



**Uses and Disclosures of Patient Protected Health Information for  
Media, Public, Teaching, Diagnostic, and Emergency Operation  
Purposes # 1660.130**

<b>INITIAL EFFECTIVE DATE:</b>	<b>LAST REVISION DATE:</b>	<b>RESPONSIBLE UNIVERSITY DIVISION/DEPARTMENT</b>
August 31, 2021	August 31, 2021	Office of Compliance and Integrity

**POLICY STATEMENT**

Florida International University (FIU) Workforce members within the FIU Health Insurance Portability and Accountability Act (HIPAA) Hybrid Designated Health Care Components (Component) will not disclose the identity of patients and or their Protected Health Information (PHI) to staff members within the Division of External Relations, Strategic Communications and Marketing unless specifically authorized by the patient or his/her legal representative, and the Component and the Division of External Relations, Strategic Communications and Marketing will not disclose the identity of patients and or their PHI to the media or public, unless specifically authorized by the patient or his/her legal representative, or as permitted by the HIPAA Privacy Rule, state law, and FIU Policy and Procedure. (FIU Policy and Procedure #1660.001) (Representatives)

FIU Faculty, staff members, and students (Workforce members) who have access to patient information within a Component and/or Student Health Services will not make any written or verbal comments or statements on any social media platform(s) in which the identity, diagnosis, treatment and/or medical referral services of Component patients and Student Health Services patients is implicitly or explicitly disclosed, unless required written authorization is first obtained from the patient or his/her legal representative. (FIU Policy and Procedure #1660.001) (Representatives)

Component Workforce members designated to use and/or disclose patient PHI or participate in the use and/or disclosure of PHI to the media, the public, for emergency operations, educational, or marketing purposes shall receive mandatory HIPAA Media Training (hereinafter Component Designated Media member(s)).

Staff members of the Division of External Relations, Strategic Communications and Marketing designated to use and/or disclose or participate in the use and/or disclosure of PHI to the media and/or the public and for marketing purposes shall receive mandatory HIPAA Media and Marketing Training (hereinafter Media Staff member(s)).



The Division of External Relations, Strategic Communications and Marketing Media Staff member(s) designated to respond to requests from the media or public or provide information for public distribution and have access to PHI, shall not release PHI to the media or the public without the written authorization of the patient(s) who is the subject of the PHI or their legal representative. (FIU Policy and Procedure #1660.001) (Representatives)

All news media should be given equal access to the release of general information. However, if a reporter – through his or her own initiative – obtains an exclusive story concerning an FIU physician or patient, the right to that exclusive will be respected. In the sense of fairness, FIU will not take the initiative in providing information for that story to another news agency. If, however, the FIU spokesperson is approached regarding the same story by another media outlet, he/she is obligated to release the information to that media outlet as well, within the limitations of the privacy regulations and FIU Policy and Procedure. If a family or patient specifically requests that a particular media outlet be given exclusivity to a story, that request will be honored by FIU.

Components shall obtain required Business Associate Agreements whenever an external third party is hired to engage in activities involving the use or disclosure of patient PHI. (FIU Policy and Procedure #1660.015) (Business Associate Agreements)

Component health care providers and Workforce members will not allow members of the media, including film crews and photographers, into clinic or treatment areas of the Health Care Component or other areas where PHI will be accessible in written, electronic, oral or other visual or audio form, without prior written authorization from the patient(s) who are or will be in the area or whose PHI will be accessible to the media. It is not sufficient to request or require media personnel to mask the identities of patients (using techniques such as blurring, pixelation, or voice alteration software) for whom a written authorization was not obtained, because the HIPAA Privacy Rule and Florida law does not allow media access to the patients' PHI, absent a properly completed written authorization. Additionally, external media, film crews, and photographers must be escorted and accompanied by the Component Designated Media member(s) during the entire authorized onsite visit within all clinic or treatment areas.

