**UNIVERSITY OF OKLAHOMA**

### 1B **HIPAA Privacy Policies**

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| **Policy #:** Privacy-01 (Definitions) | **Approved:** October 8, 2002 |
| **Effective Date:** April 1, 2003 | **Last Revised:** 4/18/16; 5/5/16 |

## 0B**I. DEFINITIONS**

1. Unless otherwise provided, the definitions below apply to all of the University’s Privacy and Security Policies. These terms are capitalized when used in the Policies to indicate that they have been uniquely defined by the University or federal law.

The terms “must,” “shall,” “may not,” and “will” are used to indicate requirements; “should” is used to indicate a recommended action.

1. Authorization. The formal grant of authority by a patient to a Covered Entity or Health Care Component to Use or Disclose the patient’s Protected Health Information. 45 C.F.R. § 164.508 (c).
2. Breach. The acquisition, access, Use or Disclosure of Protected Health Information in a manner not permitted under the Privacy Regulations that compromises the security or privacy of the Protected Health Information. 45 C.F.R. § 164.402.

3. Business Associate. A person or entity not employed by the University that creates, receives, maintains, or transmits Protected Health Information for a covered function or activity, for or on behalf of the University. Such activities may include, but are not limited to, billing; repricing; claims processing and administration; data analysis; legal, accounting, and actuarial services; certain patient safety activities; consulting; utilization review; quality assurance; and similar services or functions. A Business Associate may be a Covered Entity. 45 C.F.R. § 160.103.

Note: The University may also serve as a Business Associate of another Covered Entity, as described in Privacy-27, Business Associates.

4. CCCompliance DateU. The date by which a UCCCovered EntityU must comply with the Privacy Regulations, which is April 14, 2003.

1. 5. UCorrectional InstitutionU. Any penal or correctional facility, jail, reformatory, detention center, work farm, halfway house, or residential community program center operated by, or under contract to, the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe for the confinement or rehabilitation of persons charged with or convicted of a criminal offense or other persons held in lawful custody. Other persons held in lawful custody include juvenile offenders, adjudicated delinquent aliens detained awaiting deportation, persons committed to mental institutions through the criminal justice system, witnesses, or others awaiting charges or trial. 45 C.F.R. § 164.501.
2. 6. UCovered EntityU. The entities to which the Privacy Regulations apply, including the University because it is a Health Plan and/or a Health Care Provider that transmits any Health Information in electronic form in connection with one of the following eleven transactions: (i) Health Care claims or equivalent encounter information; (ii) Health Care payment and remittance advice; (iii) coordination of benefits; (iv) Health Care claims status; (v) enrollment and disenrollment in a health plan; (vi) eligibility for a health plan; (vii) health plan premium payments; (viii) referral certification and authorization; (ix) first report of injury; (x) health claims attachments; and (xi) other transactions that the Secretary of DHHS may prescribe by regulation. 45 C.F.R. § 160.103.

7. UCovered FunctionsU. Those functions performed by the University that make it a Health Care Provider, such as providing Health Care services and billing for those services. 45 C.F.R. § 160.103; 164.501.

1. 8. UDesignated Record SetU. A group of records maintained, collected, Used, or disseminated by or for a University Health Care Component that includes the medical and billing records about individuals; or the enrollment, payment, claims adjudication, and case or medical management records systems; used, in whole or in part, by University Personnel to make decisions about individuals, regardless of who originally created the information.
3. A Designated Record Set does not include: (a) duplicate information maintained in other systems; (b) data collected and maintained for Research; (c) data collected and maintained for peer review or risk management purposes; (d) Psychotherapy Notes; (g) information compiled in reasonable anticipation of litigation or administrative action; (h) employment records; (i) education records covered by FERPA; (j) information subject to 42 USC 263a (CLIA) or exempt under 42 CFR 493.3(a)(2) (CLIA); and (k) source data interpreted or summarized in the individual's medical record (example: pathology slide and diagnostic films). 45 C.F.R. § 164.501.

**The definition of a Designated Record Set refers only to the official record for the patient and not to duplicate information maintained in other systems.**

1. 9. UDisclose or DisclosureU. The release, transfer, provision of access to, or divulging in any other manner of information **outside** of the University’s Health Care Components.45 C.F.R. § 160.103. (But see , Use.)

**Exchange of Protected Health Information with a department or area of the University that is** U**not**U **designated as a Health Care Component** U**is**U **considered a Disclosure under HIPAA.**

10. UDirect Treatment Relationship. A treatment relationship between an individual and a Health Care Provider that is not an Indirect Treatment Relationship. 45 C.F.R. § 164.501.

