



Minimum Necessary # 1660.120

INITIAL EFFECTIVE DATE:	LAST REVISION DATE:	RESPONSIBLE UNIVERSITY DIVISION/DEPARTMENT
September 1, 2009	February 29, 2024	Office of Compliance and Integrity

POLICY STATEMENT

The Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, federal law, and Florida state statutes requires application of the “minimum necessary” standard for the use, disclosure or request for PHI, except as specifically stated in the HIPAA Privacy Rule, federal law, and Florida state statutes. It is the policy of Florida International University (FIU) HIPAA Hybrid Designated Health Care Components (Components) to make a reasonable effort to use or disclose, or to request from another health care provider, the minimum amount of PHI as is necessary to accomplish the intended use or disclosure. This is known as the “minimum necessary” standard.

Components are expected to develop procedures or protocols supplementing this policy and procedure when Component-specific procedures are needed. As a University-wide policy and procedure approved by the HIPAA Steering Committee, Component Privacy Coordinators, the Office of Compliance and Integrity, and the Office of General Counsel, this policy and procedure takes precedence over any Component-specific policies, procedures, or protocols that conflicts with this policy and procedure, unless prior approval is obtained from the Office of Compliance and Integrity. (FIU Policy and Procedure #1660.080) (Policies and Procedures, Changes to Policies and Procedures, and Documentation)

Components may maintain HIPAA documentation in either paper or electronic form, provided that any format is sufficiently protected to ensure it will be retrievable throughout the required retention period. Unless otherwise indicated in FIU Privacy or Security Rule Policy and Procedure, each Component Privacy Coordinator will be responsible for maintaining all HIPAA documentation relevant to his/her Component. (FIU Policy and Procedure #1660.080) (Policies and Procedures, Changes to Policies and Procedures, and Documentation)

All Component Workforce members shall receive mandatory HIPAA Privacy and Security Rule training. (FIU Policy and Procedure #1660.075) (HIPAA Privacy and Security Rule Training)

Component Workforce members who fail to adhere to this policy and procedure may be subject to civil and criminal penalties as provided by law, and/or administrative and disciplinary action. (FIU Policy and Procedure #1660.085) (Sanctions)



Each Component must designate a HIPAA Privacy Coordinator and a HIPAA Security Coordinator. (FIU Policy and Procedure #1660.070) (Designation of HIPAA Privacy Officer and Component Privacy and Security Coordinators)

FIU reserves the right to amend, change or terminate this policy and procedure at any time, either prospectively or retroactively, without notice. Any ambiguities between this policy and procedure and the other policies and procedures should be harmonized consistent with the requirements of HIPAA and state law and regulation. (FIU Policy and Procedure #1660.080) (Policies and Procedures, Changes to Policies and Procedures, and Documentation)

SCOPE

This policy applies to FIU’s HIPAA Components contained within FIU’s HIPAA Hybrid Designation (FIU Policy and Procedure #1610.005), its Workforce members and Business Associates as defined in this policy and FIU Policy and Procedure #1660.015 regarding Business Associate Agreements.

REASON FOR POLICY

To ensure the uses and disclosures of Protected Health Information (PHI) are limited to the minimum necessary to accomplish the intended purpose as required by HIPAA and Florida law.

DEFINITIONS

TERM	DEFINITIONS
Access	Means the ability or the means necessary to read, write, modify, or communicate data/information or otherwise use any <u>system</u> resource.
Administrative Officer	Means the Component Workforce member responsible for financial management, human resources administration, management of facilities and equipment, and other administrative functions required to support the teaching and research missions of the FIU HIPAA Hybrid Designated Health Care Component. The Administrative Officer is the senior administrative staff position in the department, Division or Office and provides continuity as academic leadership changes.
Availability	Means the property that data or information is accessible and useable upon demand by an authorized person.
Business Associate	Generally an entity or person who performs a function involving the use or disclosure of PHI on behalf of a covered entity (such as claims processing, case management, utilization review, quality assurance, billing) or provides services for a covered entity that

