Sanctions for Violations of Privacy Policies

APPLICABILITY:

This policy applies to the following entities (collectively referred to as "UNC Health Care System" or "UNCHCS" in this policy):

- UNC Health Care System/UNC Medical Center*
- UNC Physicians Network
- UNC Physicians Network Group Practices
- Rex Healthcare / Rex Hospital
- Chatham Hospital
- Caldwell Memorial Hospital
- UNC Rockingham Health Care / UNC Rockingham Hospital
- Johnston Health
- Lenoir Memorial Hospital
- Margaret R. Pardee Memorial Hospital
- Nash Healthcare System / Nash Hospitals
- Wayne UNC Health Care

* UNC Medical Center includes all UNC Hospitals' facilities and the clinical patient care programs of the School of Medicine UNC-Chapel Hill (including UNC faculty physicians).

I. Description

UNCHCS will apply appropriate sanctions against members of its workforce who fail to comply with its privacy and security policies and procedures. Sanctions may vary based on the facts and circumstances of the violation.

Included within the scope of this policy are the patient care programs of the UNC School of Medicine (UNC SOM). As a result, this policy shall apply to all UNC SOM personnel, including but not limited to faculty, staff, students, trainees, interns and volunteers who may be full-time, part-time, paid or unpaid who create, store, transmit, access or use any patient information in support of clinical purposes for UNCHCS or any other healthcare entity.

II. Policy

A. Sanctions and Disciplinary Actions:
1. Sanctions applicable to UNCHCS workforce.
   a. UNCHCS Member Facilities Workforce. Employees who have violated UNCHCS privacy policies as substantiated in the sole discretion of the UNCHCS Privacy Office (or corresponding Privacy Office of the UNCHCS Member Facility) will have the violation documented in the workforce member’s personnel file.

   b. UNC School of Medicine Workforce. Employees of the UNC School of Medicine, including but not limited to faculty, staff and other individuals affiliated with the UNC School of Medicine (“SOM Personnel”) who are found to have violated UNCHCS privacy policies as substantiated in the sole discretion of the UNCHCS Privacy Office shall be referred to the UNC School of Medicine Human Resources Department for the provision of discipline in accordance with UNC School of Medicine policies.

      i. The UNCHCS Privacy Office determination on the appropriate Level of discipline according to the UNCHCS Discipline Matrix shall be shared with the UNC SOM Human Resources Department for violations of UNCHCS privacy policies committed by SOM Personnel. The UNC SOM Human Resources Department and such other University Offices involved in the disciplinary decision-making process (such as the University's HIPAA Officer) shall take into account the UNCHCS determination on the appropriate level of discipline as determined by the UNCHCS Privacy Office. The ultimate determination on discipline of any SOM Personnel shall be made by the UNC School of Medicine.

      ii. UNCHCS may however take such additional steps it believes necessary to protect its electronic systems containing PHI which may result in the decision to terminate or suspend system access credentials of SOM Personnel to any paper and electronic systems of UNCHCS containing PHI. In addition to any of the disciplinary actions mentioned above, any instance of faculty non-compliance may also be referred to the appropriate Hospital staff discipline committee (or similar).

2. Determining Discipline for UNCHCS Privacy Policy Violations
   a. Determining the Level of Discipline. The UNCHCS Privacy Office (or the Facility Privacy Officer as the case may be) shall determine the level of discipline for any violation of UNCHCS Privacy Policies of UNCHCS personnel employed by "owned facilities" in accordance with the Sanctions Matrix set forth in Schedule A to this policy. The UNCHCS Privacy Office shall be solely responsible for the determination of the Level of any substantiated violation (Level 1, 2 or 3).

      i. UNCHCS Managed Facilities: UNCHCS Managed facilities shall independently determine whether and to what extent they rely on the Sanctions Matrix and which departments and/or offices is/are responsible for determining the level of any violation.

   b. Sharing Discipline Determination with HR. The determination of the appropriate level for discipline will be shared with the UNCHCS Department of Human Resources (or the facility’s Department of Human Resources at the UNCHCS Member Facility where the employee works or the UNC School of Medicine as appropriate) for the final determination on appropriate discipline.

      i. Flexibility in Discipline. The discipline offered for each level of a violation is meant to be a floor. As a result, UNCHCS Facilities shall have the option to impose greater discipline (but not lesser) than what is recommended in any particular Sanctions Matrix level as a result of other factors it may wish to consider.
c. **Additional Guidance.** The UNCHCS Privacy Office may provide additional guidance on discipline as requested.

3. **UNCHCS Privacy Office Consultation for Level 2 and 3 Violations.** It is recommended and encouraged (but not required) that incidents investigated by Facility Privacy Officers at UNCHCS Member Facilities that are determined by the facility Privacy Officer to constitute a Level 3 violation be referred to the UNCHCS Privacy Office for a consultative review prior to the conclusion of the investigation and prior to the determination of any disciplinary action.

### III. Definitions

**Workforce** – means employees, including temporary agency or contract employees, health care professionals, including faculty, medical students and interns, volunteers, trainees, and other persons whose conduct, in the performance of work for UNCHCS is under the direct control of UNCHCS, whether or not they are paid by UNCHCS.

### IV. References

45 C.F.R. §§ 164.314(a)(3), 164.502(e)(1), 164.504(e)

### V. Related Policies/Forms

UNCHCS Sanctions Matrix (see attached)

**Attachments:**

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<thead>
<tr>
<th>Step Description</th>
<th>Approver</th>
<th>Date</th>
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<tbody>
<tr>
<td></td>
<td>Jerylyn Williams: VP Chief Audit &amp; Comp Officer</td>
<td>01/2019</td>
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<tr>
<td>SYSTEM Site Administrator</td>
<td>Emilie Hendee: HCS-Sr Attorney</td>
<td>01/2019</td>
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<td>David Behinfar: HCS-Privacy Dir</td>
<td>01/2019</td>
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**Applicability**

Caldwell Memorial Hospital, Chatham Hospital, Johnston Health, Nash Health Care, UNC Health Care System, UNC Lenoir Health Care, UNC Medical Center, UNC Physicians Network, UNC Rex Healthcare, UNC Rockingham Health Care, Wayne Memorial Hospital