



**Right of Patients to Request Restrictions Regarding the Use and Disclosure of Their Protected Health Information #1660.045**

| INITIAL EFFECTIVE DATE: | LAST REVISION DATE: | RESPONSIBLE UNIVERSITY DIVISION/DEPARTMENT |
|-------------------------|---------------------|--|
| October 13, 2020        | February 29, 2024   | Office of Compliance and Integrity         |

**POLICY STATEMENT**

Each Florida International University (FIU) Health Insurance Portability and Accountability Act (HIPAA) Hybrid Designated Health Care Component (Component) must permit their patients to request the Component restrict uses or disclosures of Protected Health Information (PHI) about the patients to carry out Treatment, Payment and Healthcare Operations (TPO) or disclosures requiring an opportunity for the patients to agree or object.

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)

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 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 Associate Agreements.

#### REASON FOR POLICY

To explain a patient's right to request restrictions to otherwise permitted uses or disclosures of the patients Protected Health Information (PHI) as described in the HIPAA Privacy Rule, federal law, and Florida state statutes and to describe the steps the Components must take to grant or deny a patient's right to restrictions.

#### DEFINITIONS

| TERM                                       | DEFINITIONS   |
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| <b>Access</b>                              | Means the ability or the means necessary to read, write, modify, or communicate data/information or otherwise use any system resource.  |
| <b>Administrative Officer</b>              | 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. |
| <b>Authorization (HIPAA Authorization)</b> | means a specific type of permission given by the patients to use and/or disclose protected health information about the patients. Workforce members must use the FIU Authorization Form for patient's requests.   |
| <b>Availability</b>                        | Means the property that data or information is accessible and useable upon demand by an authorized person.  |
| <b>Business Associate</b>                  | 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  |

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|                                    | <p>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).</p> <p><b>NOTE:</b> 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><b>NOTE:</b> 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> |
| <b>Code of Federal Regulations</b> | Also known as CFR is the codification of the general and permanent regulations promulgated by the executive departments and agencies of the federal government of the United States.   |
| <b>Component</b>                   | 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.  |
| <b>Confidentiality</b>             | Means data or information is not made available or disclosed to unauthorized persons or processes.   |
| <b>Covered Entity</b>              | <p>An entity that is subject to HIPAA.</p> <ol style="list-style-type: none"> <li>1. a health plan;</li> <li>2. a health care clearinghouse; and/or</li> <li>3. a health care provider who transmits any health information in electronic form in connection with a transaction covered by this subchapter.</li> </ol> <p><b>NOTE:</b> FIU, the legal entity, is the Covered Entity for HIPAA compliance purposes. FIU is a Hybrid Entity, only FIU</p>  |

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|   | designated Components, to the extent it performs covered functions, are subject to HIPAA requirements.  |
| <b>Designated Record Set</b>                          | Means:<br>1. A group of records maintained by or for a covered entity that is:<br>a. The medical records and billing records about patients maintained by or for a covered health care provider;<br>b. The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or<br>c. Used, in whole or in part, by or for the covered entity to make decisions about patients.<br>2. For purposes of this paragraph, the term record means any item, collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for a covered entity. |
| <b>Disclosure</b>                                     | Means the release, transfer, provision of access to, or divulging in any other manner of protected health information outside of the entity holding the information.  |
| <b>Electronic Protected Health Information (ePHI)</b> | PHI in electronic form. See also: <u>PHI</u> .  |
| <b>Florida Statutes</b>                               | Also known as F.S. are the codified, statutory laws of Florida  |
| <b>Health Care</b>                                    | Means the care, services, or supplies related to the health of a patients, including:<br>1. preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of a patient or that affects the structure or function of the body; and<br>2. sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.   |
| <b>Health Care Component</b>                          | See "Component"   |
| <b>Health Care Operations</b>                         | Means any of the following activities:<br>1. quality assessment and improvement activities, including case management and care coordination;<br>2. competency assurance activities, including provider or health plan performance evaluation, credentialing, and accreditation;<br>3. conducting or arranging for medical reviews, audits, or legal services, including fraud and abuse detection and compliance programs;  |