	<p>require the disclosure of PHI (such as legal, actuarial, accounting, accreditation).</p> <p>NOTE: A business associate relationship exists when an individual or entity, acting on behalf of an FIU HIPAA Component(s), assists in the performance of a function or activity involving the creation, use, disclosure, or access of PHI. This includes, but not limited to, claims processing or administration, data analysis, utilization review, quality assurance, billing, benefit management or repricing.</p> <p>NOTE: A Business Associate may include any individual or entity that receives PHI from a HIPAA Component in the course of providing legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, software support, or financial services. A Business Associates does not, however, include HIPAA Component workforce members.</p>
<p>Business Associate Agreement</p>	<p>Means a contract or other written arrangement with a business associate which must describe the permitted and required uses of PHI by the business associate; Provide that the business associate will not use or further disclose the PHI other than as permitted or required by the contract or as required by law; and Require the business associate to use appropriate safeguards to prevent a use or disclosure of the PHI other than as provided for by the contract.</p>
<p>Code of Federal Regulations</p>	<p>Also known as CFR is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation.</p>
<p>Component</p>	<p>Means a component or combination of components of a hybrid entity designated by the hybrid entity (Florida International University). Those programs designated by FIU that must comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "Components". Components of FIU are required to comply with the Administrative Simplification provisions of HIPAA because the Components perform a covered function.</p>
<p>Confidentiality</p>	<p>Means data or information is not made available or disclosed to unauthorized persons or processes.</p>
<p>Covered Entity</p>	<p>An entity that is subject to HIPAA.</p>

	<ol style="list-style-type: none"> 1. a health plan; 2. a health care clearinghouse; and/or 3. a health care provider who transmits any health information in electronic form in connection with a transaction covered by this subchapter.
Designated Record Set	<p>Means:</p> <ol style="list-style-type: none"> 1. A group of records maintained by or for a covered entity that is: <ol style="list-style-type: none"> a. The medical records and billing records about patients maintained by or for a covered health care provider; b. The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or c. Used, in whole or in part, by or for the covered entity to make decisions about patients. 2. For purposes of this paragraph, the term record means any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for a covered entity.
Disclosure	Means the release, transfer, provision of access to, or divulging in any other manner of PHI outside of the entity holding the information.
Electronic Protected Health Information (ePHI)	PHI in electronic form. See also: <u>PHI</u> .
Florida Statutes	Also known as F.S. is a permanent collection of state laws organized by subject area into a code made up of titles, chapters, parts, and sections. The <i>Florida Statutes</i> are updated annually by laws that create, amend, transfer, or repeal statutory material.
Health Care Component	See “Component”
Health Care Provider	Means a provider of medical or health services and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business.
U.S. Department of Health and Human Services	Also known as HHS is a <u>cabinet-level executive branch</u> department of the U.S. <u>federal government</u> created to protect the <u>health</u> of the U.S. people and providing essential human services.
Health Information	Means any information, whether oral or recorded in any form or medium, that is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and relates to the past, present, or future physical or mental health or condition of an patient/client; the provision of health care to an patient/client; or



	the past, present, or future payment for the provision of health care to an patient/client.
HIPAA	Means the Health Insurance Portability and Accountability Act of 1996.
Hybrid Covered Entity	Means a single legal entity that performs both covered and non-covered functions. The entity has a defined health care component that engages in HIPAA electronic transactions
Incidental Use or Disclosure	A secondary use or disclosure that cannot reasonably be prevented, is limited in nature, and that occurs as a result of another use or disclosure that is permitted by the Privacy Rule.
Integrity	Means the property that data or information have not been altered or destroyed in an unauthorized manner.
Minimum Necessary	Using, disclosing, or requesting the minimum amount of PHI as is necessary to accomplish the intended use or disclosure.
Need-to-Know	The limiting of access to information to just that information for which an individual has a legitimate clinical or business need.
Patient	The person who is the subject of PHI.
Payment	Means: 1. The activities undertaken by: Except as prohibited under §164.502(a)(5)(i), <ul style="list-style-type: none"> a. a health plan to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the health plan; or b. A health care provider or health plan to obtain or provide reimbursement for the provision of health care; and c. The activities in paragraph (1) of this definition relate to the patients to whom health care is provided and include, but are not limited to: <ul style="list-style-type: none"> i. Determinations of eligibility or coverage (including coordination of benefits or the determination of cost sharing amounts), 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 (including stop-loss insurance and excess of loss insurance), 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;

