POLICY STATEMENT (R*)

Florida International University (‘‘FIU’’) is committed to protecting the privacy of Protected Health Information in compliance with all applicable federal and state laws, regulations and rules. FIU will comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 as amended by the Health Information Technology for Economic and Clinical Health Act (‘‘HITECH Act’’) enacted as part of the American Recovery and Reinvestment Act of 2009 and implementing regulations (hereinafter ‘‘HIPAA’’ or ‘‘HIPAA regulations’’) to the extent that these are applicable to FIU’s activities. For purposes of HIPAA compliance, FIU has determined that it is a ‘‘Hybrid Covered Entity.’’

REASON FOR POLICY (O*)

In order to comply with applicable federal and state laws, regulations and rules that apply to Protected Health Information, FIU must have policies and procedures that govern the use and disclosure of this information. This policy addresses the administrative requirements set forth under the HIPAA Administrative Simplification Standards and provides the framework for FIU’s compliance with the HIPAA regulations.

DEFINITIONS (R*)

See FIU Glossary of Terms for Policies

PROCEDURES (O*)

A. Designation as a Hybrid Entity:

FIU engages in certain functions that are covered under HIPAA. FIU has designated the following units as Covered Health Care Components:

- Herbert Wertheim College of Medicine (‘‘HWCOM’’) and its component units;
- Student Health Services (‘‘SHS’’) in its provision of services to non-students

The FIU Academic Health Center Compliance and Privacy Officer may amend FIU’s designation of health care components from time to time, as necessary or appropriate, in consultation with the University Compliance Officer and Chief Information Security Officer. Prior to engaging in secured health care Transactions, business units must contact the AHC Privacy Officer for evaluation of whether the business unit should be designated as a Covered Health Care Component.

Other units that perform health care functions at FIU but that are not health care components may voluntarily choose to comply with or participate in some or all of the HIPAA requirements, policies or procedures. Such voluntary compliance or participation shall not affect a unit’s status as a non-Covered Health Care Component.

B. Creation of HIPAA Compliance Plan by Covered Health Care Components:

FIU Covered Health Care Components are required to create and annually update HIPAA Compliance Plans. At a minimum, the Compliance Plans shall include the creation of an oversight committee, which formulates policies for adoption by the component part as required under the Privacy Rule, Security Rule, Transactions and Code Sets Rule, and the Provider Identifier and includes:

- Education of Workforce Members;
- Monitoring for compliance;
- Managing risk;
- Mitigating damages;
• Providing for Breach response, including reporting to governmental entities
• Reporting of activities to the Senior Vice President with oversight responsibility of the of the covered health care component business unit;

The oversight committee may appoint additional committees and workgroups as deemed necessary.

C. FIU business units functioning as a Business Associate of FIU:

Certain FIU business units may function as business associates of a Covered Health Care Component. The following designated FIU business units are Business Associates of FIU:

- FIU Health Care Network
- FIU Foundation
- FIU Office of Research Integrity

Units functioning as Business Associates are required to create and abide by an annual HIPAA Compliance plan, inclusive of guidelines commensurate with the nature of the Protected Health Information disclosed to the Business Associate. The Business Associate Compliance plan must be reviewed and approved by the applicable Covered Health Care Component. The list of FIU Business Associates may be amended from time to time, by the AHC Compliance and Privacy Officer.

D. Designation of HIPAA Privacy and Security Officers:

FIU has designated the following HIPAA Privacy and Information Security officials.

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<thead>
<tr>
<th>Business Unit</th>
<th>Privacy Officer</th>
<th>Security Officer</th>
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<tr>
<td>Academic Health Services, including Herbert Wertheim College of Medicine and its component parts; FIU Health Care Network</td>
<td>AHC Privacy Officer Herbert Wertheim College of Medicine 11200 SW 8th Street Miami, FL 33199 Telephone Number: 305-348-4737 Fax Number: 305-348-0123</td>
<td>Herbert Wertheim College of Medicine Director of Information Technology and Emerging Technologies/Information and HIPAA Security Officer 11200 SW 8th Street AHC 2 358 Miami, FL 33199 Telephone Number: 305-348-0634 Fax Number: 305-348-0123</td>
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<tr>
<td>Student Health Services</td>
<td>Student Health Services Medical Records Manager UHSC 150 11200 SW 8th Street Miami, FL 33199 Telephone Number: 305-348-6560 Fax Number: 305-348-0336</td>
<td>Student Health Services Computer Network Administrator UHSC 150 11200 SW 8th Street Miami, FL 33199 Telephone Number: 305-348-7537 Fax Number: 305-348-0336</td>
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<td>FIU Foundation FIU Business Unit functioning as Business Associate of a Covered Entity (e.g. not a FIU health care component)</td>
<td>AHC Privacy Officer Herbert Wertheim College of Medicine 11200 SW 8th Street Miami, FL 33199 Telephone Number: 305-348-4737 Fax Number: 305-348-0123</td>
<td>FIU Information Security Officer and HIPAA Officer PC 531 D 11200 SW 8th Street Miami, FL 33199 Telephone Number: 305-348-7807 Fax Number: 305-348-7600</td>
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E. Prompt Reporting of Privacy or Security Incidents:

Members of the FIU community have the responsibility to promptly report incidents related to Patient Privacy or Information
Security to the University Privacy and Security Officials for Business Unit for further investigation and resolution in accordance with established standards.