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|   | <ol style="list-style-type: none"> <li>4. specified insurance functions, such as underwriting, risk rating, and reinsuring risk;</li> <li>5. business planning, development, management, and administration; and</li> <li>6. business management and general administrative activities of the entity, including but not limited to:               <ol style="list-style-type: none"> <li>a. de-identifying protected health information,</li> <li>b. creating a limited data set, and</li> <li>c. certain fundraising for the benefit of the covered entity.</li> </ol> </li> </ol>  |
| <b>Health Care Provider</b>                         | 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.   |
| <b>U.S. Department of Health and Human Services</b> | Also known as HHS is a cabinet-level executive branch department of the U.S. federal government created to protect the health of the U.S. people and providing essential human services.   |
| <b>Health Information</b>                           | 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 patients; the provision of health care to an patients; or the past, present, or future payment for the provision of health care to an patients.   |
| <b>Health Plan</b>                                  | <p>Means a patients or group plan that provides, or pays the cost of, medical care (as defined in section 2791(a)(2) of the PHS Act, 42 U.S.C. 300gg- 91(a)(2)).</p> <ol style="list-style-type: none"> <li>1. Health plan includes the following, singly or in combination:           <ol style="list-style-type: none"> <li>a. A group health plan, as defined in this section.</li> <li>b. A health insurance issuer, as defined in this section.</li> <li>c. An HMO, as defined in this section.</li> <li>d. Part A or Part B of the Medicare program under title XVIII of the Act.</li> <li>e. The Medicaid program under title XIX of the Act, 42 U.S.C. 1396, et seq.</li> <li>f. The Voluntary Prescription Drug Benefit Program under Part D of title XVIII of the Act, 42 U.S.C. 1395w-101 through 1395w-152.</li> <li>g. An issuer of a Medicare supplemental policy (as defined in section 1882(g)(1) of the Act, 42 U.S.C. 1395ss(g)(1)).</li> <li>h. An issuer of a long-term care policy, excluding a nursing home fixed indemnity policy.</li> </ol> </li> </ol> |

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|              | <p>i. An employee welfare benefit plan or any other arrangement that is established or maintained for the purpose of offering or providing health benefits to the employees of two or more employers.</p> <p>j. The health care program for uniformed services under title 10 of the United States Code.</p> <p>k. The veterans health care program under 38 U.S.C. chapter 17.</p> <p>l. The Indian Health Service program under the Indian Health Care Improvement Act, 25 U.S.C. 1601, et seq.</p> <p>m. The Federal Employees Health Benefits Program under 5 U.S.C. 8902, et seq.</p> <p>n. An approved State child health plan under title XXI of the Act, providing benefits for child health assistance that meet the requirements of section 2103 of the Act, 42 U.S.C. 1397, et seq.</p> <p>o. The Medicare Advantage program under Part C of title XVIII of the Act, 42 U.S.C. 1395w-21 through 1395w-28.</p> <p>p. A high risk pool that is a mechanism established under State law to provide health insurance coverage or comparable coverage to eligible patients.</p> <p>q. Any other patients or group plan, or combination of patients or group plans, that provides or pays for the cost of medical care (as defined in section 2791(a)(2) of the PHS Act, 42 U.S.C. 300gg-91(a)(2)).</p> <p>2. Health plan excludes:</p> <p>a. Any policy, plan, or program to the extent that it provides, or pays for the cost of, excepted benefits that are listed in section 2791(c)(1) of the PHS Act, 42 U.S.C. 300gg-91(c)(1); and</p> <p>b. A government-funded program (other than one listed in paragraph (1)(i)- (xvi) of this definition):</p> <ol style="list-style-type: none"> <li>1. Whose principal purpose is other than providing, or paying the cost of, health care; or</li> <li>2. Whose principal activity is: <ol style="list-style-type: none"> <li>a. The direct provision of health care to persons; or</li> <li>b. The making of grants to fund the direct provision of health care to persons. Account number; and</li> <li>c. Name and address of the health care provider and/or health plan.</li> </ol> </li> </ol> |
| <b>HIPAA</b> | Means the Health Insurance Portability and Accountability Act of 1996.   |



