



SAINT LOUIS UNIVERSITY

USE OF FAX FOR TRANSMITTAL OF PROTECTED HEALTH INFORMATION

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Responsible University Official: Privacy Officer

Approved By: Executive Staff

Legal and Compliance Committee

1.0 INTRODUCTION

Saint Louis University (hereinafter the “University”) is committed to provide services in compliance with all state and federal laws governing its operations, incorporating the highest levels of business and professional ethics. The HIPAA Privacy Rule allows covered health care providers to share protected health information for treatment purposes without patient authorization, as long as they use reasonable safeguards when doing so. These treatment communications may occur orally or in writing, by phone, fax, e-mail, or otherwise. Covered entities must have in place reasonable and appropriate administrative, technical, and physical safeguards to protect the privacy of protected health information that is disclosed using a fax machine.

2.0 PURPOSE

The purpose of this policy is to define appropriate standards for transmitting protected health information by fax.

3.0 PERSONNEL AFFECTED

This policy applies to all regular full-time and part-time faculty and staff and volunteers within all divisions of the University, including employees, professional staff members, residents, agents, representatives and consultants with access to patients’ protected health information.

4.0 DEFINITIONS

Health Care Operations are activities related to Saint Louis University's functions as a health care provider, including general administrative and business functions necessary for the University to remain a viable health care provider.

Payment includes any activities undertaken either by the University or a third party to obtain premiums, determine or fulfill its responsibility for coverage and the provision of benefits or to obtain or provide reimbursement for the provision of health care.

Protected Health Information (PHI): Individually identifiable health information transmitted or maintained in any form or medium, including oral, written, and electronic. Individually identifiable health information relates to an individual's health status or condition, furnishing health services to an individual or paying or administering health care benefits to an individual. Information is considered PHI where there is a reasonable basis to believe the information can be used to identify an individual.

Treatment involves the administering, coordinating and management of health care services by Saint Louis University for its patients.

Treatment, Payment, and Health Care Operations (TPO): Functions of providing health care to patients.

Workforce: Employees, volunteers, trainees, contractors, and other persons under the direct control of the covered entity, whether or not paid by the covered entity.

5.0 POLICY

It is the policy of Saint Louis University to protect the facsimile transmittal of protected health information and hold individuals responsible for following the proper procedure when PHI is sent via facsimile. Saint Louis University protects the confidentiality and integrity of confidential medical information as required by law, professional ethics, and accreditation requirements. This policy defines the minimum guidelines and procedures that must be followed when transmitting patient information via facsimile.

6.0 PROCEDURES

Workforce members must strictly observe the following standards relating to facsimile communications of patients' protected health information.

Protected health information (PHI) will be sent by facsimile only when the original record or mail-delivered copies will not meet the needs for treatment, payment, or operations (TPO). For example, personnel may transmit PHI by facsimile when urgently needed for patient care or required by a third-party payer for ongoing certification of payment for a patient.

The exception of allowing transmission of facsimiles from within the Electronic Health Record (EHR) is permitted for approved workflows. (see Checklist Item #9)

Information transmitted must be limited to the minimum necessary to meet the requester's needs.

Except as authorized by the individual's consent for TPO, or federal or state law, a properly completed and signed authorization must be obtained before releasing PHI. The following types of medical information are protected by federal and/or state statute and may NOT be faxed or photocopied without specific written patient authorization, unless required by law.

- Confidential details of psychotherapy (records of treatment by a psychiatrist, licensed psychologist or psychiatric clinical nurse specialist).
- Other professional services of a licensed psychologist.
- Social work counseling/therapy.
- Domestic violence victims' counseling.
- Sexual assault counseling.
- HIV test results. (Patient authorization required for EACH release request.)
- Records pertaining to sexually-transmitted diseases.
- Alcohol and drug abuse records protected by federal confidentiality rules (42 CFR Part 2)

A "Facsimile Cover Letter" must be used to send faxes containing PHI. Confidential documents must be marked "Confidential" before they are transmitted.

Personnel must make reasonable efforts to ensure that they send the facsimile transmission to the correct destination.

Misdirected Faxes

If a fax transmission containing PHI is not received by the intended recipient because of a misdial, check the fax machine to obtain the misdialed number. If possible, a phone call, supplemented by a note referencing the conversation, should be made to the recipient of the misdirected fax requesting that the entire content of the misdirected fax be destroyed. If the recipient cannot be reached by phone, a fax using the "**Notice of Misdirected Fax**" should be sent to the recipient requesting that the entire content of the misdirected fax be destroyed.

Log of Misdirected Faxes must be maintained for Accounting of Disclosure of PHI.

Checklist for Safeguard of PHI Transmitted by Fax

- 1) Designate separate FAX machines that will be used to send and/or receive PHI, to ensure enhanced procedures for handling PHI (as opposed to routine administrative faxes, which may be more common) and make sure PHI is not inadvertently stapled to routine office faxes.
- 2) Locate fax machines that are used for PHI in lower-traffic areas that are less accessible to those who are not authorized to view confidential patient information. Fax machines utilized for transmittal of PHI shall not be located in areas accessible to the general public.
- 3) Develop a Confidential Fax Coversheet to provide extra protection for PHI and demonstrate your due diligence in this area. The headline of the coversheet should state in large bold type: "Confidential Health Information Enclosed." Beneath this headline, include a statement such as: Health Care Information is personal and sensitive information related to a person's health care. It is being faxed to you after appropriate authorization from the patient or under circumstances that doesn't require patient authorization. You, the recipient, are obligated to maintain it in a safe, secure and confidential manner. Re-disclosure without additional patient consent or as permitted by law is prohibited.