FIU and its Health Care Component can continue to inform the media of their treatment services and programs so that the media can better inform the public, provided that, in doing so, FIU and its Health Care Component do not share PHI with the media without first obtaining a written authorization of the patients who are the subject of the PHI or their legal representative. (FIU Policy and Procedure #1660.001) (Representatives)

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 HIPAA 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 and designated Division of External Relations, Strategic Communications and Marketing media staff 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, FIU faculty and staff members, students, and Division of External Relations, Strategic Communications and Marketing staff members who fail to adhere to this policy and procedure may be subject to criminal and civil penalties as provided by law, and/or administrative and disciplinary action. (FIU Policy and Procedure #1680.085) (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 accordingly made 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 Health Care Component that are contained within FIU's HIPAA Hybrid Designation (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, and the Division of External Relations, Strategic Communications and Marketing.

#### **REASON FOR POLICY**

To identify the responsibility of FIU and the Health Care Components to protect the identify and PHI of patients from the unauthorized disclosure of the identify and PHI of patients to the media, the public, and for teaching purposes unless the appropriate written authorization is first obtained from the patient(s) or his/her legal representative.

45 CFR §164.502 (Uses and Disclosures of Protected Health Information: General Rules  
45 C.F.R. 164.508 (Uses and Disclosures for Which an Authorization is Required)  
F.S. 401.30 (Media Communications and Transportation)



DEFINITIONS	
TERM	DEFINITIONS
<b>Access</b>	Means the ability or the means necessary to read, write, modify, or communicate data/information or otherwise use any <u>system</u> 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>Administrative Safeguards</b>	Are administrative actions, and policies and procedures, to manage the selection, development, implementation, and maintenance of security measures to protect electronic protected health information and to manage the conduct of the covered entity's or business associate's workforce in relation to the protection of that information.
<b>Authorization (HIPAA Authorization)</b>	A specific type of permission given by the patient to use and/or disclose Protected Health Information about the patient. FIU Component Workforce members may use their department, division, unit specific Accounting of Disclosures forms or the FIU created and approved Request for an Accounting of Disclosures, Disclosure Tracking Log, and Reports of Disclosures to Third Parties forms, as the Component deems appropriate.
<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 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).  <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

	<p>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>Business Associate Agreement</b>	Means a contract or other written arrangement with a business associate which must describe the permitted and required uses of protected health information by the business associate; Provide that the business associate will not use or further disclose the protected health information other than as permitted or required by the contract or as required by law; and Require the business associate to use appropriate safeguards to prevent a use or disclosure of the protected health information other than as provided for by the contract.
<b>Code of Federal Regulations</b>	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.
<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>	An entity that is subject to HIPAA. <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>De-identified</b></p>	<p>Health information that does not identify a patient and with respect to which there is no reasonable basis to believe that the information can be used to identify a patient is de-identified. Health information is considered de-identified</p> <ol style="list-style-type: none"> <li>1. if an expert in statistical and scientific method determines that there is a very small risk that the information could be used alone or in combination with other information to identify a patient, or</li> <li>2. if stripped of all of the 18 direct identifiers defined under HIPAA:             <ol style="list-style-type: none"> <li>a. Name of patient(s);</li> <li>b. Geographic units smaller than a state (initial three digits of a zip code can be used if the geographic area contains more than 20,000 people);</li> <li>c. Dates (Date of Birth, Date of Death, Admission/ Discharge Dates);</li> <li>d. Ages (Over the age of 89 and any combination of date of birth that reveals an age 89 and over);</li> <li>e. Telephone numbers;</li> <li>f. Fax numbers;</li> <li>g. E-mail addresses;</li> <li>h. Social Security Numbers;</li> <li>i. Medical record numbers;</li> <li>j. Health plan beneficiary numbers;</li> <li>k. Account numbers;</li> <li>l. Certificate/License numbers;</li> <li>m. Vehicle identifiers and serial numbers (including license plate numbers);</li> <li>n. Device identifiers and serial numbers;</li> <li>o. Web universal resource locators (URLs);</li> <li>p. Internet protocol (IP) address numbers;</li> <li>q. Biometric identifiers including finger and voice prints;</li> <li>r. Full face photographic images and any comparable images; and</li> <li>s. Any other unique identifying number, characteristic or code, except a re-identification code.</li> </ol> </li> </ol> <p><b>NOTE:</b> HIPAA does not apply to de-identified data.</p>
<p><b>Designated Record Set</b></p>	<ol style="list-style-type: none"> <li>1. A group of records maintained by or for a covered entity that is:</li> </ol>