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| <b>Hybrid Covered Entity</b>      | 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.  |
| <b>Integrity</b>                  | Means the property that data or information have not been altered or destroyed in an unauthorized manner.  |
| <b>Minimum Necessary Standard</b> | Means limit use, disclosure, or request of PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.   |
| <b>Patient</b>                    | The person who is the subject of the PHI.  |
| <b>Payment</b>                    | <p>Means:</p> <ol style="list-style-type: none"> <li>1. The activities undertaken by: Except as prohibited under §164.502(a)(5)(i), <ol style="list-style-type: none"> <li>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</li> <li>b. A health care provider or health plan to obtain or provide reimbursement for the provision of health care; and</li> <li>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: <ol style="list-style-type: none"> <li>1. Determinations of eligibility or coverage (including coordination of benefits or the determination of cost sharing amounts), and adjudication or subrogation of health benefit claims;</li> <li>2. Risk adjusting amounts due based on enrollee health status and demographic characteristics;</li> <li>3. 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;</li> <li>4. Review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;</li> <li>5. Utilization review activities, including precertification and preauthorization of services, concurrent and retrospective review of services; and</li> <li>6. Disclosure to consumer reporting agencies of any of the following protected health information relating to collection of premiums or reimbursement: <ol style="list-style-type: none"> <li>a. Name and address;</li> <li>b. Date of birth;</li> <li>c. Social security number.</li> </ol> </li> </ol> </li> </ol> </li> </ol> |

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| <b>Privacy Coordinator</b>                           | 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. |
| <b>Protected Health Information (PHI)</b>            | 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. Protected Health Information however specifically excludes: <ol style="list-style-type: none"> <li>1. Education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. § 1232g ("FERPA");</li> <li>2. Records described at 20 U.S.C. § 1232g(a)(4)(B)(iv); and</li> <li>3. Employment records held by a covered entity in its role as an employer.</li> </ol>  |
| <b>Privacy Rule</b>                                  | 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.  |
| <b>Record</b>  | Means any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or on behalf of a Component.  |
| <b>Secretary</b>                                     | Means the Secretary of Health and Human Services or any other officer or employee of HHS to whom the authority involved has been delegated.   |
| <b>Treatment, payment, and healthcare operations</b> | Also known as TPO   |





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| <b>Treatment</b> | 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.   |
| <b>Use</b>       | 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.   |
| <b>Workforce</b> | 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.
  - Performs audits and assessments of the Components to ensure their compliance with the Privacy Rules and associated FIU Policies and Procedures.
  - 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 federal laws and Florida state statutes governing the confidentiality, integrity and availability of PHI and electronic PHI (ePHI), including, but not limited to receiving and processing requests by patients for restrictions on the use and disclosure of their PHI.

### RELATED RESOURCES

#### References

- 45 CFR §164.502
- 45 CFR §164.504
- 45 CFR §164.506
- 45 CFR §164.508
- 45 CFR §164.512
- 45 CFR §164.514
- 45 CFR §164.530
- Florida Statute §456.057(11)
- Florida Statute §95.11

