

**UNIVERSITY OF MAINE SYSTEM
HIPAA POLICY #1
DEFINITIONS**

Unless otherwise provided herein, capitalized terms shall have the same meaning as set forth in HIPAA, as amended, and its implementing regulations, including, but not limited to, 45 CFR 160.103, 164.103, and 164.501. As used in the University of Maine System HIPAA Policies, the following terms have the following meanings, unless otherwise specified:

ARRA shall mean the Health Information Technology for Economic and Clinical Health Act provisions of the American Recovery and Reinvestment Act of 2009, Pub. Law No. 111-5, and its implementing regulations. References to a section or subsection of title 42 of the United States Code are references to sections of ARRA, and any reference to provisions of ARRA shall be deemed a reference to that provision and its existing and future implementing regulations, when and as each is effective.

BREACH means the acquisition, access, use, or disclosure of PHI in a manner not permitted under the Privacy Rule which compromises the security or privacy of the PHI.

BUSINESS ASSOCIATE means, with respect to a Covered Entity, a person who:

(1) on behalf of such Covered Entity or an Organized Health Care Arrangement (OHCA), but other than in the capacity of a member of the workforce of such Covered Entity, creates, receives, maintains or transmits protected health information for a function or activity regulated by HIPAA, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, patient safety activities, billing, benefit management, practice management, and repricing;

(2) provides, other than in the capacity of a member of the workforce of such Covered Entity, legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for such Covered Entity or an OHCA, where the provision of the service involves the disclosure of protected health information from such Covered Entity or OHCA, or from another Business Associate of such Covered Entity or OHCA, to the person.; or

(3) a subcontractor that creates, receives, maintains or transmits protected health information on behalf of a business associate.

BUSINESS ASSOCIATE COMPONENT means a department, school, office or any other unit within the University of Maine System, which meets the definition of a Business Associate with respect to an external Business Associate or Covered Entity.

CODE SET means any set of codes used to encode data elements, such as tables of terms, medical concepts, medical diagnostic codes, or medical procedure codes. It includes the codes and descriptors of the codes.

COVERED COMPONENT means any department, school, office or any other unit within the University of Maine System, which is subject to HIPAA and the University of Maine System HIPAA Policies and includes both the Health Care Components and Business Associate Components within the University of Maine System.

COVERED ENTITY means one of the following:

- 1) A health plan
- 2) A health care clearinghouse
- 3) A health care provider who transmits any health information in electronic form in connection with a covered transaction.

COVERED FUNCTIONS means those functions of a Covered Entity the performance of which makes the entity a health plan, health care provider or health care clearinghouse .

COVERED TRANSACTION means a Transaction for which the Secretary has adopted a standard under HIPAA.

DESIGNATED RECORD SET means a group of records maintained by or for a Covered Entity that is:

- 1) The medical records and billing records about individuals maintained by or for a covered health care provider;
- 2) The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
- 3) Used, in whole or in part, by or for the covered entity to make decisions about individuals.

For purposes of this definition, the term *record* means any item, collection, or grouping of information that includes PHI and is maintained, collected, used or disseminated by or for a covered entity.

DISCLOSURE means the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.

ELECTRONIC MEDIA means electronic storage media on which data is or may be stored electronically, including memory devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; or transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the Internet, Extranet, leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media. Transmissions via paper, facsimile or voice via telephone are not considered to be transmissions via electronic media, if the information exchanged did not exist in electronic form immediately before the transmission.

ELECTRONIC PROTECTED HEALTH INFORMATION (EPHI) means individually identifiable health information:

1. Except as provided in (2) of this definition, that is:
 - i. transmitted by electronic media; or
 - ii. maintained in electronic media;
2. EPHI excludes individually identifiable health information in:
 - i. Education records covered by FERPA (20 U.S.C. 1232g);
 - ii. Records on a student who is eighteen years of age or older, or is attending an institution of post-secondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice; and
 - iii. Employment records held by a covered entity in its role as employer.

GENETIC INFORMATION means:

(1) Subject to paragraphs (2) and (3) of this definition, with respect to an individual, information about:

- (i) The individual's genetic tests;
- (ii) The genetic tests of family members of the individual;
- (iii) The manifestation of a disease or disorder in family members of such individual; or
- (iv) Any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by the individual or any family member of the individual.

(2) Any reference in these policies to genetic information concerning an individual or family member of an individual shall include the genetic information of:

- (i) A fetus carried by the individual or family member who is a pregnant woman; and
- (ii) Any embryo legally held by an individual or family member utilizing an assisted reproductive technology.

(3) Genetic information excludes information about the sex or age of any individual.

HEALTH CARE means care, services or supplies related to the health of an individual. It includes, but is not limited to:

- 1) preventative, 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 an individual or that affects the structure or function of the body; and
- 2) the sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.

HEALTH CARE CLEARINGHOUSE means a public or private entity, including a billing service, repricing company, community health management information system or community health information system, and value-added networks and switches, that does either of the following functions:

- 1) processes or facilitates the processing of health information received from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction.
- 2) receives a standard transaction from another entity and processes or facilitates the processing of health information into nonstandard format or nonstandard data content for the receiving entity.

HEALTH CARE COMPONENT means a component or combination of components of a Hybrid Entity designated and documented by the Hybrid Entity. The Health Care Component must include any component that would meet the definition of Covered Entity if it were a separate legal entity. The Health Care Component may also include a component only to the extent it performs:

- 1) Covered functions; or
- 2) Activities that would make such component a business associate of a component that performs covered functions if the two components were separate legal entities.

The Health Care Components of the University of Maine System are defined in HIPAA Policy #2.