	<ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> a. Name and address; b. Date of birth; c. Social security number.
<p>Privacy Coordinator</p>	<p>Means an FIU Workforce member, appointed by the director, manager, or supervisor of a HIPAA Designated Component to conduct and/or coordinate with necessary and appropriate Workforce members all HIPAA Privacy Rule activities and actions within the Component, including but not limited to tracking HIPAA training activities; coordinating HIPAA Privacy Rule implementation; participating in HIPAA Privacy and Security Rule violation investigations, as necessary and appropriate, communicating with the Director of Compliance and Privacy for Health Affairs, the HIPAA Security Officer, and the Office of General Counsel, as necessary and appropriate, regarding HIPAA Privacy and Security Rule activities and concerns; conducting and reporting monitoring activities; participate in assessments; and responding to, tracking and documenting HIPAA Privacy Rule activities. Maintain ongoing communication with the Director of Compliance and Privacy for Health Affairs and the HIPAA Security Officer.</p>
<p>Protected Health Information</p>	<p>Means any individually identifiable health information collected or created in the course of the provision of health care services by a covered entity, in any form (written, verbal or electronic). PHI relates to the past, present, or future physical or mental health or condition of an individual or the past, present, or future payment for the provision of health care to an individual. PHI, however, specifically excludes:</p> <ol style="list-style-type: none"> 1. Education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. § 1232g (“FERPA”); 2. Records described at 20 U.S.C. § 1232g(a)(4)(B)(iv); and 3. Employment records held by a covered entity in its role as an employer.
<p>Privacy Rule</p>	<p>The regulations at 45 CFR 160 and 164, which detail the requirements for complying with the standards for privacy under the administrative simplification provisions of HIPAA.</p>



Psychotherapy Notes	Means 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. <i>Psychotherapy notes</i> excludes medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.
Representative	A person with authority to act on behalf of an adult, emancipated minor, unemancipated minor, or deceased individual in making decisions related to health care and/or health care information. The legally authorized representative of un-emancipated minors include a parent, guardian, or other person acting in loco parentis of the minor.
Role	The category or class of person or persons doing a job, defined by a set of similar or identical responsibilities.
Technical safeguards	Means the technology and the policy and procedures for its use that protect electronic PHI and control access to it.
Treatment, Payment, and Healthcare Operations	(TPO)
Treatment	Means the provision, coordination, or management of health care and related services among health care providers or by a healthcare provider with a third party, or consultative services among providers regarding a patient.
Use	With respect to patient identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.
Workforce	Means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity (FIU HIPAA Component) or business associate, is under the direct control of such covered entity or business associate, whether or not they are paid by the covered entity or business associate.

ROLES AND RESPONSIBILITIES	
1.	Compliance Oversight: The Office of University Compliance and Integrity (University Compliance)

- Evaluates all federal and state healthcare privacy laws, regulations, rules and ordinances (Rules) to ensure compliance with the Rules.
- Develops and maintains all required University-wide Privacy Rule policies, procedures and associated forms.
- Performs audits and assessments of the Components to ensure their compliance with the Privacy Rules and associated FIU Policies and Procedures.
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- Partners with the Division of Information Technology HIPAA Security Officer to ensure compliance with all federal and state healthcare privacy and security laws, regulations rules, and ordinances.

2. HIPAA Components:

- Each FIU HIPAA Hybrid Designated Component must designate a Privacy Coordinator responsible for overseeing and ensuring the Component's implementation and compliance with the HIPAA Privacy Rule, FIU's associated HIPAA Privacy Policies and Procedures, and any applicable state laws and/or regulations governing the confidentiality, integrity and availability of PHI and electronic PHI (ePHI), including, but not limited to the use, disclosure, or request from another health care provider, the minimum amount of PHI as is necessary to accomplish the intended purpose.

