

HIPAA Violations Sanctions

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Applies to:

Paid and unpaid employees of the School of Medicine, School of Medicine volunteers, students enrolled in the School of Medicine's MD and PhD programs, and School of Medicine business associates.

Reason for Policy:

This policy outlines sanctions for violation of HIPAA privacy policies.

Policy Statement:

Federal and institutional guidelines and policies describe measures to safeguard protected health information (PHI). Unauthorized individuals who access, use, and/or disclose PHI, attempt to access PHI, and/or assist others to access PHI when it is not authorized, will be sanctioned appropriately. As outlined in the procedures, a sanction may take the form of verbal counseling, written reprimand, or disciplinary action, including mandatory leave without pay and/or termination.

This policy is meant to correspond with Medical Center Policy No. 0021, "Confidentiality of Patient Information". In the event there are discrepancies between this and any other Health System policy addressing HIPAA violation sanctions, this policy will supersede others when applied to School of Medicine personnel.

Definition of Terms:

Business associate – any individual or entity that enters into an agreement with the School of Medicine to provide products or services in exchange for a consideration.

HIPAA – Health Insurance Portability and Accountability Act of 1996. It contains provisions for protecting the privacy of patient Protected Health Information (PHI).

Patient – An individual who seeks medical treatment, is provided with medical treatment, is or has been enrolled in a clinical trial, or provides a specimen such as blood or tissue.

Protected Health Information – All forms of patient-related information, including name, address, birth date and site, social security number, race, type of medical condition, status of medical condition, blood type, and other data that could be used to identify the patient, and which may be transmitted or maintained in any form, including verbal statements. All PHI that could identify an individual is confidential.

Violation - An act that is contrary to the meaning and/or spirit of the HIPAA and University of Virginia guidelines to guarantee the confidentiality of patient information. The following outlines some, but not all, types of violations.

- *Level 1* violations can be considered careless errors and include accessing PHI that is not necessary for carrying out one's responsibilities; misdirecting faxes or emails that contain PHI; discussing or dictating PHI in public areas or in areas where the public could overhear conversation; copying PHI without authorization; leaving a computer with PHI unattended; leaving a copy of PHI in a non-secure area; failing to cooperate with the institution's privacy officer.
- *Level 2* violations can be considered willful actions and include the unauthorized use or disclosure of PHI; discussing PHI with unauthorized healthcare professionals inside the Health System; asking another person to access or provide PHI without authorization; sharing computer information (such as passwords) that allows others to have access to PHI; using another person's ID and/or password to access PHI; committing repeated Level 1 violations.
- *Level 3* violations can be considered malicious, flagrant, or egregious. Examples may include obtaining PHI under false representation; accessing or assisting someone else in accessing PHI without an authorized reason; using PHI for commercial or personal purposes; discussing PHI with unauthorized individuals who are external to the Health System or with non-healthcare professionals within the Health System; providing someone else access to your electronic signature.

Procedures:

Upon receiving report of a possible HIPAA violation, the University Privacy Officer will work with the appropriate senior associate deans to investigate the alleged violation. They are:

- Senior Associate Dean for Clinical Affairs – for events related to clinical faculty
- Senior Associate Dean for Education – for events related to medical or graduate students
- Senior Associate Dean and Chief Operating Officer – for events related to any other individuals to whom this policy applies

A reasonable effort will be made during the investigation to include interviews of any person who may have knowledge of the event.

The senior associate deans are responsible for recommending the appropriate sanctions to the dean. Results of the investigation and decision will be documented in writing and records retained in the employee's official personnel file. Individuals may appeal the decision in accordance with existing policies and procedures. The Vice President and Dean retains final authority concerning sanctions and will review any sanction involving suspension, dismissal, or termination before it is implemented.

In the event of a possible HIPAA violation involving both School of Medicine and Medical Center personnel, the investigation must be coordinated and any correction actions or sanctions must be consistent between the two organizations. The appropriate School of Medicine Senior Associate Dean and the appropriate Medical Center Chief shall cooperate and collaborate with University and Medical Center Human Resources and with the Medical Center Privacy Officer in reaching a determination of the matter.

The Medical Center Privacy Officer shall provide an annual report of all breaches of confidentiality to the Vice President and Dean of the School of Medicine and the Vice President and Chief Executive Officer of the Medical Center.