#### **Related Policies**

- FIU Policy # 1610.005 (Designated Health Care Components of FIU Community)
- FIU Policy and Procedure #1660.070 (Designation of HIPAA Privacy Officer and Component Privacy and Security Coordinators)
- FIU Policy and Procedure #1660.085 (Sanctions)
- FIU Policy and Procedure #1660.075 (HIPAA Privacy and Security Rule Training)
- FIU Policy and Procedure #1660.015 (Business Associate Agreements)
- FIU Policy and Procedure #1640.025 (Minimum Necessary)
- FIU Policy and Procedure #1600.080 (Policies and Procedures, Changes to Policies and Procedures, and Documentation)
- FIU Policy and Procedure #1660.020 (Authorization for Uses and Disclosures of Patient Protected Health Information)
- FIU Policy and Procedure #1640.015 (Notice of Privacy Practices)
- FIU Policy and Procedure #1660.030 (Uses and Disclosures of Protected Health Information Requiring an Opportunity for the Patient to Agree or to Object)
  - Uses and Disclosures for Facility Directory and to the Clergy
  - Uses and Disclosures to Individuals involved in the Patient's Care and for Notification Purposes
- FIU Policy and Procedure #1660.025 (Uses and Disclosures of Patient Protected Health Information for Which an Authorization or Opportunity to Agree or to Object is NOT Required)
- FIU Policy and Procedure #1660.005 (Right of Patients to Request Confidential Communications Regarding the Use and Disclosures of Their Protected Health Information)
- FIU Policy and Procedure #1660.040 (Verification)

#### **CONTACTS**

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



## HISTORY

**Initial Effective Date:** October 13, 2020

**Review Dates** (*review performed, no updates*): n/a

**Revision Dates** (*review performed, updates made to document*): October 13, 2020; February 29, 2024.



**Right of Patients to Request Restrictions Regarding the Use and Disclosure of Their Protected Health Information #1660.045a**

| INITIAL EFFECTIVE DATE: | LAST REVISION DATE: | RESPONSIBLE UNIVERSITY DIVISION/DEPARTMENT |
|-------------------------|---------------------|--|
| October 13, 2020        | February 29, 2024   | Office of Compliance and Integrity         |

**PROCEDURE STATEMENT**

**I. Requests for Restrictions**

Each 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 federal law and Florida state statutes governing the confidentiality, integrity and availability of PHI and electronic PHI (ePHI), including, but not limited to receiving and processing requests by patients for restrictions on the use and disclosure of their PHI within their Designated Record Set. Privacy Coordinators may delegate and share duties and responsibilities with Component Workforce members 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)

- A. When a patient requests a restriction on the use and disclosure of the PHI, the Component Workforce member will request the patient complete and submit the Restriction of Use and/or Disclosure of Health Information Request Form. (See Sample Restriction Form attached) However, the Workforce member will accept any written request for restrictions if the required information and signature are provided.
- B. The patient must describe in writing specifically the health information at issue and how specifically the patient would like to restrict its use or disclosure. (See Sample Restriction Form attached)
- C. The Workforce member will assist the patient in completing the Restriction Form, if necessary.
- D. The Workforce member will honor requests for alternate means of making this request if reasonable accommodations (such as disability or illiteracy) are needed.

- E. Upon receipt of a complete or incomplete Restriction Form, or other written document, the Workforce member must verify the identity of the individual making the request. (FIU Policy and Procedure #1660.040) (Verification)

## II. Incomplete Restriction Form

- A. If a patient submits an incomplete Restriction Form, or other written document, the Workforce member will not evaluate the request for restrictions until all required information and signature are provided. The Workforce member will:
1. Date stamp the incomplete Restriction Form, or other written document, on the day received;
  2. Document in the patient's medical records:
    - a. That the Restriction Form, or other written document, is incomplete.
    - b. The date and time the incomplete Restriction Form, or other written document, was received.
    - c. The name and title of the Workforce member who received the incomplete Restriction Form or other written document, and
    - d. Why the Restriction Form, or other written document, is incomplete.
  3. Make a photocopy of the patient's incomplete Restriction Form, or written document, and
  4. Properly secure the photocopy of the incomplete Restriction Form, or other written document, in the patient's medical records.

