



Providing Notice of Privacy Practices #1660.200

INITIAL EFFECTIVE DATE:	LAST REVISION DATE:	RESPONSIBLE UNIVERSITY DIVISION/DEPARTMENT
September 1, 2009	August 30, 2024	Office of Compliance and Integrity

POLICY STATEMENT

Florida International University (“FIU”) Health Insurance Portability and Accountability Act (HIPAA) Hybrid Designated Health Care Component (Component) must provide to its patients the appropriate Notice of Privacy Practices (“NOPP”) that describes the privacy practices of the specific Component and the rights of the patients.

Each Florida International University (FIU) Health Insurance Portability and Accountability Act (HIPAA) Hybrid Designated Health Care Component must designate a HIPAA 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 Florida state statutes governing the confidentiality, integrity and availability of PHI and electronic PHI (ePHI), and the development, posting and availability of the NOPP. (FIU Policy and Procedure #1660.070) (Designation of HIPAA Privacy Officer and Component Privacy and Security Coordinators)

As a University-wide policy and procedure, this policy and procedure take precedence over any of the Component-specific policies, procedures, or protocols that conflict 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)

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, federal and state law and regulation. (FIU Policy and Procedure #1660.080) (Policies and Procedures, Changes to Policies and Procedures, and Documentation)

SCOPE

The policy applies to FIU’s Health Care Components that are 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 Associates Agreements.

REASON FOR POLICY

The HIPAA Privacy Rule requires that FIU, in coordination with the Health Care Components, ensure the develop and distribute a formal document known as the “Notice of Privacy Practices” (NOPP).

DEFINITIONS

TERM	DEFINITIONS
Code of Federal Regulations	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.
Component	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.
Covered Entity	Means a health plan, health care clearinghouse, or health care provider who transmits health information in electronic form in connection with a health care transaction.



Health Care Component	Means a component or combination of components of a hybrid entity that has been specifically designated by the covered entity because it either performs covered functions; or activities that would make such component a business associate of a component that performs covered functions if the two components were separate legal entities.
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.
HIPAA	Means the Health Insurance Portability and Accountability Act of 1996.
Individually Identifiable Health Information	Means information that is a subset of health information, including demographic information collected from an individual, and: Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and Relates to the past, present, or future physical or mental health or 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 <ol style="list-style-type: none">1. That identifies the individual; or2. With respect to which there is a reasonable basis to believe the information can be used to identify the individual.
Notice of Privacy Practices (NOPP)	The NOPP is the Notice of Privacy Practices which describes, in general terms: How the health Care Component will use and disclose a patient's PHI; The patient's rights and responsibilities with respect to his/her PHI; and the Health Care Component's duties with respect to a patient's PHI
Privacy Coordinator	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.
Protected Health Information	Means individually identifiable health information that is: Transmitted by electronic media; Maintained in electronic media; Transmitted or maintained in any other form or medium. Protected health information specifically excludes: <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
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 and procedures.
 - Develops and maintains HIPAA health care Privacy Rule training modules and ensures appropriate Workforce members complete the required training.
 - Performs audits and assessments of the Components to ensure their compliance with the Privacy Rules and associated FIU Policies and Procedures.
 - Assist and provide guidance as necessary and appropriate to establish and maintain patient DRSS.

- 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 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 Florida state statutes governing the confidentiality, integrity and availability of PHI and ePHI, including, but not limited to the Notice of Privacy Practices.

RELATED RESOURCES

References

- 45 CFR §164.502
- 45 CFR §164.506
- 45 CFR §164.508
- 45 CFR §164.512
- 45 CFR §164.514
- 45 CFR §164.520
- 45 CFR §164.524
- 45 CFR §164.530

Related Policies

- FIU Policy and Procedure # 1610.005 (Designated Health Care Components of FIU Community)
- FIU Policy and Procedure #1660.001 (Representatives)
- FIU Policy and Procedure #1660.045 (Right of Patients to Request Restrictions Regarding the Use and Disclosure of Their Protected Health Information)
- FIU Policy and Procedure #1660.050 (Patient Access to Protected Health Information)
- FIU Policy and Procedure #1660.055 (Amendment of Protected Health Information)
- 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, compliance@fiu.edu, hipaaprivacy@fiu.edu, or the appropriate Component Privacy Coordinator.

HISTORY

Initial Effective Date: September 1, 2009

Review Dates (*review performed, no updates*):

Revision Dates (*review performed, updates made to document*): December 31, 2017, July 10th, 2024; August 30, 2024 (Formally known as 1640.015).



Providing Notice of Privacy Practice #1660.200a

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PROCEDURE STATEMENT

Each Florida International University (FIU) Health Insurance Portability and Accountability Act (HIPAA) Hybrid Designated Health Care Component (Component) must designate a HIPAA 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 Florida state statutes governing the confidentiality, integrity and availability of PHI and electronic PHI (ePHI), and the development, posting and availability of the Notice of Privacy Practices (NOPP). Privacy Coordinators may delegate and share duties and responsibilities as necessary and appropriate but retain oversight responsibility. (FIU Policy and Procedure #1660.070) (Designation of HIPAA Privacy Officer and Component Privacy and Security Coordinators)

Each HIPAA Component must notify the Director of Compliance and Privacy for Health Affairs, Office of Compliance and Integrity (Designated HIPAA Privacy Officer), and the HIPAA Security Officer, Division of Information Technology, the name and title of their designated HIPAA Privacy and Security Coordinators.