	<ol style="list-style-type: none"> <li>a. The medical records and billing records about patients maintained by or for a covered health care provider;</li> <li>b. The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or</li> <li>c. Used, in whole or in part, by or for the covered entity to make decisions about patients.</li> </ol> <p>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.</p>
<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. is a permanent collection of state laws organized by subject area into a code made up of titles, chapters, parts, and sections. The Florida Statutes are updated annually by laws that create, amend, transfer, or repeal statutory material.
<b>Health Care</b>	Means the care, services, or supplies related to the health of a patient/client, including: <ol style="list-style-type: none"> <li>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/client or that affects the structure or function of the body; and</li> <li>2. sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.</li> </ol>
<b>Health Care Component</b>	See "Component"
<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>HIPAA</b>	Means the Health Insurance Portability and Accountability Act of 1996.
<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>Incidental Disclosure</b>	Means a use or disclosure that occurs as a by-product of another permissible or required use or disclosure, as long as the covered

	entity or support unit has applied reasonable safeguards and implemented the minimum necessary standard, where applicable, with respect to the primary use or disclosure. An incidental use or disclosure is a secondary use or disclosure that cannot reasonably be prevented, is limited in nature, and that occurs as a result of another use or disclosure that is permitted by the Privacy Rule. However, an incidental use or disclosure is not permitted if it is a by-product of an underlying use or disclosure which violates the Privacy Rule.
<b>Integrity</b>	Means the property that data or information have not been altered or destroyed in an unauthorized manner.
<b>Law Enforcement</b>	Means an officer or employee of any agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, who is empowered by law to: <ol style="list-style-type: none"> <li>1. Investigate or conduct an official inquiry into a potential violation of law; or</li> <li>2. Prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.</li> </ol>
<b>Patient</b>	Person who is the subject of the PHI
<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





	<p>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:</p> <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>Representative</b>	Means 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.
<b>Research</b>	<p>Means any systematic investigation designed to develop or contribute to generalizable knowledge. The Privacy Rule permits a covered entity to use and disclose protected health information for research purposes, without an individual’s authorization, provided the covered entity obtains either:</p> <ol style="list-style-type: none"> <li>(1) documentation that an alteration or waiver of individuals’ authorization for the use or disclosure of protected health information about them for research purposes has been approved by an Institutional Review Board or Privacy Board;</li> <li>(2) representations from the researcher that the use or disclosure of the protected health information is solely to prepare a research protocol or for similar purpose preparatory to research, that the researcher will not remove any protected health information from the covered entity, and that protected health information for which access is sought is necessary for the research; or</li> <li>(3) representations from the researcher that the use or disclosure sought is solely for research on the protected health information of decedents, that the protected health information sought is necessary for the research, and, at the request of the covered entity, documentation of the death of the individuals about whom information is sought. A</li> </ol>



	covered entity also may use or disclose, without an individuals' authorization, a limited data set of protected health information for research purposes.
<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/client 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 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.
  - Partners with the Division of Information Technology HIPAA Security Officer to ensure compliance with all federal and state healthcare privacy and security laws, regulations rules, and ordinances.
  
2. **HIPAA Components:**
  - Each FIU HIPAA Hybrid Designated Component must designate a Privacy Coordinator responsible for overseeing and ensuring the Component's implementation and compliance with the HIPAA Privacy Rule, FIU's associated HIPAA Privacy Policies and Procedures, and any applicable state laws and/or regulations governing the confidentiality, integrity and availability of PHI and electronic PHI (ePHI), including, but not limited to receiving requests by media and public regarding the identity of or the use and/or disclosure of patient PHI.