**NOTE:** It is preferable for the Workforce member to contact the patient in-person via the telephone and advise him or her of that the required information is missing and their request for access cannot be evaluated until the required information is provided, verses mailing a written notice to the patient, as mailing a written notice may unreasonably delay the patient's right to restrictions. However, prior to contacting the patient to advise him or her of the need for the missing information, the Workforce member must review the patient's Restriction Form and medical records to identify:

1. If the patient previously identified a preferred method of communication, and
  2. The Component agreed to communicate with the patient via alternative means or location. (FIU Policy and Procedure #1660.005) (Right of Patients to Request Confidential Communications Regarding the Use and Disclosure of Their Protected Health Information) (hereinafter Confidential Communications).
- B. If the patient is not available in-person, or via the telephone, and had not previously requested and been approved for confidential communications, the Workforce member will return the original incomplete Restriction Form, or other written document, with a Cover Letter requesting the patient provide the required missing information. (See Sample Cover Letter Requesting Complete or Additional Information) (hereinafter Cover Letter). The incomplete Restriction Form, or other

written document, along with Component's Cover Letter must be sent via United States Postal Serviced First-Class Mail in an envelope that identifies the name of the Component (e.g., Center for Children and Family).

**NOTE:** Electronic communications/ means (i.e., email/facsimile/text message) are only available as an option for sending documents to the patient, if previously requested by the patient and approved by the Component. (FIU Policy and Procedure #1660.005) (Confidential Communications)

- C. The Workforce member must:
1. Document in the patient's medical records:
    - a. The date, name, and title of the Workforce member who completed the delivery, and
    - b. The method of delivery.
  2. Properly secure a copy of the incomplete Restriction Form, or other written document, and Cover Letter in the patient's medical records, and
  3. If the delivery was accomplished via previously electronic communication/means, the Workforce member must:
    - a. Print a hardcopy of the electronic communication (i.e., email/facsimile/text message) and properly secure it in the patient's medical records, or
    - b. If the delivery was completed via facsimile, print a hardcopy of the facsimile transmittal report and properly secure it in the patient's medical records.

### **III. Properly Completed Restriction Form**

- A. Upon receipt of a completed Restriction Form, or other written document, the Workforce member will:
1. Date stamp the receipt of the completed Restriction Form, or other written document, on the day received,
  2. Complete the "Date Received" and "Recipient" portions of the "For FIU INTERNAL USE ONLY" section of the Restriction Form,
  3. Promptly document in the patient's medical records:
    - a. Receipt of the Restriction Form, or other written document, and
    - b. The date, name, and title of the Workforce member who received the request.
  4. Properly secure the Restriction Form, or other written document, in the patient's medical records.

The Workforce member, along with appropriate and necessary Workforce members, will review the patient's request for Restriction to determine if the Component will grant or deny the request.