- 4) Unauthorized re-disclosure or failure to maintain confidentiality could subject you to penalties described in federal and state law.
- 5) Include at the bottom of the fax coversheet a warning such as: **IMPORTANT WARNING: This message is intended for the use of the person or entity to which it is addressed and may contain information that is privileged and confidential, the disclosure of which is governed by applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this information is STRICTLY PROHIBITED. If you have received this message by error, please notify us immediately and destroy the related message.**
- 6) In addition to the warnings described above, make sure the fax coversheet contains standard information including:
 - a. Date and time of fax
 - b. Sender's name, address, telephone number and fax number
 - c. The authorized recipient's name, telephone number and fax number
 - d. Number of pages transmitted
 - e. Information regarding verification of receipt of the fax
- 7) Make sure the fax transmittal has received the proper authorization as required by law (i.e., that an appropriate release is on file).
- 8) Limit the faxing of PHI paper documents to urgent or non-routine incidents when mail or other delivery is not feasible.
- 9) Use of faxing from within the Electronic Health Record (EHR) is permitted only for approved workflows. The following requirements are necessary for EHR faxing workflows.
 - a. Utilize an automated coversheet that includes checklist items 3-5 as described above
 - b. Maintain an audit log that includes sender, recipient, delivery date and time, along with recipient phone number
 - c. System users with access to EHR fax capability must receive guidance/training for using this feature that includes educational awareness regarding HIPAA privacy before they are permitted to fax from within the EHR.
 - d. Monitoring of fax activity from within the EHR must occur on a regular schedule.
 - e. Workflow procedures must include a formal process for handling of misdirected faxes and implementation of pre-programmed calling numbers.
- 10) If possible, prohibit the faxing of sensitive health information, such as that dealing with mental health, chemical dependency, sexually transmitted diseases, HIV or other highly personal information.
- 11) When expecting the arrival of a fax containing PHI, schedule with the sender whenever possible so the faxed document can be promptly retrieved upon arrival.
- 12) In cases when a high volume of faxes containing PHI are received, designate employees who are authorized to handle PHI to empty fax trays and disseminate

- their contents to the appropriate responsible parties. Specify set intervals for this activity to take place (e.g., every 15 or 30 minutes).
- 13) As with other PHI that arrives in the mail or by other means, make sure faxes that contain PHI are placed in a secure/confidential place when they are delivered, and not (for example) left in an in-box that is in full view of passers-by.
 - 14) Confirm the accuracy of fax numbers (and security of recipient machines) by calling the intended recipients to double-check the numbers, verify the security of their machines, notify them that your fax is on the way, and request verification of its receipt. Do not rely on fax numbers listed in directories or provided by persons other than the recipient.
 - 15) In instances where faxes are regularly sent to the same recipients, program these fax numbers into your machine's memory, use the speed-dial numbers, and institute a set procedure whereby programmed numbers are tested at regular intervals (e.g., weekly or monthly).
 - 16) Make sure your fax machine prints a confirmation of each outgoing transmission and require machine operators to (a) make sure the intended destination matches the number on the confirmation, and (b) staple the confirmation to the document that was faxed.
 - 17) In the event of a misdirected fax, be sure that improperly faxed documents are either immediately returned or destroyed by the recipient. Document that the fax was misrouted and take (and document) steps to prevent a reoccurrence of the error.
 - 18) Develop a well-organized system to maintain (for specified periods of time) PHI that is faxed, as evidence of the time/date of the transmittal, the intended recipient, its contents, and the fax number at which it was confirmed to have been received.
 - 19) Include in your business associate agreements, or two-way covered entity agreements, provisions requiring organizations that will receive your faxes to place their fax machines in secure areas.
 - 20) As with all other paper documents that contain PHI, make sure faxes that contain PHI are handled and stored in a secure manner and shredded when they have outlived their usefulness.
 - 21) Provide immediate training for new employees, and periodic retraining for existing employees, on your organization's policies and procedures for using the fax machine to transmit and receive PHI.
 - 22) Document all of the above, as evidence of your efforts to safeguard protected health information.

7.0 SANCTIONS

Individuals who fail to comply with this policy and the procedures associated with it will be subject to disciplinary actions guided by the University's Staff Performance Management Policy, Faculty Manual, or Student Guidelines.

Non-compliance in this Policy can result in disciplinary action, including but not limited to, restricted incentive payments, suspension or termination. It may also result in the

enforcement of a corrective action plan, as well as notification of the suspected misconduct and/or violation to government regulatory agencies.

This Policy does not limit the University's ability to impose greater sanctions or impose immediate action against serious violations. Disciplinary actions appropriate to the severity of the infraction will be carried out as needed.

8.0 CHANGES TO THIS POLICY

Changes to this policy may be necessary from time to time. At a minimum, the policy and all other program policies, procedures and guidelines will be reviewed on an annual basis.

REVISION HISTORY

EFFECTIVE DATE	VERSION NUMBER	MODIFICATION
4/14/2003	1.0	New Policy
7/01/2008	1.1	Review & Change Format
3/01/2015	1.2	Review & Change Format
	2.0	Ownership Shifted from Provost to General Counsel