- Each FIU HIPAA Hybrid Designated Component must identify a Component Designated Media member responsible for overseeing and ensuring the Component’s implementation and compliance with the HIPAA Privacy Rule and FIU’s associated HIPAA Privacy Policies and Procedures involving requests by the media and public for access to the identity patients and the use and/or disclosure of patient PHI. The Designated Media member engages and works closely with the Division of External Relations, Strategic Communications and Marketing identified Media Staff members in all situations involving the media and public request for access to Component patients and their PHI and any marketing activities.
- 3. Division of External Relations, Strategic Communications and Marketing**
- The dedicated “Media Staff member(s)” must be engaged with Component Designated Media members whenever a media or public request is received for access to a patient(s) and/or the use and/or disclosure of their PHI is requested and whenever a patient(s) identify and/or their PHI may be used by FIU marketing purposes.

#### **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 §164.528
- 45 CFR §164.530
- F.S. §456.057
- F.S. §401.30(4)
- F.S. §90.503
- F.S. §95.11

##### **Related Policies**

- FIU Policy # 1610.005 (Designated Health Care Components of FIU Community)
- FIU Policy and Procedure #1640.040 (De-identification and Reidentification of Protected Health Information, Use of Limited Data Sets, and Data Use Agreements.
- FIU Policy and Procedure #1660.001 (Representatives)
- FIU Policy and Procedure #1660.015 (Business Associate Agreements)



- FIU Policy and Procedure #1660.020 (Authorization for Use and Disclosures of Patient Protected Health Information)
- FIU Policy and Procedure #1660.040 (Verification)
- FIU Policy and Procedure #1660.060 (Accounting of Disclosures 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 #1660.0750 (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 or the appropriate Component Privacy Coordinator. Contact information is available within the “Contact Us” tab at [compliance@fiu.edu](mailto:compliance@fiu.edu).

**HISTORY**

**Initial Effective Date:** August 31, 2021  
**Review Dates** (*review performed, no updates*): n/a  
**Revision Dates** (*updates made to document*): August 31, 2021



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**PROCEDURE STATEMENT**

**I. Use and/or Disclosure of Patient Identity and/or PHI to the Media or Public by FIU Health Care Components and/or the Division of External Relations, Strategic Communications and Marketing.**

A. Each Florida International University (FIU) Health Insurance Portability and Accountability Act (HIPAA) Hybrid Designated Health Care Component (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 laws and/or regulations governing the confidentiality, integrity and availability of Protected Health Information (PHI), including, but not limited to receiving media and public requests for access to patients and/or the use and disclosure of their PHI.

B. The Component Administrative Officer, or designee must identify a “Component Designated Media member(s)” authorized to respond to media and public requests for access to patients and/or the use and disclosure of their PHI.

**NOTE:** The Component Privacy Coordinator may also be the Component Designated Media member.

C. The Administrative Officer, or designee of the Division of External Relations, Strategic Communications and Marketing must identify a “Media Staff member(s)” who will engage with the Component Designated Media members whenever a media or public request is received for access to patients and/or the use and/or disclosure of their PHI.

D. The Director of Compliance and Privacy for Health Affairs with the Office of Compliance and Integrity should also be engaged whenever media requests involve access to FIU patient(s) and/or the use and/or disclosure of their PHI.

**NOTE:** ALL FIU Health Care Components, mobile treatment vehicles, and temporary structures must comply with the HIPAA Privacy and Security Rules and therefore, ALL



media photographic images, interviews, video and audio recording of individuals in which FIU patients may be identified and/or their PHI used and/or disclosed for purposes other than treatment, or for the FIU clinical training must be approved by the Component Designated Media member in consulting the Media Staff member with the Division of External Relations, Strategic Communications, and as necessary and appropriate, the Director of Compliance and Privacy for Health Affairs and the HIPAA Security Officer.