### **IV. Restrictions Accepted**

**NOTE:** A Component MUST agree to a restriction when:



1. The patient makes a request for restriction on the use or disclosure of PHI about the patient to a health plan, and
  2. The restriction is for the purpose of carrying out payment or health care operations, and
  3. Use or disclosure is not otherwise required by law, and
  4. The PHI pertains solely to a health care item(s) or service(s) for which the patient, or another person (but not a health plan) paid for the item(s) or service(s) in-full on behalf of the patient at, or prior to, the time item(s) or service(s) is rendered.
- A. If a patient makes a request for restriction on the use or disclosure of PHI about the patient to a health plan as described above, the Workforce member shall request the patient complete the a Request to Restrict Disclosure to Health Plan Form (See Sample Request to Restrict Disclosure to Healthcare Items or Services to Health Plans When Patient's Self Pay Out of Pocket Form attached) (hereinafter Self Pay Form)
- B. If the patient has complied with the requirements of Section IV **NOTE** immediately above regarding restrictions on the use and disclosure of PHI to a health plan, the Workforce member **MUST** agree to the requested restrictions and:
1. Document in the patient's medical records the date, name(s), and title of the Workforce member and any other Workforce members involved in the review and approval of the requested restriction(s);
  2. Document the amount of payment received for each item(s) and service(s) received.
  3. Document in the patient's medical records the specific approved restriction(s).
  4. Complete the "Accepted" portions of the "FOR FIU INTERNAL USE ONLY" section of the Restriction Form.
  5. Prepare an approval letter (See Sample Approval of Request for Restriction on Use and/or Disclosure of Health Information Letter attached) (hereinafter Approval Letter).
  6. Deliver and document in the patient's medical records the delivery of the Approval Letter to the patient in the manner identified in Section II.C. above.
  7. Ensure that appropriate workforce members are notified of the approved restriction(s).
  8. Document in the patient's medical records the date, names, and titles of the Workforce member(s) who were notified of the approved restrictions, and the manner in which they were notified (i.e., in-person, memorandum, etc.).
  9. Properly secure in the patient's medical records the Restriction Form, the Self Pay Form, and the Approval Letter, and the original written or electronic notification (or copy when appropriate) sent to the Workforce members regarding the approved restrictions, and
  10. If the delivery is accomplished via previously approved electronic communication, the Workforce member must:

- a. Print a hardcopy of the electronic communication (i.e., email/facsimile/text message) and properly secure it in the patient's medical records, or
  - b. If the delivery was completed via facsimile, print a hardcopy of the facsimile transmittal report and properly secure it in the patient's medical records.
- C. If the Workforce member and the appropriate and necessary Workforce members agree to accept a patient's additional or other requested restriction(s), the Component may not use or disclose PHI in a manner that violates the restriction(s), except that the Component may use or disclose the restricted PHI if it:
  1. Is required to the patient (FIU Policy and Procedure #1660.125) (Required Disclosures).
  2. Is done in response to a request for an accounting of disclosures by the patient (FIU Policy and Procedure #1660.060).
  3. Involves the use of PHI in a facility directory (FIU Policy and Procedure #1660.030).
  4. The restricted PHI is needed to provide the emergency treatment (FIU Policy and Procedure #1660.045); (See Notes immediately below regarding Emergency Treatment)
  5. Is required by law (\*\*).
  6. Is required for public health activities (\*\*).
  7. is a required disclosure regarding victims of abuse, neglect, or domestic violence \*\*.
  8. Is for health oversight activities (\*\*).
  9. Is required by the Secretary of the federal Department of Health and Human Services to investigate or determine FIU's compliance with the HIPAA Privacy Rule (\*\*).
  10. Is for judicial and administrative proceedings (\*\*).
  11. Is made to law enforcement (\*\*).
  12. Is about decedents (\*\*).
  13. Is for cadaveric organ, eye and tissue donation (\*\*).
  14. Is for research purposes \*\*.
  15. Is made to avert a serious threat to health or safety \*\*.
  16. Is for Workers' Compensation \*\*, and
  17. Is for specialized government functions \*\*. (\*\* denotes FIU Policy and Procedure #1660.025) (Use and Disclosure of Patient Protected Health Information for Which an Authorization or Opportunity to Agree or Object is NOT Required)
- D. The Workforce member must:
  1. Complete the "Accept" portion of the "FOR FIU INTERNAL USE ONLY" section of the Restriction Form documenting the approval.
  2. Document in the patient's medical records the date, name(s), and title of the Workforce member and appropriate and necessary Workforce members involved in the review and approval of the restriction(s).