RELATED RESOURCES

References

- 45 CFR §164.501
- 45 CFR §164.502
- 45 CFR §164.506
- 45 CFR §164.510
- 45 CFR §164.512
- 45 CFR §164.514
- 45 CFR §164.522
- 45 CFR §164.524
- Florida Statute §39.201(1)
- Florida Statute §95.11
- Florida Statute §316.193
- Florida Statute §381.0031
- Florida Statute §382
- Florida Statute §384.25
- Florida Statute §385.202
- Florida Statute §392.53
- Florida Statute §406.12

- Florida Statute §408.061
- Florida Statute §415.1034
- Florida Statute §456.057
- Florida Statute §456.061
- Florida Statute §456.063
- Florida Statute §459.026
- Florida Statute §491.0147
- Florida Statute §790.24
- Florida Statute §877.155
- Florida Statute §916.017(8)
- Florida Statute §916.107
- Florida Rule 1.360

Related Policies and Procedures

- FIU Policy # 1610.005 (Designated Health Care Components of FIU Community)
- FIU Policy and Procedure #1660.010 (Uses and Disclosures of Protected Health Information for Marketing and the Sale of PHI)
- FIU Policy and Procedure #1660.015 (Business Associate Agreements)
- FIU Policy and Procedure #1660.020 (Uses and Disclosures of Protected Health Information That Require Patient Authorization)
- FIU Policy and Procedure #1660.025 (Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is NOT Required)
- FIU Policy and Procedure #1660.030 (Uses and Disclosures Requiring an Opportunity for the Patient to Agree or to Object)
- FIU Policy and Procedure #1660.035 (Uses and Disclosures of Protected Health Information for Fundraising)
- FIU Policy and Procedure #1660.040 (Verification)
- FIU Policy and Procedure #1660.050 (Patient Access to Protected Health Information)
- FIU Policy and Procedure #1660.060 (Accounting of Disclosures)
- FIU Policy and Procedure #1660.070 (Designation of HIPAA Privacy Officer and Component Privacy and Security Coordinators)
- FIU Policy and Procedure #1660.075 (HIPAA Privacy and Security Rule Training)
- FIU Policy and Procedure #1660.080 (Policies and Procedures, Changes to Policies and Procedures, and Documentation)
- FIU Policy and Procedure #1660.085 (Sanctions)

CONTACTS

For further information concerning this policy, please contact the FIU Office of Compliance & Integrity at (305) 348-2216, hipaaprivacy@fiu.edu, or the appropriate Component Privacy



Coordinator. Contact information is available within the "Contact Us" tab at compliance@fiu.edu.

HISTORY

Initial Effective Date: September 1, 2009

Review Dates (*review performed, no updates*): N/A

Revision Dates (*review performed, updates made to document*): December 31, 2007; [Date] and Policy no. updated from 1640.025 to 1660.120; August 31, 2021; February 29, 2024.



Minimum Necessary # 1660.120a

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September 1, 2009	February 29, 2024	Office of Compliance and Integrity

PROCEDURE STATEMENT

I. Minimum Necessary Disclosures of Patient Protected Health Information (PHI)

Each Component must designate a Privacy Coordinator responsible for overseeing and ensuring the Component’s implementation and compliance with the HIPAA Privacy Rule, FIU’s associated HIPAA Privacy Policies and Procedures, and any applicable federal laws and Florida state statutes governing the confidentiality, integrity and availability of Protected Health Information (PHI) and electronic PHI (ePHI), including, but not limited to receiving and processing requests for patient PHI and requesting and disclosing the minimum necessary amount of PHI to accomplish the intended purpose. Privacy Coordinators may delegate and share duties and responsibilities as necessary and appropriate but retain oversight responsibility. (See FIU Policy and Procedure #1660.070) (Designation of HIPAA Privacy Officer and Component Privacy and Security Coordinators)

A. Implementation of Minimum Necessary Standard - Workforce Members:

Components that create, use, maintain, disclose or transmit PHI must:

- a. Identify the class of jobs and/or job titles, as appropriate, who need access to PHI to carry out their duties; and
- b. For each class of jobs and/or job titles, the category or categories of PHI to which access is needed under any conditions appropriate to such access. (See FIU Policy and Procedure #1660.105) (Class of Jobs and/or Job Titles of Workforce Members Who Require Access to Protected Health Information)

B. Requests for PHI Made by FIU and Requests for PHI Received from External Entities or Individuals on a Routine and Non-Routine Basis

The following provides guidance on what constitutes the Minimum Necessary and any restrictions regarding use and disclosure.

