HIPAA Policy 5020
Disciplinary Policy for Violations of the Privacy or Security of Protected Health Information

Responsible Office	Office of the Provost	Effective Date	June 1, 2014
Responsible Official	HIPAA Privacy Officer	Last Revision	October 13, 2015

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Scope

This policy applies to the University's Covered Components and those working on behalf of the covered components, designated as such for purposes of complying with the privacy provisions of the Health Insurance Portability and Accountability Act of 1996. The Covered Components are: (1) the Group Health Plan Component; and (2) the Covered Health Care Component, which includes the School of Nursing, the Department of Psychology clinics, Yale Health and the School of Medicine (except the School of Public Health and the Departments of Cell Biology, Cellular and Molecular Physiology, Comparative Medicine, History of Medicine, Immunobiology, Microbial Pathogenesis, Molecular Biophysics & Biochemistry, Neurobiology, Pharmacology and WM Keck Biotechnology Resources Laboratory).

Policy Statement

All Yale faculty members, staff members, students, trainees and other workforce members including volunteers who provide or support the provision of health care, who work in departments that provide or support the provision of health care, or who administer a Yale health plan must safeguard the privacy and security of Protected Health Information ("PHI"). This is an obligation imposed by Yale policy, federal and state law, and our own concern for the wellbeing of our patients. Failure to meet this obligation may lead to disciplinary action up to and including termination or dismissal as described in this policy.

Reason for the Policy

This policy is intended to assist in the protection of PHI by setting out guidelines for the discipline of persons who violate Yale's HIPAA policies.

Definitions

Covered Entity
Covered entity means an entity that is subject to HIPAA. Yale University is the covered entity for HIPAA compliance purposes. Because Yale is a Hybrid Entity, only Yale's designated Covered Components are subject to HIPAA requirements.

Protected Health Information (PHI)
Any individually identifiable health information, including genetic information and demographic information, collected from an individual, whether oral or recorded in any form or medium that is created or received by a covered entity (Yale School of Medicine (excluding the School of Public Health, the Animal Resources Center, and the basic science departments: Cell Biology, Cellular and Molecular Physiology, Comparative Medicine, History of Medicine, Immunobiology, Microbial Pathogenesis, Molecular Biophysics & Biochemistry, Neurobiology, Pharmacology, and WM Keck Biotechnology Resources Laboratory), Yale School of Nursing, Yale Health, Department of Psychology Clinics and the Group Health Plan component)

PHI encompasses information that identifies an individual or might reasonably be used to identify an individual and relates to:

- The individual's past, present or future physical or mental health or condition of an individual; OR
- The provision of health care to the individual; OR
- The past, present or future payment of health care to an individual.

Information is deemed to identify an individual if it includes either the patient's name or any other information that taken together or used with other information could enable someone to determine an individual's identity. (For example: date of birth, medical records number, health plan beneficiary numbers, address, zip code, phone number, email address, fax number, IP address, license numbers, full face photographic images or Social Security Number see Policy 5039 for a list of HIPAA Identifiers)

PHI excludes individually identifiable health information in education records covered by the Family Educational Right and Privacy Act (FERPA) (records described in 20 USC 1232g(a)(4)(B)(iv)) and employment records held by a covered entity in its role as employer. PHI also excludes information related to individuals who have been deceased for more than 50 years. (see also definitions of "health information" and "individually identifiable health information")

Workforce
Employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity, is under the direct control of such entity, whether or not they are paid by the covered entity.

Policy Sections

5020.1 Considerations

The persons responsible for disciplinary decisions will vary according to the role of the violator, as discussed below, but, in all cases, the decision maker will take into account the following factors:

- whether the violation was intentional or inadvertent, including, for example, whether the violator acted maliciously or with extreme carelessness;
- the harm caused to a patient or patients or the University, including, for example, the nature of the information at issue or the number of patients involved;
- previous violations or relevant disciplinary history;
- whether the violator attempted to conceal the violation or was untruthful during the inquiry; and
- other factors necessary to reach a fair decision.