11. Genetic Information: Includes an individual’s genetic tests, the genetic tests of an individual’s family members; the manifestation of a disease or disorder in an individual’s family members; an individual’s request for or receipt of genetic services; or an individual’s or an individual’s family member’s participation in clinic research that includes genetic services. Genetic Information also includes that concerning a fetus carried by an individual or an individual’s family member and an embryo legally held by an individual or an individual’s family member utilizing assisted reproductive technology. Gender and age are NOT considered Genetic Information. 45 CFR § 164.103.

12. Genetic Services: Include a genetic test; genetic counseling; and obtaining, interpreting, or assessing Genetic Information. 45 CFR § 164.103.

12. HHHHealth CareU. Care, services, or supplies related to the health of an individual. Health Care includes, but is not limited to, the following: (a) 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 an individual or that affects the structure or function of the body; and (b) sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription. 45 C.F.R. § 160.103.

1. 13. UHealth Care Component(s)U. A component or combination of components designated by the University, a Hybrid Entity. The “Health Care Components” of the University of Oklahoma include the parts of the following areas that provide Covered Functions: (a) College of Medicine – Oklahoma City, including OU Physicians; (b) OU School of Community Medicine (formerly College of Medicine – Tulsa), including OU Physicians-Tulsa; (c) College of Pharmacy; (d) College of Dentistry; (e) College of Nursing; (f) College of Allied Health; (g) College of Public Health; (h) Development Office; (i) Goddard Health Center; (j) Athletics Department (Center for Athletic Medicine and Psychological Resources for OU Student-Athletes);\* (k) Information Technology; (l) Internal Auditing; (m) Office of Legal Counsel; (n) Counseling Psychology Clinic;\* (o) HSC Financial Services; (p) NC Financial Support Services; (q) Office of Compliance; (r) Human Research Participant Protection Program/Institutional Review Board; and (s) HSC Student Counseling Services;\* (t) University Printing Services; and (u) Waste Management – Norman Campus.

**As “Health Care Component” is used in the University’s Privacy Policies, it will include all of the constituent parts of a Health Care Component (e.g. departments and clinics) that perform covered functions and the University Personnel providing Health Care services on behalf of the Health Care Component, unless circumstances clearly indicate otherwise.**

14. UHealth Care Operations. “Health Care Operations” means any of the following activities of the University to the extent that the activities are related to Covered Functions:

(a) Conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; population-based activities relating to improving health or reducing Health Care costs; protocol development; case management and care coordination contacting of University Personnel and patients with information about treatment alternatives; and related functions that do not include treatment;

(b) Reviewing the competence or qualifications of Health Care professionals; evaluating practitioner and provider performance and health plan performance; conducting training programs in which students, trainees, or practitioners in areas of Health Care learn under supervision to practice or improve their skills as University Personnel; training of non-Health Care professionals; accreditation, certification, licensing, or credentialing activities;

(c) Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;

(d) Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the University, including formulary development and administration, development, or improvement of methods of payment or coverage policies; and

(e) Business management and general administrative activities of the University, including, but not limited to: (1) management activities relating to implementation of and compliance with the University’s Privacy Policies; (2) resolution of internal grievances; (3) due diligence related to the sale, transfer, merger, or consolidation of all or part of a Health Care Component with another Covered Entity; and (4) creating de-identified Health Information or a limited data set and fundraising for the benefit of a Health Care Component(s). 45 C.F.R. § 164.501.

15. UHealth Care ProviderU. A provider of services (as defined in § 1861(u) of the Social Security Act, 42 U.S.C. § 1395x(u)), a provider of medical or health services (as defined in § 1861(s) of the Act, 42 U.S.C. § 1395x(s)), and any other person or organization who furnishes, bills, or is paid for Health Care in the normal course of business. 45 C.F.R. § 160.103.

16. UHealth InformationU. Any information, whether oral or recorded in any form or medium, that: (a) is created or received by a Health Care Provider…employer…school or university… and (b) 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. 45 C.F.R. § 160.103.

17. UHealth Oversight AgencyU. An agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is authorized by law to oversee the Health Care system (whether public or private) or government programs in which Health Information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which Health Information is relevant. 45 C.F.R. § 164.501.

18. UHIPAAU. The Health Insurance Portability and Accountability Act of 1996, as amended.

19. HITECH. The Health Information Technology for Economic and Clinical Health Act, passed on February 17, 2009, as amended.

20. UHybrid EntityU. A single legal entity: (1) that is a Covered Entity; (2) whose business activities include both Covered and non-Covered functions; and (3) that designates Health Care Components. 45 C.F.R. § 164.504. (The University is a Hybrid Entity. See also, Health Care Components.)

21. Indirect Treatment RelationshipU. A relationship between an individual and a Health Care Provider in which: (a) the Health Care Provider delivers Health Care to the individual based on the orders of another Health Care Provider; and (b) the Health Care Provider typically provides services or products or reports the diagnosis or results associated with the Health Care directly to another Health Care Provider, who provides the services or products or reports to the individual. 45 C.F.R. § 164.501.