I. The Director of Compliance and Privacy for Health Affairs Will Ensure That the Notice of Privacy Practices Meets the Requirements of HIPAA Privacy Rule.

A. **Required Notice (NOPP) Elements:** The NOPP will be written in plain language and contain the following required elements:

1. **Header:** The notice must contain the following statement as a header or otherwise prominently displayed: “THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.”
2. A description, including examples, of the types of uses and disclosures that the Health Care Component is permitted to make for the purposes of treatment, payment, and health care operations. A description of each of the other purposes for which the Health Care Component is permitted or required to use or disclose PHI without the individual’s written authorization. Each of these descriptions must include sufficient detail to place the individual on notice of the uses and

disclosures that are permitted or required by the Privacy Rule and other applicable law.

3. A statement indicating that most uses and disclosures of psychotherapy notes (where appropriate), uses and disclosures of PHI for marketing purposes, and disclosures that constitute a sale of PHI require authorization.
4. A statement regarding fundraising communications and an individual's right to opt out of receiving such communications.
5. A statement that other uses and disclosures not described in the NOPP will be made only with the individual's written authorization and that the individual may revoke such authorization.
6. A statement that individuals may complain to the Health Care Component and to the Secretary of Health and Human Services if they believe their privacy rights have been violated, a brief description of how the individual may file a complaint with the Health Care Component, and a statement that the individual will not be retaliated against for filing a complaint.
7. A statement that the Health Care Component is required by law to maintain the privacy of PHI, to provide individuals with notice of its legal duties and privacy practices with respect to PHI, and to notify affected individuals following a breach of unsecured PHI; that the Health Care Component is required to abide by the terms of the notice currently in effect; and that the Health Care Component reserves the right to change the terms of its NOPP and to make the new NOPP provisions effective for all PHI that it maintains. The statement must also describe how it will provide individuals with a revised NOPP.
8. The NOPP must contain the name, or title, and telephone number of a person or office to contact for further information (e.g., the University Office of Compliance and Integrity), and the date on which the NOPP is first in effect, which may not be earlier than the date on which the NOPP is printed or otherwise published.
9. The NOPP must include a statement informing individuals of their right to restrict certain disclosures of PHI to a health plan where the individual pays out of pocket in full for the health care item or service.
10. Revisions to the Notice: The Director of Compliance and Privacy for Health Affairs and the Health Care Component Privacy Coordinator must promptly revise and distribute its NOPP whenever there is a material change to the uses or disclosures, the individual's rights, the Health Care Component's legal duties, or other privacy practices stated in the NOPP.

II. Persons to Whom the Notice is Provided

A. The Health Care Component Privacy Coordinator, or designee will ensure that the NOPP is:

1. made available to any person upon request.

2. provided to the individual (e.g., patient) or the individual's legally authorized representative (Representative). (FIU Policy and Procedure #1660.001) (Representatives)
3. provided to all individuals with whom the FIU health care providers has a direct treatment relationship; except in those instances in which the health care provider is providing treatment in his or her capacity as a member of an organized health care arrangement (for example, when the physician-faculty member provides treatment at a health care facility such as a hospital that has created an organized health care arrangement with the members of its medical staff. This allows the FIU physician-faculty member and the hospital to use a joint NOPP.)

NOTE: It is preferable to hand-deliver the NOPP to the patient or individuals who is entitled to a copy of the NOPP or makes a request for a copy of the NOPP.

III. When Must the NOPP be Provided to Individuals

A. In-Person Health Care Services

1. The Health Care Component Privacy Coordinator, or designee must ensure that the NOPP is provide to every individual (e.g., patient) at the first service delivery when the Health Care Component has a direct treatment relationship with the individual.
The Privacy Coordinator, or designee must make a good faith effort to obtain the individual's written Acknowledgement of receipt of NOPP. (See Section V below regarding the Acknowledgement form)
2. The Health Care Component Privacy Coordinator, or designee is not required to provide the NOPP at the first delivery service when providing the NOPP at that time is not practicable under the circumstances. (e.g., the patient is unable to respond or delay in providing treatment would be detrimental to the health and welfare of the patient). In such situations, the Component Privacy Coordinator, or designee should provide the NOPP as soon as is reasonably practicable thereafter.