1. Requests for Disclosure Made by FIU to an External Entity or Individual or Requests Made by an External Entity or Individual on a “Routine Basis”

- A. For any type of request for disclosure of PHI made on a routine basis to an external entity or individual, the Component will take reasonable steps to

ensure that the request is limited to the amount of PHI reasonably necessary to accomplish the purpose for which the request is made.

- B. For any type of request for disclosure of PHI received on a routine basis by an external entity or individual, the Component will limit the disclosure of PHI to that which is reasonably necessary to achieve the purpose of the disclosure or request.

NOTE: A “routine” disclosure is one made on a routine or recurring basis and is relatively straightforward and appropriate to release per federal and state law. Disclosures in response to routine requests must be evaluated and released according to the following limiting measures:

1. By what is specifically authorized,
2. By what is specifically requested, and
3. Documents (e.g., procedure notes, test results etc.) related to specific dates.

2. **Requests for Disclosure Made by FIU to an External Entity or Individual or Requests Made by an External Entity or Individual on a “Non-Routine Basis”**

NOTE: Disclosures that are NOT made on a routine and recurring basis, or processing requests received from an external entity or individual, often require legal assistance (non-routine disclosures). These requests MUST be reviewed by the Component Medical Records Manager or Privacy Coordinator and if necessary, in consultation with the Office of Office of Compliance and Integrity for compliance with the minimum necessary standards. When responding to requests for non-routine disclosures, the disclosures must be limited to the amount reasonably necessary to achieve the purpose based on the criteria established below:

- a. Is the purpose for the request stated with specificity?
- b. Is the amount of PHI to be disclosed limited to the intended purpose?
- c. Have the requirements for supporting documentation, statements, or representations been satisfied?
- d. Have all applicable requirements of the HIPAA Privacy Rule been satisfied with respect to the request?
- e. What is the impact on patients?
- f. What is the impact on the FIU Component?
- g. What is the extent to which disclosures would increase number of individuals or organizations with access to PHI?
- h. Likelihood of re-disclosure?
- i. Is there an ability to achieve the same purpose with de-identified PHI? (See FIU Policy and Procedure #1660.140) (De-identification and Re-identification of Protected Health Information and Limited Data Sets)
- j. Is technology available to limit the disclosures of the PHI?
- k. What is the cost of limiting the disclosure of PHI?

1. Are there any other facts?

Examples of Non-Routine Disclosures:

- Court order.
- Request from federal or state governmental agency.
- To a county/investigating agency, protective services.
- To foster care, group home, childcare institutions, or correctional facility for minor.
- To the military for purposes other than recruitment.
- Insurance carrier audit.

NOTE: The disclosure of a patient’s entire medical record may ONLY occur when such disclosure is specifically justified as the amount that is reasonably necessary to accomplish the intended purpose or one of the exceptions noted below in the **NOTE: “Reasonable Reliance”**.

NOTE: Any request for the entire medical record that is NOT made by a health care provider for treatment purposes MUST have in the request justification for requesting the entire medical record.

NOTE: Reasonable Reliance

Components may rely on a requested disclosure as minimum necessary for the stated purpose(s) when:

1. Making disclosures to public officials, if the official represents that the information is the minimum necessary for the stated purpose(s).
2. The information is requested by another covered entity (health care provider, health plan or clearinghouse). (See Section I(C)(12) and (13) below)
3. The information is requested by a professional who is a member of the Component’s workforce or is a Business Associate of the Component for the purpose of providing professional services to the Component, if the Workforce member or Business Associate represents that the information requested is the minimum necessary for the stated purpose(s). (See FIU Policy and Procedure #1660.015) (Business Associate Agreements)
4. The information is requested for research purposes and the person/entity requesting the information has provided the Component with the required patient written permission (Authorization) that meets the requirements of the HIPAA Privacy Rule and Florida Statute §456.057. (See FIU Policy and Procedure #1660.140) (De-identification and Re-identification of Protected Health Information and Limited Data Sets)