F. HIPAA Privacy and Security Officer Reporting:

- It is the responsibility of the Business Unit Privacy and Security Officer of the Business Unit to work together to ensure that operational compliance matters including inquiries and complaints are documented, adequately investigated (or oversee the investigation of) and ensure that there is an appropriate, documented response to each inquiry or complaint concerning HIPAA Privacy matters. Specifically, the Business Unit Privacy Officer shall conduct (or oversee) the investigation of a report; create a record of the results and the specific actions taken after completion of the investigation. The specific facts and circumstances surrounding the report must be kept confidential and any discussions regarding the complaints should be limited to those internal parties with a “need to know” during the investigation. The Business Unit Privacy and Security Officer and the Business Unit shall follow the reporting and notification requirements set forth in the University Incident Response Plan. In addition, the Business Unit Privacy Officer and the Business Unit Security Officer shall provide reports at least quarterly, to be submitted to the FIU Information Security & HIPAA Security Officer and to the University Chief Compliance and Privacy Officer regarding, but not limited to, the HIPAA Privacy and Security program violations, including Business Unit compliance with HIPAA, annual risk assessment reports, their outcomes and ongoing risk identification and mitigation activities.

- Notification of Breach
  The Privacy Officer must notify the FIU Information Security & HIPAA Security Officer and the University Chief Compliance Officer and Privacy Officer within 48 hours of any reported incident that upon preliminary analysis could reasonably and potentially constitute a Breach of any unauthorized use, access, or Disclosure of information maintained by FIU, or for FIU by a third party, that is protected by a federal or state privacy law that requires FIU to provide Breach notifications to any affected individual or any third party. The Privacy and the Security Officer shall establish a Breach response team and process to conduct a risk analysis to immediately investigate and respond to any potential Breach in accordance with best practice as well as any current or future FIU privacy policies or FIU Incident Response Plan.

- Reports
  The Privacy Officer and the Security Officer shall provide reports at least quarterly to be submitted to the FIU Information Security & HIPAA Security Officer and to the University Chief Compliance and Privacy Officer regarding the overall status of Business Unit compliance with HIPAA, including, but not limited to, annual risk assessment reports, outcomes and ongoing risk identification and mitigation activities.

G. Fundraising:

Health care components of FIU may use Protected Health Information for fundraising purposes without the patient’s specific written authorization, in accordance with the FIU Notice of Privacy Practices. Use or Disclosure of PHI for any other fundraising activity requires written authorization by the individual.

H. Marketing:

Health care components of FIU shall not use Protected Health Information for Marketing purposes without the patient’s specific written authorization, except face-to-face communication made by a health care component of FIU directly to the individual; or when a promotional gift of nominal value is provided by the health care component of FIU directly to the individual.

I. Retaliation:

Neither FIU, nor any of its employees, will intimidate, threaten, coerce, discriminate against, or take any other retaliatory action against:

- Any individual for exercising of any rights under, or participating in any process established by the HIPAA regulations including, without limitation, filing a complaint; or

- Any person for:
  - filing a complaint with the U.S. Secretary of Health and Human Services (or any other officer or employee of HHS to whom the authority has been designated) under the HIPAA regulations;
  - testifying, assisting, or participating in an investigation, compliance review, proceeding, or hearing under Part C of Title XI; or
• opposing any act or practice made unlawful by the HIPAA regulations, provided the person has a good faith belief that the practice opposed is unlawful, and the manner of the opposition is reasonable and does not involve a Disclosure of Protected Health Information in violation of the HIPAA regulations.

J. Sanctions:

Violation of this policy by a member of the University's Workforce is subject to appropriate personnel or other disciplinary action. Federal law provides for the imposition of severe civil and criminal penalties for the violation of the HIPAA regulations.

K. Waiver of Rights:

Individuals will not be required to waive their rights to file a complaint under the HIPAA regulations as a condition of Treatment, Payment, enrollment in a health plan, or eligibility for benefits.

L. Documentation:

All policies, procedures, communications, actions, activities and/or designations that require documentation under HIPAA shall be maintained in written and/or electronic form and retained for a period not less than six (6) years from the date of its creation or the date when it was last in effect, whichever is later.

M. Cooperation with Investigations:

Covered Health Care Components and University Business Associates will cooperate with the Secretary, if the Secretary undertakes an investigation or compliance review of the policies, procedures, or practices of the University to determine whether it is complying with the applicable administrative simplification provisions.

N. Amendment:

The University may change this policy and any other policies or procedures described herein as necessary and appropriate, in accordance with standard University policy and any applicable HIPAA requirements.

HISTORY (R*)

Effective Date: September 1, 2009; Revision Date(s): June 8, 2015.

RESPONSIBLE UNIVERSITY DIVISION/DEPARTMENT (R*)

Sr. Vice President for Health Affairs
Florida International University

RESPONSIBLE ADMINISTRATIVE OVERSIGHT (R*)

AHC Compliance and Privacy Officer
11200 SW 8th Street
AHC 2, #693
Miami, FL 33199
Telephone number: (305)348-4737

The University Policies and Procedures Library is updated regularly. In order to ensure a printed copy of this document is current, please access it online at http://policies.fiu.edu/.

For any questions or comments, the “Document Details” view for this policy online provides complete contact information.

FORMS/ONLINE PROCESSES (O)

Florida International University Notice(s) of Privacy Practices

Links to the above referenced Form(s) available in the “Document Details” Section of the online version of this policy document.

*R = Required   *O = Optional