B. Remote/Electronic Health Care Services (e.g., via Telehealth)

1. When the first service delivery is via electronic means, the Component Privacy Coordinator, or designee must ensure the NOPP is provided automatically and contemporaneously in response to the request for service. The Privacy Coordinator, or designee must make a good faith effort to obtain the individual's

written Acknowledgement of receipt of NOPP. (See Section V below regarding the Acknowledgement form)

(NOTE: All electronic communications of Protected health information (PHI/ePHI) with patients must be completed in a manner approved by the HIPAA Security Officer and as required by FIU Security policy and procedure). Patient requests for unsecured electronic communication such as email must be accompanied by an appropriate disclaimer giving the patient notice of the security risks associated with unsecured electronic communications)

C. **Telephonic Health Care Services**

1. When the first service delivery is via telephone, the Component Privacy Coordinator, or designee must ensure that the NOPP and Acknowledgement form are sent promptly. The NOPP and Acknowledgement form must be sent by U.S. Postal Service, unless the patient requested and was approved to obtain the NOPP and Acknowledgement in electronic format. (See Section V below regarding the Acknowledgement form)

IV. **Acceptable Formats for the NOPP**

- A. The NOPP may be provided in paper format or electronic format.
- B. The NOPP may be provided in electronic format only if the individual's approval is first obtained.

NOTE: If the Component Privacy Coordinator, or designee, knows that an electronic transmission of the NOPP and Acknowledgement failed, the NOPP and Acknowledgement must be provided in paper format.

NOTE: If the NOPP is initially provided via electronic mail format, a paper copy must be provided upon request by the individual.

V. **Posting of the NOPP and Availability of the NOPP and at the Health Care Component Facility and Mobile Units**

- A. The Component Privacy Coordinator, or designee must ensure that:
 1. the Health Care Components and Mobile Units conspicuously post the NOPP in all physical FIU owned or operated facilities and Mobile Unit where health care services are provided.

2. the NOPP is posted in a clear and prominent location within the Health Care Component and Mobile Unit where it is reasonable to expect patients and other individuals to gather, and at all points of entry of the Health Care Component and Mobile Unit where it is reasonable to expect individuals seeking health care services will be able to read the NOPP.
3. the Health Care Components and Mobile Units who have a direct treatment relationship with individuals make paper copies of the NOPP available at any physical facility and Mobile Unit at which health care services are provided for individuals to take with them upon request.
4. the Health Care Components who maintain a Web site providing information about its customer services or benefits make available and prominently post the NOPP in electronic format on that Web site.

VI. Acknowledgment Requirement for Direct Treatment Providers

- A. When the NOPP is given to an individual at the time of the first service delivery at a Health Care Component or via electronic means, the Component Privacy Coordinator, or designee will ensure that Component Workforce members make a good faith effort to obtain the individual's written Acknowledgement of receipt of the NOPP.
- B. If the Component Workforce member is not able to obtain the individual's written Acknowledgement, the Workforce member must document in the patient's medical records the good faith effort made and the reason the written Acknowledgement was not obtained.
- C. In emergency situations, Component Workforce member must make a good faith effort to obtain the written Acknowledgement and if it is not possible, the Workforce member must document in the patient's medical records the good faith efforts made and the reason the written Acknowledgement was not obtained.
- D. When the NOPP and Acknowledgement are sent via mail or e-mail communication, the good faith effort to obtain written Acknowledgement is satisfied by requesting that the individual complete and return the Acknowledgement form.
- E. The Component Workforce member must document in the patient's medical records the good faith efforts made to obtain the written Acknowledgement of receipt of the NOPP.
- F. **Delivery via U.S. Mail:** If the Component Workforce member sends the NOPP and Acknowledgement via the United States (US) Postal Service Mail, the Workforce member must:

1. verify and document the patient's mailing address in the patient's medical records,
2. mail the NOPP and Acknowledgement via First Class U.S. Mail to the patient's mailing address of record, and
3. document the date, time, and name of the Workforce member who mailed the NOPP and Acknowledgement to the patient.

G. **Delivery via Electronic Means:** If the Component Workforce member sends the NOPP and Acknowledgement via electronic means (e.g., email, facsimile, etc.), the Workforce member must verify the email address, facsimile number, etc. prior to sending the NOPP and Acknowledgement.

NOTE: The email communication and/or facsimile confirmation report are an "Acknowledgement" of receipt of the NOPP.

- H. The Workforce member must document in the patient's medical records:
1. the name of the Workforce member who completed the delivery,
 2. the method and date of delivery, and
 3. if the delivery is accomplished via electronic communication, the Workforce member must print a hardcopy of the email communication or the facsimile transmittal report and place it in the patient's medical records and document the action taken.

NOTE: The Workforce member must provide patients and Representatives a copy of the signed Acknowledgement and place the original in the patient's medical records.

VII. **Changes to the NOPP**

- A. The Director of Compliance and Privacy for Health Affairs and the Component Privacy Coordinator, or designee must promptly revise and distribute the NOPP whenever there is a material change to the uses or disclosures of patient protected health information (PHI/ePHI) covered by the NOPP, the individual's rights, the Health Care Components' legal duties, or other privacy practices stated in the NOPP.
- B. The Director of Compliance and Privacy for Health Affairs and the Component Privacy Coordinator, or designee ensure that a material change to any term of the NOPP is not implemented prior to the effective date of the NOPP in which the material change is reflected, except when required by law.
- C. The Component Privacy Coordinator, or designee must make the revised NOPP available to individuals upon request, and ensure that all postings, including Web site



postings and copies of the NOPP provided to individuals, reflect changes to the NOPP.

VIII. Record 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)