**II. Release of Patient identification and/or Protected Health Information (PHI) to the Media or the Public Must be Controlled.**

1. HIPAA Component Workforce members and students who receive a media or public request for information that may contain a patient(s) identification and/or their PHI must immediately refer the request to the Component Administrative Officer, Privacy Coordinator and/or the Component Designated Media member authorized to respond to media and public requests for information.
2. Component Workforce members and students who have not been authorized to respond to media and public requests for information regarding a patient(s) and/or their PHI shall not confirm or deny the identity of a patient(s), an individual's status as a patient, or disclose PHI to the media or the public; either in writing or by providing copies of records, orally or in any other manner. Component Workforce members and students will immediately refer ALL media and public requests to the Component Administrative Officer, Privacy Coordinator, and/or Component Designated Media member.
3. Prior to responding to a media or public request for patient information and/or the use and/or disclosure of their PHI, the Component Administrative Officer, Privacy Coordinator and/or Component Designated Media member must contact the Division of External Relations, Strategic Communications and Marketing, Media Staff member to assist with effectively and appropriately shaping the response and directing any associated activities.

**NOTE:** Component staff will not at this time disclose the identity or the PHI of the patient(s) to the FIU Media Staff.

4. If there is any question or doubt whether a patient's identification and/or their PHI may be used or disclosed to the media or public, the Administrative Officer, Component Designated Media member and/or Media Staff member must contact the Director of Compliance and Privacy for Health Affairs with the Office of Compliance and Integrity for clarification and guidance.



5. If the media or public request can be satisfied by providing deidentified patient information, the Component Designated Media member will provide the media or public with the requested information after the required elements (patient identifiers) have been removed. Deidentification of patient PHI must be done in coordination with the Director of Compliance and Privacy for Health Affairs or the Office of General Counsel. (See FIU Policy and Procedure #1660.140) (De-identification and Re-identification of Protected Health Information and Limited Data Sets)
6. If the media or public request cannot be satisfied by providing deidentified patient information, a properly completed FIU Authorization for Use, Disclosure or Release of Protected Health Information for Media form (Media Authorization) must be obtained from the patient(s) or their legal representative prior to using or disclosing the patient's identity and/or PHI to the media or public. The Media Authorization must identify the purpose of the use and/or disclosure and the specific PHI to be used and/or disclosed. (See Media Authorization and FIU Policy and Procedure #1660.001 regarding Representatives)
7. Component Designated Media members must not disclose the identity of a patient and/or their PHI to the media or public without first obtaining a properly completed Media Authorization from the patient who is the subject of the PHI or their representative.

**NOTE:** A name, facial image or voice print of the patient, alone, is enough identification to require a Media Authorization.

8. Component Designated Workforce members must comply with the same procedures set forth in FIU Policy and Procedure #1660.020 (Authorization for Uses and Disclosures of Patient Protected Health Information) by obtaining a properly executed "Media Authorization" and properly documenting the actions taken.
9. The Media Authorization must be completed by each individual (patient) who is the subject of the PHI, or their legal representative, prior to using or disclosing any information about the patient(s), executing the photo, interview, video or audio recording, for purposes other than treatment or for Component/clinic-sponsored training of Component health care providers, Workforce members, and students.

**NOTE:** This also includes sharing photos, interviews, videos or audio with faculty, employees, and/or class members that are not part of the FIU HIPAA Hybrid Designation. (FIU Policy and Procedure #1610.005) (Designated Health Care Components of FIU Community)

**NOTE:** In the case where an outside entity is recording the information on their own device and for their own purposes and where an FIU Media Authorization has been



obtained, authorizing the identification of a patient and/or the use and/or disclosure of their PHI, devices for recording video or audio will be provided by the non-FIU entity and safeguarding of the information will be the responsibility of the receiving party.

**III. Release of Patient Identification and/or Protected Health Information to Staff Members within the Division of External Relations, Strategic Communications and Marketing.**

- A. The Component Designated Media members must follow the procedures as outlined in Section II(D-I) immediately above when the FIU Division of External Relations, Strategic Communications and Marketing is acting as the media and has requested access to patients and/or the use and/or disclosure of their PHI.

