

UNIVERSITY OF FLORIDA
INFORMATION PRIVACY POLICIES & PROCEDURES
PRIVACY MANAGEMENT

HIPAA: Federal Compliance Policies

POLICY

03/28/2003

The University of Florida will endeavor to abide by the following policies as stated in the federal regulations:

DEFINITIONS

Health Care Provider: A provider of services (as defined in section 1861(u) of the Act, 42, USC1395x(u)), a provider of medical or health services (as defined in section 1861(s) of the Act, 42 USC1395x(s)), and any other person organization who furnishes, bills, or is paid for health care in the normal course of business.

PRIVACY REQUIREMENTS

1. Applicability: It is understood that the standards, requirements, and implementation specifications adopted under the federally mandated Privacy Rules discussed in this policy manual apply to the University of Florida, which has defined itself as a Health Care Provider that maintains and transmits health information in electronic formats.
2. Preemption of State Law: It is understood that a standard or requirement adopted under the privacy regulations that is contrary to a provision of State law will, in general, preempt the State law, except in certain limited situations, including:
 - a. A determination is made by the Secretary that the provision of State law is necessary:
 - b. The State law is more stringent in its provisions to protect the patient or provide the patient with greater rights. (See the Glossary for the definition of 'more stringent'.)
 - c. The State law, including State procedures established under such law, provides for the reporting of disease or injury, child abuse, birth, or death, or for the conduct of public health surveillance, investigation, or intervention.

NOTE: The University of Florida has adopted the findings of the Florida State Law preemption analysis provided by the American Hospital Association.

3. Compliance and Enforcement

- a. *Principles for Achieving Compliance:* It is understood that the Secretary will seek the cooperation of covered entities, including the University of Florida, in obtaining compliance with the requirements of the privacy rules, and that the Secretary may provide technical assistance to covered entities to help them comply voluntarily with the requirements.
- b. *Complaints to the Secretary:* It is understood that a person who believes The University of Florida is not complying with the requirements of the federal privacy regulations may file a complaint with the Secretary of Health and Human Services within 180 days of when the complainant knew or should have known that the act or omission occurred.

It is also understood that the Secretary may investigate complaints and that the investigation may include a review of the pertinent policies, procedures, or practices of the University and of the circumstances regarding any alleged acts or omissions.
- c. *Compliance Reviews:* It is understood that the Secretary may conduct compliance reviews to determine whether the University of Florida is complying with the applicable requirements of the privacy regulations.

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HIPAA: Federal Compliance Policies (continued)

- d. *Responsibilities of Covered Entities:*
 - 1) It is understood that the University of Florida must keep records and submit compliance reports as prescribed by the Secretary to enable designated officials to ascertain whether the University is in compliance with the requirements of the privacy regulations.
 - 2) It is understood that the University of Florida must cooperate with investigations or compliance reviews conducted by the Secretary to determine whether it is complying with the requirements of the privacy regulations.
 - e. *Permit access to information:*
 - 1) It is understood that the University of Florida must permit access by the Secretary during normal business hours to its facilities, books, records, accounts, and other sources of information, including protected health information, that are pertinent to ascertaining compliance with the applicable requirements of the privacy regulations. If the Secretary determines that exigent circumstances exist, such as when documents may be hidden or destroyed, the University must permit access by the Secretary at any time and without notice.
 - 2) It is understood that protected health information obtained by the Secretary in connection with an investigation or compliance review under this subpart will not be disclosed by the Secretary, except if necessary for ascertaining or enforcing compliance with the applicable requirements of this part, or if otherwise required by law.
4. Resolution Where Noncompliance Is Indicated
- a. It is understood that, if an investigation or a compliance review indicates a failure to comply, the Secretary will so inform the University of Florida and, if the matter arose from a complaint, the complainant, in writing and attempt to resolve the matter by informal means whenever possible.
 - b. If the Secretary finds the University of Florida is not in compliance and determines that the matter cannot be resolved by informal means, the Secretary may issue to the University and, if the matter arose from a complaint, to the complainant, written findings documenting the non-compliance.
5. Resolution When No Violation Is Found: It is understood that if, after an investigation or compliance review, the Secretary determines that further action is not warranted, the Secretary will so inform the University of Florida and, if the matter arose from a complaint, the complainant in writing.

REFERENCES

HIPAA Regulations: 45 CFR § 160.102 (Applicability), § 160.201 - 205 (Preemption), § 160.300 - 312 (Compliance)

EXHIBITS None