C. Applying the Minimum Standard to Permitted Uses and Disclosures

1. **Disclosure of De-identified PHI**

- A. Regardless of the method by which de-identification is achieved, the Privacy Rule does not restrict the use or disclosure of de-identified health information, as it is no longer considered PHI. (See FIU Policy and Procedure #1660.140) (De-identification and Re-identification of Protected Health Information and Limited Data Sets)

2. **Disclosing to Patients (Access)**

- A. In most cases, the Component will accommodate a patient's right to see or copy his or her medical records. For the purposes of Minimum Necessary, patients generally have the right to all of their PHI. However, there are circumstances where providing some or all of the information is not appropriate, particularly when the patient's legally authorized representative (Representative) is making the request. (See FIU Policy and Procedure #1660.050) (Patient Access to Protected Health Information) and (FIU Policy and Procedure #1660.001) (Representatives)

3. **When the Patient is Present and Able**

- A. (See FIU Policy and Procedure #1660.030) (Uses and Disclosure of Patient Protected Health Information Requiring an Opportunity for the Patient to Agree or Object)

4. **When the Patient is Not Present or Able**

- A. (See FIU Policy and Procedure #1660.030) (Uses and Disclosure of Patient Protected Health Information Requiring an Opportunity for the Patient to Agree or Object)

5. **Disclosing to Family Members or Friends Involved in the Patient's Care**

- A. The disclosure(s) MUST be limited to the information relevant to this person's involvement in the patient's care and consistent with the wishes of the patient. (See FIU Policy and Procedure #1660.030) (Uses and Disclosure of Patient Protected Health Information Requiring an Opportunity for the Patient to Agree or Object)

6. **Finding and Notifying Family Members**

- A. (See FIU Policy and Procedure #1660.030) (Uses and Disclosure of Patient Protected Health Information Requiring an Opportunity for the Patient to Agree or Object)

7. **Business Associate Use and Disclosure**

- A. The amount of PHI created, used and accepted is limited to the amount as described in the contract and Business Associate Agreement (BAA). (See Policy and Procedure #1660.015) (Business Associate Agreements)

8. **Disclosure to Other Health Care Providers**

- A. A Component MAY release PHI for medical purposes/treatment and is generally excluded from the Minimum Necessary rule, and there is no limit to the type of information that may be released. Health care providers who may be provided PHI subject to the remaining requirements of this procedure, include:
- Current primary care physicians and referring and consulting physicians.
 - Any health care provider associated with the specific episode of care for which information is requested.
 - Any health care provider with a properly completed Authorization signed by the patient or the patient's legal representative. (See FIU Policy and Procedure #1660.020) (Authorization for Uses and Disclosures of Protected Health Information) and (FIU Policy and Procedure #1660.001) (Representatives)
 - Any healthcare facility, such as acute care, hospice, home health, extended care.

NOTE: Disclose psychotherapy notes ONLY after obtaining an Authorization signed by the patient or the patient's Representative.

NOTE: Disclose documentation regarding HIV testing, findings, and treatment ONLY after obtaining an HIV Authorization (Super-Confidential) signed by the patient or the patient's Representative.

9. **Covered Entities that are Government Programs Providing Public Benefits**

- A. Component MAY disclose PHI relating to another Covered Entity that is a government agency administering a program providing public benefits if the program serves the same or similar populations and the disclosure of PHI is necessary to coordinate the covered functions of such program or to improve administration and management relating to the covered functions of such programs.

10. **For Payment**

- A. If an external Covered Entity or health care provider is seeking PHI from the FIU Component in order to receive payment for services rendered to the

patient, the FIU Component shall provide the minimal amount of PHI necessary for the payment activities of the external Covered Entity or health care provider, but ONLY after obtaining written permission (Authorization) from the patient or the patient's legal representative.

11. Disclosure to Payers

- A. A Component MUST provide the minimum amount of PHI necessary for the Payer (i.e., health plans) to make payment for the specific service/treatment provided. If a payer demands more information than seems necessary, or if the request is in some way non-routine (i.e., when the payer is not known, or the payment has already been made) do not disclose additional PHI and contact Component Privacy Coordinator and if necessary, the Office of Compliance and Integrity for guidance.