A person who has committed a single, inadvertent violation and who does not have a history of discipline will ordinarily receive counseling, additional training, and/or an oral or written warning.

An intentional violation or multiple inadvertent violations will be subject to disciplinary action, up to and including loss of Yale Medical Group ("YMG") credentials, dismissal from the University, or termination of employment. Any violation committed for personal gain or to harm another person will result in the most serious disciplinary action available. Certain violations may also be referred to University disciplinary bodies, regulatory bodies, or law enforcement agencies.

In order to ensure that discipline is imposed fairly and uniformly, the persons responsible for disciplinary decisions will consult, as appropriate, with the cognizant dean, the leadership of the violator's department, the HIPAA Privacy Office, the Information Security Office, Human Resources, and/or the Office of the General Counsel.

A person who has been disciplined under this policy may challenge a disciplinary decision through those procedures routinely available to him or her, including, for example, procedures set out in the relevant collective bargaining agreement, the bulletin of the person's school, the Personnel Policies and Practices Manual, the Faculty Handbook, or the Resident Grievance Policy.

5020.2 Discipline for Violations by Clinical Care Providers

Once the University has established by reasonable investigation that a violation has occurred, the following decision makers or their designees will determine the appropriate penalty in keeping with Yale policy and other requirements:

- the YMG Chief Medical Officer for persons providing care in a YMG facility;
- the Medical Director for persons providing care in Yale Health;
- the Deputy Provost for Health Affairs for the Psychology Department clinics; and
- the Associate Dean for Graduate Medical Education and the chair of the trainee's department for trainees of the School of Medicine;

Discipline of a faculty member will be imposed only after consultation with the faculty member's chair and dean. Termination of a trainee's YMG credentials will be imposed only after consultation with the Associate Dean for Graduate Medical Education and the chair of the trainee's department.

5020.3 Discipline for Violations by Students

Once the University has established by reasonable investigation that a violation has occurred, the Progress Committee or other appropriate disciplinary body of the violator's school or Yale College will recommend a penalty to the dean of the school or Yale College as applicable, who will make the final decision in keeping with Yale policy and other requirements.

5020.4 Discipline for Violations by Staff Members Who Do Not Provide Clinical Care

Once the University has established by reasonable investigation that a violation has occurred, the Associate Vice President for Human Resources, or his or her designee, will determine a penalty in keeping with Yale policy and other requirements.

5020.5 Discipline for Violations by WorkForce Members not described above

Once the University has established by reasonable investigation that a violation has occurred, the following decision makers or their designees will determine the appropriate penalty in keeping with Yale policy and other requirements:

- the YMG Chief Medical Officer for persons affiliated with Yale School of Medicine;
- the Medical Director for persons affiliated with Yale Health; and

- the Deputy Provost for Health Affairs for persons affiliated with the Psychology Department clinics.

Discipline of a faculty member will be imposed only after consultation with the faculty member's chair and dean.

Contacts

Subject	Contact	Phone
HIPAA Compliance	HIPAA Privacy Office	432-5919 hipaa@yale.edu
Human Resources	Human Resource Generalists	436-8857

Roles and Responsibilities

Office of the Provost

Responsible for University compliance issues related to HIPAA

Office of General Counsel

Interprets HIPAA regulations; reviews and approves all HIPAA related contracts including contracts with Business Associates or research contracts

University Information Security Officer

Individual responsible for overseeing information security and ensuring compliance with security requirements of HIPAA

Chief HIPAA Privacy Officer

Individual responsible for overseeing and ensuring HIPAA compliance throughout Yale University; coordinates compliance related activities through the following deputies in each of the covered schools, departments, or other entities:

Deputy Privacy Officer, School of Medicine

Deputy Privacy Officer, School of Nursing

Deputy Privacy Officer, Yale Health Services

Deputy Privacy Officer, Yale Health Plan/Benefits Office

Deputy Privacy Officer, Department of Psychology Clinics

Human Resources

Provides guidance on human resources policies, procedures and employee relations.

Revision History

Revised to include workforce members June 2015