**NOTE:** In cases where FIU is acting as the media, care must be taken to disclose the contents of any recording only as specified in the Media Authorization.

**NOTE:** In cases where patient identification or their PHI is being used for marketing purposes, the patient or their representative must sign a Marketing Authorization. (FIU Policy and Procedure #1660.010) (Use and Disclosure of Patient Protected Health Information for Marketing Purposes and Sale of Patient Protected Health Information)

- B. Photo, video, or audio capture devices and removable media devices used by FIU Component Media members, the FIU Division of External Relations, Strategic Communications and Marketing Media Staff member(s), and other FIU staff members to capture photographic images, interviews, video, or audio for use by FIU, must be properly erased after the data has been transferred to another secured location.
- C. The media used for storing photographs, interview, video or audio recording(s) will be encrypted, inventoried, numbered and stored in a locked cabinet located as required by the HIPAA Security Rule, Florida law, and FIU HIPAA Security Policy and Procedure.
- D. A check out form will be filled out upon removal and return of the media to ensure that the location is tracked. The form must include at least, media inventory number, date/time of removal and return, name of the Workforce members who checked out the media and the purpose for accessing the media as required by the HIPAA Security Rule, Florida law, and FIU HIPAA Security Policy and Procedure.

**NOTE:** Patient identifiers should be avoided, if at all possible. These cabinets must be locked at all times and access to cabinet keys should be strictly limited as required by the HIPAA Security Rule, Florida law, and FIU HIPAA Security Policy and Procedure.

NOTE: Media should be labeled on the outside with an inventory number and listed on an inventory sheet (as described above). Additional descriptive information about the



content may also be included on the media label, as needed for identification of the topic.

- E. Media should be returned to the video cabinet within 24 hours. Media should only be viewed in private areas within the Component facility, away from where others could view the session, or in an appropriate classroom setting, as specified in the Media Authorization. The photo, video or audio recording must not be copied onto a secondary computer or other media in a manner inconsistent with the requirements of the HIPAA Security Rule, Florida law, and FIU HIPAA Security Policy and Procedure.

#### **IV. Recordings Created for Treatment or Diagnosis Purposes**

- A. Photographic images, interviews, videos, or audio recordings of patient treatment sessions used strictly for purposes of treatment or diagnosis are considered part of the patient Designated Record Set and must be properly maintained and documented. Accordingly,
  1. Removable media storing PHI must be encrypted and labeled with the patient name, date of birth and medical record number.
  2. Recordings uploaded to the patient's electronic health record will be erased from the capture device or other removable media after successful upload.
  3. Storage used for all PHI must be reviewed for compliance with the HIPAA Security Rule and FIU HIPAA Security Policy and Procedures as approved by the FIU HIPAA Security Officer.
  4. All information captured for these treatment and diagnosis purposes must be stored in the patient's Designated Record Set and must be disclosed according to the disclosures and tracking procedures. (See FIU Policy and Procedure #1660.110 (Designated Record Set) and FIU Policy and Procedure #1660.060 (Accounting of Disclosures of Protected Health Information))

#### **V. Recordings Created for Clinical Training Programs**

- A. Photographic images, interviews, videos, or audio recordings of FIU patient treatment sessions used strictly in training programs sponsored by the FIU Health Care Component for purposes of critiquing clinician procedures or for other non-treatment purposes such as clinical training, will not be considered part of the patient's medical or mental health record, however they likely contain patient PHI and therefore, uses, disclosures and safeguards must be in compliance with HIPAA, Florida law, and FIU Policy and Procedure. In all cases, where removable media is used for storing PHI, or electronic transmissions of PHI are needed, encryption must be used to secure the data in a manner consistent with the requirements of the HIPAA Security Rule, Florida law, and FIU HIPAA Security Rule Policy and Procedure.

- B. Photographic images, interviews and audio and video recordings created and used for training purposes do not require a Media Authorization.