3. Document in the patient's medical records the specific approved restriction(s).
4. Prepare an Approval Letter.
5. Deliver and document in the patient's medical records the delivery of the Approval Letter to the patient in the manner identified in Section II.C. above.
6. Ensure that appropriate Workforce members are notified of the approved of restriction(s).
7. Document in the patient's medical records the date, names, and titles of the Workforce member(s) who were notified of the approved restrictions, and the manner in which they were notified (i.e., in-person, memorandum, etc.).
8. Properly secure in the patient's medical records the Approval Letter and any written notification(s) (or copy when appropriate) sent to the Workforce members regarding the approved restrictions, and
9. If the delivery is accomplished via previously electronic communication/means, the Workforce member must:
  - a. Print a hardcopy of the electronic communication (i.e., email/facsimile/text message) and properly secure it in the patient's medical records, or
  - b. If the delivery was completed via facsimile, print a hardcopy of the facsimile transmittal report and properly secure it in the patient's medical records.

**V. Emergency Healthcare**

- A. A Component that agrees to a restriction for uses or disclosures of PHI about the patient to carry out Treatment, Payment, or Health Care Operations (TPO) or uses and disclosures requiring an opportunity for the patient to agree or object may not use or disclose PHI in violation of such restriction, except if the patient who requested the restriction is in need of emergency treatment and the restricted PHI is needed to provide the emergency treatment, or the patient is incapacitated. In this case, the Component Workforce members may use the restricted PHI or may disclose such information to a health care provider, to provide such treatment to the patient.
- B. If PHI is disclosed to a healthcare provider outside of the Component in response to an emergency situation, the Workforce member must:
  1. Request the emergency healthcare provider not further use or disclose the patient PHI.
  2. Disclose only the minimum amount of patient PHI necessary for the emergency healthcare provider to properly treat the patient; (FIU Policy and Procedure #1640.025) (Minimum Necessary).
  3. Document in the patient's medical records:
    - a. The date, name, and title of the Workforce member who made the disclosure.
    - b. That the Workforce member requested the emergency healthcare provider not further disclose the patient's PHI.

- c. The name and title of emergency healthcare provider to whom the patient PHI was disclosed.
- d. The specific PHI disclosed, and
- e. The nature of the emergency requiring disclosure of the patient restricted PHI. (FIU Policy and Procedure #1660.025) (Use and Disclosure of Patient Protected Health Information Requiring an Opportunity for the patient to Agree or Object).

## **VI. Restrictions Denied**

- E. If the Workforce member and the appropriate and necessary Workforce members deny the patient's request for restrictions on the use and/or disclosure of health information, the Workforce member must:
  - 1. Complete the "Denied" portion of the "FOR FIU INTERNAL USE ONLY" section of the Restriction Form documenting the denial and the reason for the denial.
  - 2. Document in the patient's medical records the date, name(s), and title of the Workforce member and appropriate and necessary Workforce members involved in the review and denial of the restriction(s).
  - 3. Prepare a denial letter (See Sample Denial of Request for Restriction on Use and/or Disclosure of Health Information Letter attached) (Denial Letter).
  - 4. Deliver and document in the patient's medical records the delivery of the Denial Letter to the patient in the manner identified in Section II.C. above.
  - 5. Ensure that appropriate Workforce members are notified of the denial of restriction(s).
  - 6. Document in the patient's medical records the date, names, and titles of the Workforce member(s) who were notified of the denied restrictions, and the manner in which they were notified (e.g., in-person, memorandum, etc.).
  - 7. Properly secure in the patient's medical records the Denial Letter and any written notification(s) (or copy when appropriate) sent to the Workforce members regarding the denial of restrictions, and
  - 8. If the delivery is accomplished via previously approved electronic communication, the Workforce member must:
    - a. Print a hardcopy of the electronic communication (e.g., email/facsimile/text message) and properly secure it in the patient's medical records, or
    - b. If the delivery was completed via facsimile, print a hardcopy of the facsimile transmittal report and properly secure it in the patient's medical records.