12. For Operations, Fraud and Abuse Detection, and Compliance

- A. If another Covered Entity or health care provider seeks patient PHI for reasons related to operations, fraud and abuse detection, or compliance issues, the minimum amount of PHI associated with the operations, alleged fraud, abuse detection, or compliance issues MAY only be disclosed if the FIU Component is able to confirm that:
1. The other health care provider has or had a treatment relationship with the patient;
 2. The other healthcare provider is a Covered Entity and the requested PHI pertains to such treatment relationship, and
 3. The purpose of the disclosure is related to quality assessment and improvement activities (including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purpose), 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, related functions that do not include treatment, reviewing the competence or qualifications of health care professionals, evaluating health care provider or health plan performance, conducting training programs for practitioners or professionals, accreditation, certification, licensing or credentialing activities, or health care fraud and abuse detection or compliance.

13. Disclosures to Public Health Authorities

- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)

14. Individuals Who May Have Been Exposed to Communicable Diseases

- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required) (Florida Statute §456.061)

15. Disclosures to Health Oversight Agencies

- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)

16. Disclosures to an Entity Subject to the Food and Drug Administration (FDA)

- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)

17. Workforce Member is the Victim of a Crime

- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)

18. Reporting Violent Criminals

- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)

19. Victims of Crime

- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)

20. Crime on the Component Premises

- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)

21. Reporting Crime in Emergencies

- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)

22. When Responding to an Off-Site Medical Emergency

- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)

23. **Disclosure about Victims of Abuse, Neglect, and Domestic Violence Against Children**

- A. Component Workforce members who know, or has reasonable cause to suspect that a child:
1. Is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare,
 2. Is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care,
 3. Is abused by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare,
 4. Is the victim of childhood sexual abuse, or
 5. Is the victim of a known or suspected juvenile sexual offender,
- MUST** report such knowledge or suspicion to the Florida Department of Children and Families Central Abuse Hotline. The disclosure of patient PHI **MUST** be limited to the facts involving the known or suspected abuse, abandonment, neglect and/or lack of supervision or the disclosure of PHI **MUST** be made according to the requirements of the law. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)

NOTE: The Florida Department of Children and Families, its agent, or its contracted entity, **MAY** request and obtain patient information for the purpose of investigations of or services for cases of abuse, neglect, or exploitation of children or vulnerable adults.

24. **Disclosure about Victims of Abuse, Neglect, and Domestic Violence Against Adults**

- A. Component Workforce members who know, or has reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited **MUST** immediately report such knowledge or suspicion to the Department of Children and Families Central Abuse Hotline. The disclosure of patient PHI **MUST** be limited to the facts involving the known or suspected abuse, neglect and/or exploitation or the disclosure of PHI **MUST** be made according to the requirements of the law. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)
- B. Also See #23 and Note immediately above.

25. Disclosure to Report a Health Care Practitioner Who Engaged or Attempt to Engage a Patient, or an Immediate Family Member of the Patient, or Patient Representative in, or Induced or Attempt to Induce Such Person to Engage in, Verbal or Physical Sexual Activity Outside the Scope of the Professional Practice

- A. Licensed health care practitioners MUST report to the Florida Department of Health allegations in which a health care practitioner uses such relationship to engage or attempt to engage the patient, or an immediate family member, guardian, or Representative of the patient in, or to induce or attempt to induce such person to engage in, verbal or physical sexual activity outside the scope of the professional practice of such health care profession of sexual misconduct to the department, regardless of the practice setting in which the alleged sexual misconduct occurred. The disclosure of patient information MUST be limited to facts involving the alleged sexual misconduct, or the disclosure of PHI MUST be made according to the requirements of the law. (See **NOTE** immediately below) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)