**NOTE:** PHI transferred onto removable media must be encrypted when stored. The Component Security Coordinator or supervisor is responsible for ensuring that the encryption and erasure was completed in a manner consistent with the requirements of the HIPAA Security Rule, Florida law, and FIU HIPAA Security Policies and Procedures.

- C. The media used for storing the photos, interviews and audio and video recording(s) must be done in the manner as identified above in Section III(C-E) above.

#### **VI. Business Associates**

- A. If a non-FIU staff member or entity (hereinafter Vendor) is hired to provide media services (e.g., photo, video, or audio) on behalf of FIU in which a patient's identity and/or PHI may be used or disclosed for any reason, the Vendor must enter into a Business Associate Agreement with FIU prior to being provided access to the patient(s) identity and/or PHI. (FIU Policy and Procedure #1610.020) (Business Associate Agreements)

#### **VII. Use and disclosure of PHI in Emergency Operations**

- A. FIU staff members participating in emergency operations, such as FIU Police, or in any other medical emergency, shall freely use the communications necessary to provide treatment to the individual(s).
- B. FIU Police and other personnel may use radio frequencies designated for such use without restriction. Any disclosures resulting from monitoring emergency radio frequencies or from passersby overhearing statements made by FIU staff members during emergency treatment shall be considered incidental disclosures, not prohibited under the HIPAA Privacy Rule.
- C. Reasonable care should be taken when possible to restrict emergency radio traffic and conversation so that it is not easily overheard or discerned by unauthorized individuals.

#### **VIII. Disclosure of Emergency Call Recordings or Transcripts**

- A. Upon request by the media or the public for the release of any record of emergency calls, the record must be reviewed by the Component Designated Privacy Coordinator or Media member to identify if the recording contains patient PHI.

- B. If the record of emergency call(s) or transcript(s) contain patient examination or treatment information (PHI), it is confidential and exempt from the provisions of Florida Statute 119.07(1) regarding Public Records and may not be disclosed without the written authorization of the person to whom they pertain or their representative, but appropriate limited disclosure may be made without such consent:
1. To the person's guardian, to the next of kin if the person is deceased, or to a parent if the person is a minor; (FIU Policy and Procedure #1660.001) (Representatives)
  2. To hospital personnel for use in conjunction with the treatment of the patient;
  3. To the Florida Department of Health;
  4. To the service medical director;
  5. For use in a critical incident stress debriefing. Any such discussions during a critical incident stress debriefing shall be considered privileged communication under F.S. 90.503 regarding psychotherapist – patient privilege; or  
**NOTE:** Psychotherapy notes are not discoverable and shall not be released in anticipation of, or for use in civil, criminal or administrative actions and proceedings without first being reviewed and approved by the Office of General Counsel)
  6. In any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice by the party seeking such records, to the patient or his or her legal representative; or
  7. To a local trauma agency or a regional trauma agency, or a panel or committee assembled by such an agency to assist the agency in performing quality assurance activities in accordance with a plan approved under F.S. 395.401. Records obtained under this paragraph are confidential and exempt from F.S. 119.07(1), and s. 24(a), Art. I of the State Constitution regarding public records.
  8. To law enforcement or any other regulatory agency responsible for the regulation or supervision of the emergency medical service personnel.
- C. The media used for storing the photos and recording(s) must be done in the manner as identified above in Section III(C-E) above.

**IX. Record/Documentation Retention**



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

- FIU Authorization for Use, Disclosure or Release of Protected Health Information for Media form (Media Authorization)



**Media, Public, Public Marketing and/or Public Relations Authorization**  
**(Adults, Minors, and Wards)**

Florida International University  
11200 S.W. 8<sup>th</sup> Street  
Modesto A. Maidique Campus  
Miami Florida 33199

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**NOTE:**

This form is NOT required for photos, audios or videos of patients used for the purposes of treatment or diagnosis, where the photo, audio, and/or video becomes part of the patient's Designated Record Set and is not used for any other purpose.