HEALTH CARE OPERATIONS means any of the following activities of the Covered Entity to the extent the activities are related to covered functions:

- 1) Conducting quality assessment and improvement activities
- 2) Reviewing the competence or qualifications of health care professionals, evaluating provider performance and conducting training programs
- 3) Underwriting, premium rating, and other activities relating to the creation, renewal or replacement of a contract of health insurance.
- 4) Conducting or arranging for medical review, legal services and auditing functions
- 5) Business planning and development
- 6) Business management and general administrative duties of the entity
- 7) Patient safety activities
- 8) population-based activities relating to improving health or reducing health care costs
- 9) Protocol development, case management, care coordination
- 10) Contacting of health care providers and patients with information about treatment

HEALTH CARE PROVIDER means a provider of medical or health services, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business.

HEALTH INFORMATION means any information, including genetic information, whether oral or recorded in any form or medium, that:

- 1) Is created or received by health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and
- 2) Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual.

HEALTH INSURANCE ISSUER means an insurance company, insurance service, or insurance organization (including an HMO) that is licensed to engage in the business of insurance in a State and is subject to State law that regulates insurance. Such term does not include a group health plan.

HEALTH PLAN means an individual or group plan, or health insurance issuer, that provides, or pays the cost of, medical care. A health plan includes a group health plan, defined as an employee welfare benefit plan (ERISA) that has 50 or more participants or is administered by an entity other than the employer that established and maintains the plan.

HIPAA means the Health Insurance Portability and Accountability Act of 1996, as amended.

HYBRID ENTITY means a single legal entity that is a Covered Entity whose business activities include both covered and non-covered functions and who designates health care components in accordance with the regulations. The University of Maine System is a Hybrid Entity.

INDIVIDUAL - The term "Individual" shall have the same meaning as the term "Individual" in 45 CFR Section 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.502(g).

INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION means information that is a subset of health information, including demographic information collected from an individual, and:

- 1) Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
- 2) Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and
 - (i) That identifies the individual; or
 - (ii) With respect to which there is a reasonable basis to believe the information can be used to identify the individual.

ORGANIZED HEALTH CARE ARRANGEMENT (OHCA) means:

- 3) A group health plan and a health insurance issuer or HMO with respect to such group health plan, but only with respect to PHI created or received by such health insurance issuer or HMO that relates to individuals who are or who have been participants or beneficiaries in such group health plan;
- 4) A group health plan and one or more other group health plans each of which are maintained by the same plan sponsor; or
- 5) The group health plans described in paragraph (4) of this definition and health insurance issuers or HMOs with respect to such group health plans, but only with respect to PHI created or received by such health insurance issuers or HMOs that relates to individuals who are or have been participants or beneficiaries in any of such group health plans.

PAYMENT means, except for the prohibition of using or disclosing genetic information for underwriting purposes, the activities undertaken by a health plan to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the health plan or the activities undertaken by a health care provider or health plan to obtain or provide reimbursement for the provision of health care.

PERSONAL HEALTH RECORD means an electronic record of PHR identifiable health information on an individual that can be drawn from multiple sources and that is managed, shared, and controlled by or primarily for the individual.

PHR IDENTIFIABLE HEALTH INFORMATION means individually identifiable health information, and includes, with respect to an individual, information that is provided by or on behalf of the individual and that identifies the individual or there is a reasonable basis to believe that the information can be used to identify the individual.

PLAN SPONSOR "plan sponsor" means (i) the employer in the case of an employee benefit plan established or maintained by a single employer, (ii) the employee organization in the case of a plan established or maintained by an employee organization, or (iii) in the case of a plan established or

maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

PRIVACY RULE means the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and E.

PROTECTED HEALTH INFORMATION or PHI means individually identifiable health information:

- 1) Except as provided in (2) of this definition, that is:
 - (i) transmitted by electronic media;
 - (ii) maintained in any medium described in the definition of electronic media; or
 - (iii) transmitted or maintained in **any other form or medium**
- 2) PHI excludes individually identifiable health information in:
 - (i) Education records covered by FERPA (20 U.S.C. 1232g);
 - (ii) Records on a student who is eighteen years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice;
 - (iii) Employment records held by a covered entity in its role as employer; and
 - (iv) Regarding a person who has been deceased for more than 50 years.

PSYCHOTHERAPY NOTES means notes recorded (in any medium) by a health care provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint or family counseling session and that are separated from the rest of the individual's medical record. "Psychotherapy Notes" exclude medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items; diagnosis, functional status, the treatment plan, symptoms, prognosis and progress to date.

REQUIRED BY LAW means a mandate contained in law that compels an entity to make a use or disclosure of PHI and that is enforceable in a court of law. Required by law includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.

RESEARCH means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge.

SECRETARY - The term "Secretary" shall mean the Secretary of the U. S. Department of Health and Human Services or his/her designee.

SECURITY RULE means the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and C.

TRANSACTION Transaction means the transmission of information between two parties to carry out financial or administrative activities related to health care. It includes the following types of information transmissions:

- (1) Health care claims or equivalent encounter information.
- (2) Health care payment and remittance advice.

- (3) Coordination of benefits.
- (4) Health care claim status.
- (5) Enrollment and disenrollment in a health plan.
- (6) Eligibility for a health plan.
- (7) Health plan premium payments.
- (8) Referral certification and authorization.
- (9) First report of injury.
- (10) Health claims attachments.
- (11) Health care electronic funds transfers (EFT) and remittance advice.
- (12) Other transactions that the Secretary may prescribe by regulation.

TREATMENT means the provision, coordination or management of health care and related services by one or more health care providers, including coordination or management of health care by a health care provider with a third party, consultation between health care providers and referral of a patient for health care from one health care provider to another.

UNSECURED PROTECTED HEALTH INFORMATION means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by the Secretary.

WORKFORCE means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a Covered Entity 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.

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