22. UIndividually Identifiable Health InformationU. Information that is a subset of Health Information, including demographic information collected from an individual, and that (a) is created or received by a Health Care Provider, health plan, employer, or health care clearinghouse; and (b) 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. 45 C.F.R. § 160.103

23. UInmateU. A person incarcerated in or otherwise confined to a Correctional Institution. 45 C.F.R. § 164.501.

24. ULaw Enforcement OfficialU. 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: (i) investigate or conduct an official inquiry into a potential violation of law; or (ii) prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law. 45 C.F.R. § 164.103.

25. ULegal CounselU. The University’s Office of Legal Counsel and the attorneys and staff who work in or for the office.

26. UMarketingU. See, Privacy-28, Marketing.

27. UOrganized Health Care Arrangement. A clinically integrated care setting in which the individuals typically receive Health Care from more than one Health Care Provider (example: a University clinic and a sleep center). 45 C.F.R. § 164.501.

28. UParticularly Sensitive Health InformationU. Protected Health Information that is generally considered highly confidential including, but not limited to, mental health, drug and alcohol abuse, and communicable disease information. See http://www.hhs.gov/hipaa/for-professionals/special-topics/mental-health/index.html.

29. UPaymentU. Any activities by the University or a Health Care Component to obtain payment for providing Health Care. Such activities relate to the individual to whom Health Care is provided and include, but are not limited to: (a) billing, claims management, collection activities, and related Health Care data processing; and (b) Disclosure to consumer reporting agencies of any of the following Protected Health Information relating to collection of premiums or reimbursement: (i) name and address; (ii) date of birth; (iii) Social Security number; (iv) payment history; (v) account number; and (vi) name and address of the Health Care Provider. 45 C.F.R. §164.501.

30. Personal Representative. Privacy-02, Personal Representatives.

31. UProtected Health Information or PHIU. Individually Identifiable Health Information that is transmitted by, or maintained in, electronic media or any other form or medium. 45 C.F.R. §160.103.

**Protected Health Information** U**excludes**U **Individually Identifiable Health Information: (a) in education records covered by the Family Educational Rights and Privacy Act (FERPA); (b) in employment records held by the University in its role as employer; and (c) regarding an individual who has been deceased more than 50 years.**

32. UPrivacy Policies or PoliciesU. This set of policies drafted and adopted by the University relating to the protection and confidentiality of Protected Health Information.

33. UPrivacy RegulationsU. The regulations issued by the Department of Health and Human Services implementing the privacy requirements of the Health Insurance Portability Act of 1996 (HIPAA), 42 CFR Parts 160 and 164, aimed at protecting a patient’s right to privacy in matters involving his or her Health Care, as may be amended.

34. UPsychotherapy NotesU. 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, treatment plan, symptoms, prognosis, and progress to date. 45 C.F.R § 164.501.**

35. UPublic Health AuthorityU. An agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate. 45 C.F.R. § 164.501.

36. URequired by LawU. A mandate contained in law that compels the University to make a Use or Disclosure of Protected Health Information 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 summonses issued by a court, grand jury, governmental or tribal inspector general, or 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 those that require such information if payment is sought under a government program providing public benefits. 45 C.F.R. § 164.501.

37. UResearchU. A systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. 45 C.F.R § 164.501.

38. UTreatmentU. The provision, coordination, or management of Health Care and related services. 45 C.F.R. § 164.501.

**Treatment includes: (a) the coordination or management of Health Care by a Health Care Provider with a third party; (b) consultation between Health Care Providers relating to a patient; or (c) the referral of a patient for Health Care from one Health Care Provider to another. 45 C.F.R. § 164.501.**

39. UUniversityU. The University of Oklahoma, including its officers, employees, and agents when the context clearly intends such.

40. University Business. Work performed as part of an employee’s job responsibilities, or work performed on behalf of the University by faculty, staff, volunteers, students, trainees, and other persons whose conduct, in the performance of work for the University, is under the direct control of the University, whether or not they are paid by the University.

In the context of laptop and portable device use, University Business includes, but is not limited to, the use of a laptop or device to access University email and to non-public University systems, networks, or data in the performance of work for the University.

41. UUniversity Personnel. Faculty, staff, volunteers, students and trainees, and other persons whose conduct, in the performance of work for the University, is under the direct control of the University, whether or not they are paid by the University (“Workforce Members”). 45 C.F.R. § 160.103.

42. UUseU. With respect to Individually Identifiable Health Information, the sharing, employment, application, utilization, examination, or analysis of such information **within** the University by Health Care Components. 45 C.F.R. § 164.501. (But see, Disclosure.)

43. Workforce Member. See University Personnel.

**II. REFERENCES**

1. 45 C.F.R. 160.103.
2. 45 C.F.R. 164.501.