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I, \_\_\_\_\_, hereby authorize:

- Florida International University (FIU) Health Care Network
- the FIU Division of External Relations, Strategic Communications, and Marketing and its/their duly authorized employees or agents, permission to use and publish photographic portraits, pictures, digital images, audio or videotapes of me, or in which I may be included in whole or part, or reproductions thereof in color or otherwise for the purpose(s) identified below, or to allow third parties, including:

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

to take:

- photographs
- audio
- videos of me

and disclose the following information relating to:

- the diagnosis,
- treatment,
- health care services provided or to be provided to me,
- Other: \_\_\_\_\_

and which identifies my name and other personally identifiable information to be disclosed in:

- print media       on the radio       TV       the FIU website(s)       blog

and on the following social media platforms:

- Facebook     Twitter     Pinterest     Instagram     YouTube     WhatsApp
- other: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

for the following uses, without payment or any other consideration for the following reason(s).

(Check all that apply)

**For Public Relations Purposes:**

- On FIU internet and intranet sites
- In FIU publications and brochures
- In the public media, such as newspapers, magazines, on the internet, and on television environments
- In presentations, publications, brochures, advertisements, or articles by non-FIU HCN agencies or companies
- Other: \_\_\_\_\_

**For Medical or Educational Purposes:**

- In professional journals and other publications, including textbooks and electronic publications
- In presentations by FIU HCN faculty, staff, and employees, including professional and educational conferences or seminars
- In FIU classrooms and other teaching
- Other: \_\_\_\_\_

I understand that the image(s) I've authorized for disclosure may be seen by members of the general public. If I've authorized release of image(s) for medical or educational purposes, I understand that the images may be seen by scientists, medical researchers, and medical students and teachers, as well as by members of the general public.

**Information Release Regarding Name:**

- I consent to the use of my name. I understand that I may be identified by name in printed, internet or broadcast information that might accompany the photo or video image of me.

OR

- I do not consent to the use of my name. I understand that, even though my name will not be used, it is possible that someone may recognize me based on the image(s) alone.

The following information about me will not be disclosed: \_\_\_\_\_

**I understand that:**

I may revoke this Authorization at any time and acknowledge that:

- Revocation will be effective upon receipt, except to the extent that FIU or others have already relied on it. I have been informed and understand that information disclosed pursuant to this Authorization may be subject to re-disclosure by a recipient of such information. It is possible that once disclosed, it may not be possible to recall them, and the privacy of the information may no longer be protected by federal and state privacy laws.
- I must revoke this Authorization in writing. The procedure for revoking this Authorization is to present my written revocation to the: \_\_\_\_\_

at the following address: \_\_\_\_\_

I may refuse to sign this Authorization:

- FIU will not condition my treatment, any payment, enrollment in a health plan, or eligibility for benefits on receiving my signature on this Authorization.

Unless otherwise revoked, this authorization will expire on the following date: \_\_\_\_\_  
event, or condition: \_\_\_\_\_  
(If left blank, this Authorization will expire one year from the date it is signed).

I have read and understand the information in this Authorization, and all of my questions have been answered.

**Signature of Patient:**

Patient: \_\_\_\_\_ Date: \_\_\_\_\_

**OR**

Representative: \_\_\_\_\_ Date: \_\_\_\_\_

Relationship: \_\_\_\_\_

**Name and Signature of FIU Representative:**

Name of FIU Representative: \_\_\_\_\_

FIU Representative Signature: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**Translator:**

I have accurately and completely read this consent to (patient or patient's legal representative) in the patient's or legal representative's preferred language \_\_\_\_\_ (identify language). He/she understood all of the terms and conditions and acknowledged his/her agreement by signing the document in my presence.

Name of Interpreter/Service: \_\_\_\_\_

Signature of Translator (if onsite): \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Translator ID #: \_\_\_\_\_

**DEPARTMENT USE ONLY:**

Project Number: \_\_\_\_\_ Project Name: \_\_\_\_\_

Project Manager: \_\_\_\_\_ Location: \_\_\_\_\_

Photographer/Videographer: \_\_\_\_\_