



Use and Disclosure of Protected Health Information for Treatment, Payment, and Health Care Operation Purposes #1660.205

INITIAL EFFECTIVE DATE:	LAST REVISION DATE:	RESPONSIBLE UNIVERSITY DIVISION/DEPARTMENT
September 1, 2009	September 19, 2024	Office of Compliance and Integrity

POLICY STATEMENT

In accordance with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), federal law, and Florida state statutes, Florida International University (FIU) HIPAA Hybrid Designated Health Care Components (Components) may use or disclose protected health information as set forth herein.

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), including the use and disclosure of protected health information (PHI) for treatment, payment and heal care operation purposes. (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 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)

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 provides that Covered Entities (e.g., FIU and the Component health care providers) may not use or disclose protected health information except as permitted or required by the Rule. The purpose of this policy is to describe how the FIU Health Care Components will protect the privacy of its patients' protected health information (PHI) while allowing Workforce members to use and disclose PHI for purposes of treatment, payment, or health care operations.

DEFINITIONS

TERM	DEFINITIONS
Authorization	Permission given by the individual to use and/or disclose protected health information about the individual. The requirements of a valid authorization are defined by the HIPAA regulations.
Business Associate	Generally, an entity or person who performs a function involving the use or disclosure of Protected Health Information (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 require the disclosure of PHI (such as legal, actuarial, accounting, accreditation).
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 Operations	Relates to the following activities of FIU to the extent they are related to health care functions: <ul style="list-style-type: none"> • Conducting 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 of any studies resulting from such activities; population-based activities relating to improving health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives. • Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, health plan performance. • Conducting training programs in which student trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of non-health care professionals, accreditation, certification, licensing, or credentialing activities. • Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs.

	<ul style="list-style-type: none"> • Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the institution, including formulary development and administration, development or improvement of methods of payment or coverage policies. and • Business management and general administrative activities of the institution, including, but not limited to: <ul style="list-style-type: none"> ○ customer services, ○ resolution of internal grievances, ○ sale, transfer, merger, or consolidation of all or part of the covered entity with another covered entity and ○ due diligence related to such activity. • Creating de-identified health information or limited data sets, • Fundraising on behalf of FIU when an authorization is not required.
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.
Hybrid Entity	<p>Means a single legal entity:</p> <ul style="list-style-type: none"> • That is a covered entity. • Whose business activities include both covered and non-covered functions, and • That designates as health care components those units of the business that perform the function of a health plan, health care clearinghouse, or health care provider who transmits health information in electronic form in connection with a Transaction.
Individually Identifiable Health Information	<p>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</p> <ol style="list-style-type: none"> 1. That identifies the individual; or



	2. 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
Payment	“Payment” includes activities undertaken by a health care provider or health plan to obtain or provide reimbursement for the provision of health care or a health plan’s efforts to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the health plan.
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
Representative	A person authorized either by state law or by court appointment to make decisions, including decisions related to health care, on behalf of another person, including someone who is authorized under applicable law to consent on behalf of a prospective subject

	to the subject’s participation in the procedure involved in the research.
Super-Confidential Protected Health Information	“Super-Confidential Protected Health Information” means protected health information that pertains to (i) an individual's HIV status, and/or test results, or treatment of an individual for an HIV-related illness or AIDS or a Sexually Transmitted Disease, (ii) an individual's substance abuse condition or the treatment of an individual for a substance abuse disorder or (iii) an individual's mental health condition or treatment of an individual for mental illness, (iv) an individual’s genetic test results and evaluation.
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
- Florida Statute §456.057

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 #1660.070 (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)
- FIU Policy and Procedure #1660.120 (Minimum Necessary)
- FIU Policy and Procedure #1660.150 (Use and Disclosure of Super-Confidential Protected Health Information)

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*): n/a



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Revision Dates (*review performed, updates made to document*): December 31, 2017, September 19, 2024.



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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), including the use and disclosure of protected health information (PHI) for treatment, payment and health care operation purposes. (FIU Policy and Procedure #1660.070) (Designation of HIPAA Privacy Officer and Component Privacy and Security Coordinators).

Each 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. Use and Disclosure of Patient Protected Health Information (PHI) for Treatment, Payment, and Health Care Operations.

A. Treatment

1. FIU Health Care Component Workforce members may use and disclose PHI to provide, coordinate or manage health care and related services to carry out treatment functions.
2. FIU Health Care Component Workforce members may disclose PHI to another health care provider for treatment activities of the other health care provider.
3. FIU Health Care Component Workforce members must comply with the minimum necessary requirement when using and disclosing PHI. (See FIU Policy and Procedure #1660.120) (Minimum Necessary)

B. Payment (Florida State Statute)

1. FIU Health Care Components may NOT use and disclose a patient's PHI to bill and collect for the treatment provided to the patient, unless the patient consents to the use and disclosure via a written authorization. (See FIU Policy and Procedure #1660.020) (Authorization for Uses and Disclosures of Patient Protected Health Information) and (FIU Policy and Procedure #1660.150) (Use and Disclosure of Super-Confidential Protected Health Information)
2. FIU Health Care Components may NOT disclose a patient's PHI to the patient's health plan to obtain prior approval for treatment and/or to determine whether the patient's plan will cover the treatment unless the patient consents to the disclosure via written authorization. (See FIU Policy and Procedure #1660.020) (Authorization for Uses and Disclosures of Patient Protected Health Information) and (FIU Policy and Procedure #1660.150) (Use and Disclosure of Super-Confidential Protected Health Information)
3. FIU Health Care Components may NOT disclose a patient's PHI to other health care providers to facilitate the other health care providers' billing and collection efforts, unless the patient consents to the disclosure via written authorization, or as permitted or required by law. (See FIU Policy and Procedure #1660.020) (Authorization for Uses and Disclosures of Patient Protected Health Information) and (FIU Policy and Procedure #1660.150) (Use and Disclosure of Super-Confidential Protected Health Information)
4. When authorized and / or permitted or required by law, Workforce members must comply with the minimum necessary requirement when using and disclosing PHI. (See FIU Policy and Procedure #1660.120) (Minimum Necessary)

C. Health Care Operations

1. The FIU Health Care Component Workforce members may use and disclose PHI in order to conduct its normal business operations.
2. The FIU Health Care Component Workforce members may combine PHI about many patients to decide what additional services should be offered, what services are not needed, and whether certain new treatments are effective.
3. The FIU Health Care Component Workforce members may combine the PHI in its possession with PHI from other health care providers in order to compare its performance with other like providers and to make improvements in the care and services offered.

4. The FIU Health Care Component Workforce members may disclose a patient's PHI to its physicians, other health care professionals, and other Florida International University personnel for educational purposes.
5. The FIU Health Care Component Workforce members may disclose a patient's PHI to other health care organizations as permitted or required by law.
6. FIU Health Care Component Workforce members must comply with the minimum necessary requirement when using and disclosing PHI. (See FIU Policy and Procedure #1660.120) (Minimum Necessary)

D. 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)