26. Uses and Disclosures to Avert a Serious Threat to Health or Safety

- A. Communications between **psychiatrists** and patients are confidential; however, such communications MAY be disclosed to the extent necessary to warn any potential victims or to communicate the threat to a law enforcement agency for the purpose of averting a serious threat when:
1. The patient is engaged in a treatment relationship with a psychiatrist,
 2. The patient has made an actual threat to physically harm an identifiable victim or victims,
 3. The psychiatrist makes a clinical judgement that the patient has the apparent capability to commit such an act, and
 4. it is more likely than not that in the near future the patient will carry out that threat. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)
- B. Communications between **psychologists** and patients are confidential; however, such communication MAY be disclosed when:
1. a clear and immediate probability of physical harm exists to:
 - a. the patient,
 - b. to other individuals, or
 - c. to society, and

- d. the psychologist communicates the information ONLY to the potential victim, appropriate family member, or law enforcement or other appropriate authorities. (Florida Statute §491.0147) (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)

NOTE: Components MAY NOT use or disclose patient PHI if the information is learned by the Component:

2. In the course of treatment to affect the propensity to commit the criminal conduct that is the basis for the disclosure under this section, or counseling or therapy; or
2. Through a request by the individual to initiate or to be referred for the treatment, counseling, or therapy described in this section.

27. Disclosures to Law Enforcement Officials

- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)

28. Identifying or Locating a Person

- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)

29. Correctional Institutions and Other Law Enforcement Custodial Situations.

- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)

30. Legal Orders

- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)

31. Pursuant to Process and as Otherwise Required by Law.

- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)

32. Disclosures in Judicial and Administrative Proceedings or Administrative Tribunal Orders

- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)
33. **Subpoena, Discovery Request, Other Lawful Process Without an Order**
- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)
34. **Disclosure of Deceased Persons' PHI**
- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required) and (FIU Policy and Procedure #1660.030) (Uses and Disclosure of Patient Protected Health Information Requiring an Opportunity for the Patient to Agree or Object)
35. **Medical Examiners** (Florida Statute §39.201)
- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)
36. **Funeral Directors**
- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)
37. **Cadaveric, Organ, Eye and/or Tissue Donation**
- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)
38. **Disclosures for Research** (Florida Statute §456.057)
- A. (See FIU Policy and Procedure #1660.140) (De-identification and Re-identification of Protected Health Information and Limited Data Sets)
39. **Disclosures for Worker's Compensation/Employer.**
- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)
40. **Whistleblowers**

- A. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is NOT Required)

II. Exceptions to Disclosure Restrictions for Component Workforce Members and Business Associates

- A. A Component may disclose PHI without concern for the Minimum Necessary standard as follows:
1. In response to a request by a health care provider for treatment purposes to the patient.
 2. To the individual who is the subject of the PHI or his/her (Representative). (See FIU Policy and Procedure #1660.050) (Patient Access to Protected Health Information) and (FIU Policy and Procedure #1660.001) (Representatives)
 3. Pursuant to an Authorization signed by the patient or his/her Representative. (See FIU Policy and Procedure #1660.020) (Authorization for Uses and Disclosures of Patient Protected Health Information) and (See FIU Policy and Procedure #1660.001) (Representatives)
 4. To the Secretary of the U.S. Department of Health and Human Services (federal government) in response to an investigation of compliance with HIPAA). (See FIU Policy and Procedure #1660.025) (Uses and Disclosures of Patient Protected Health Information for Which an Opportunity to Agree or Object is NOT Required)
 5. As required by law (such as for Department of Health in response to state surveys, federal surveys, public health reportable events, FDA as related to product quality, safety, effectiveness or recalls etc.). (See FIU Policy and Procedure #1660.025) (Uses and Disclosures of Patient Protected Health Information for Which an Opportunity to Agree or Object is NOT Required)
 6. As required for compliance with the HIPAA Privacy Rule and Florida law. (See FIU Policy and Procedure #1660.025) (Uses and Disclosures of Patient Protected Health Information for Which an Opportunity to Agree or Object is NOT Required)

III. Record/Documentation Retention

- A. If a communication, action, activity, or designation is required to be documented in writing, the document or record owner will maintain such writings, or an electronic copy, for seven (7) years from the date of its creation or the last effective date, whichever is later. (FIU Policy and Procedure #1660.080) (Policies and Procedures, Changes to Policies and Procedures, and Documentation)