of the school, if:

(A) the PHI that is disclosed is limited to proof of immunization;

(B) the school is required by State or other law to have such proof of immunization prior to admitting the individual; and

(C) the practice obtains and documents the agreement to the disclosure from either: (1) a parent, guardian, or other person acting on behalf of the individual, if the individual is an unemancipated minor; or (2) the individual, if the individual is an adult or emancipated minor.

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START DATE: 09/23/13 **NUMBER:**

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COVERED ENTITY:

TITLE: AUTHORIZATION FOR RESEARCH

DEFINITION OF RESEARCH

"Research" means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge.

DISCLOSURE OF PHI FOR RESEARCH PURPOSES

Under certain circumstances, the practice may use and disclose Protected Health Information for research purposes. For example, the practice may disclose PHI to researchers preparing to conduct an investigation to help them look for patients with specific medical conditions. Any such disclosure shall be made in accordance with the Privacy Rule's requirements.

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START DATE: 09/23/13 **NUMBER:**

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COVERED ENTITY: Hogue Chiropractic Center, PLLC

TITLE: USE OF PERSONAL SMARTPHONES FOR WORK PURPOSES

The practice will evaluate personal smartphone risks as part of its HIPAA Security risk analysis.

The covered entity will educate and train employees on smartphone security issues and strategies to prevent loss or theft.

Employees of the practice should limit access of PHI or communication of PHI on a smartphone to situations in which such access or communication is necessary for the effective operation of the practice, and not just due to convenience.

All employees who utilize a personal smartphone for work purposes will be required to:

1. Implement a password protection feature on the smartphone;

2. Install remote wiping software and lost phone location apps;

3. Refrain from instant messaging or texting PHI unless it used within a secure third party solution; and

4. When ePHI shall be transmitted in external email communications, the e-mail shall be encrypted while in transit.