The following will serve as guidelines in circumstances where it has been determined that HIPAA and/of University of Virginia privacy policies have been violated.

An individual who violates these privacy policies may also be liable to criminal prosecution, including fines and/or imprisonment, and/or civil litigation. For individuals who have been granted clinical privileges, decisions on Level 2 and 3 violations will be reported to the Clinical Staff Credentials Committee. Corrective actions will be reported to the applicable agency or licensing board as appropriate.

Paid and unpaid employees, volunteers

- *Level 1* violations may result in verbal counseling and warning; a written warning in the employee's official personnel file; and/or retraining.
- *Level 2* violations may result in a written reprimand in the employee's official personnel file; retraining; placement on administrative leave with pay for a period of time to be determined; suspension without pay for a minimum of one day up to a maximum of five days; and/or termination
- *Level 3* violations will result in termination.

Students enrolled in the School of Medicine's MD or PhD programs

- *Level 1* violations may result in verbal counseling and warning; a written warning in the student's file; and/or retraining.
- *Level 2* violations may result a written reprimand in the student's file; retraining; and/or suspension for a minimum of one day up to a maximum of five days.
- *Level 3* violations may result in suspension for a minimum of three days up to a maximum of twenty-one days; and/or termination from the program of study.

Business associates

- *Level 1* violations may result in a verbal warning; written correspondence regarding the violation; and/or a request that business associate representatives be certified that they have retrained for HIPAA privacy.
- *Level 2* violations may result in written correspondence regarding the violation; a request that business associate representatives be certified that they have retrained for HIPAA privacy; a request that the company assign a new representative(s) to conduct its business with the institution; and/or suspension of activity with the business associate for a period of time to be determined.
- *Level 3* violations may result in written correspondence regarding the violation; a request that the company assign a new representative(s) to conduct its business with the institution; suspension of activity with the business associate for a period of time to be determined; and/or termination of the relationship with the business associate.

Related Policy:

Confidentiality of Patient Information, Medical Center Policy 0021
https://www.healthsystem.virginia.edu/opr/usr/file.cfm?file_id=81

Breaches of Confidentiality, Medical Center Policy 707
https://www.healthsystem.virginia.edu/opr/usr/entiremanual.cfm?man_id=16

SOM Required HIPAA Privacy Training
<https://www.healthsystem.virginia.edu/opr/manuals/som/Required-HIPAA-Privacy-Training- Jan-2006 .pdf>

HIPAA

<http://www.hhs.gov/ocr/hipaa/finalreg.html>

UVa Code of Ethics

<http://www.virginia.edu/statementofpurpose/uethics.html>

UVa Medical Center Privacy Policies are listed on this page:

<https://www.healthsystem.virginia.edu/intranet/privacyoffice/Policies.cfm>

Research Ethics

<https://etg07.itc.virginia.edu/policy/policydisplay?id='RES-004'>

Responsibility of the Principal Investigator in Human Subject Research

http://www.virginia.edu/vprgs/irb/hsr_PLresponsibility.html

Student Health Center Confidentiality

<http://www.virginia.edu/studenthealth/NSConfidentiality.html>

Ethics in Computer Usage

<http://www.itc.virginia.edu/policy/ethics.html>

University Administrative Data Access Policy

<http://www.itc.virginia.edu/policy/itcadminnew.htm>

Responsibilities for Computing Devices Connected to the University of Virginia Network

<http://www.itc.virginia.edu/policy/netdevices/>

Policy on Disciplinary Suspension or Termination of Academic Faculty

http://www.virginia.edu/provost/docs_policies/disciplinary.html

Grievance Policy for Academic Faculty (tenured, tenure-track, and academic non-tenure-track faculty)

<http://www.virginia.edu/facultysenate/gpolicy2002.html>

Grievance Procedure for Administrative General Faculty

http://www.virginia.edu/provost/docs_policies/grievance.html

Grievance Procedure for Classified Staff

<http://www.edr.state.va.us/grievance.htm>

Grievance Procedure for Students

<http://www.healthsystem.virginia.edu/internet/ome/advoc/home.cfm>

Grievance Procedure for Residents

<http://www.healthsystem.virginia.edu/internet/housestaff/policy-manual/performance.cfm>

Policy Background:

Next Scheduled Review: July 2010

Revision history: This is the first version of this policy.