## **VII. Patient's Termination of Restrictions**

- A. The Component may terminate an approved restriction if the patient requests the termination in writing or the patient orally agrees to the termination and the oral agreement is documented in the patient's medical records.
- B. The Component Workforce member must:

1. Date stamp the patient's written request to terminate the restrictions on the day received.
2. Promptly document in the patient's medical records the date, name, and title of the Workforce member who received and approved the termination of restrictions request or received the oral agreement.
3. Verify and document the identity of the person making the request or orally agrees to terminate the restrictions (FIU Policy and Procedure #1660.040) (Verification),
4. Properly secure the patient's written request to terminate the restrictions in the patient's medical records.
5. Prepared a termination letter identifying the basis of the termination. (See Sample Termination of Restriction Letter) (Termination Letter).
6. Deliver the Termination Letter to the patient and document in the patient's medical records the delivery and the manner of delivery as identified in Section II.C., and
7. If the delivery is accomplished via previously approved electronic communication/means, the Workforce member must:
  - a. Print a hardcopy of the electronic communication (e.g., email/facsimile/text message) and properly secure it in the patient's medical records, or
  - b. If the delivery was completed via facsimile, print a hardcopy of the facsimile transmittal report and properly secure it in the patient's medical records.

**NOTE:** The termination of restrictions is only effective with respect to PHI created or received after the Workforce member accepted and approved the termination of restriction and informed the patient that it is terminating the restriction.

#### **VIII. Termination of Restrictions without the Patient's Agreement**

- A. The Component may terminate the agreed upon restriction without the patient's agreement if the Component via its Workforce member(s) informs the patient that the agreed upon restriction is being terminated.
- B. The Component Workforce member MUST terminate its agreement to a restriction by informing the patient in writing. The Workforce member must:
  1. Complete the Termination Letter and identify the basis of the termination.
  2. Document in the patient's medical records the date, name, and title of the Workforce member who approved the termination of restriction.
  3. Notify the patient of the termination by delivering the Termination Letter to the patient via US Mail or in-person delivery, unless the patients was previously approved for confidential communication via electronic communication or other means; (FIU Policy and Procedure #1660.005) (Confidential Communications)
  4. Document in the patient's medical records the date, name, and title of the Workforce member who approved the termination of restrictions.

5. Properly secure a copy of the Termination Letter in the patient's medical records, and
6. If the delivery is accomplished via previously approved electronic communications/means, the Workforce member must:
  - a. Print a hardcopy of the electronic communication (e.g., email/facsimile/text message) and properly secure it in the patient's medical records, or
  - b. If the delivery was completed via facsimile, print a hardcopy of the facsimile transmittal report and properly secure it in the patient's medical records.

**NOTE:** The Workforce member MUST NOT terminate the agreed upon restriction until he/she receives confirmation that the patient received the written or electronic notification.

**NOTE:** The Component Workforce members MUST continue to abide by the restrictions with respect to any PHI created or received before it informed the patient of the termination of the restriction. The termination is only effective with respect to PHI created or received after the Workforce member has informed the patient it is terminating the restriction.

**NOTE:** A termination of agreed upon restrictions IS NOT effective for PHI used or disclosed for the purpose of carrying out payment or health care operations, and is not otherwise required by law, and the PHI pertains solely to a health care item or service for which the patient, or person other than the health plan on behalf of the patient, has paid the Component in full at the time treatment is provided, and is only effective with respect to PHI created or received after it has so informed the patient). (See Section II above)

## **IX. Record Retention**

- A. If a communication, action, activity, or designation is required to be documented in writing, the document or record owner (e.g., The Office of Compliance and Integrity) 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).

## **X. Forms**

- Sample Restriction on Use and/or Disclosure of Health Information Request Form
- Sample Letter of Approval of Request for Restriction on Use and/or Disclosure of Health Information
- Sample Letter of Denial of Request for Restriction on Use and/or Disclosure of Health Information





- Sample Request to Restrict Disclosure of Healthcare Items or Services to Health Plans when Patients Self Pay Out of Pocket and attached Information Form.
- Sample Termination of Restrictions Letter