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Owner: *David Behinfar: HCS Exec Dir Privacy*
Policy Area: *HIPAA - Privacy*
Policy Tag Groups:
Applicability: *UNC Health Care System (all owned and managed entities)*

UNC Health Covered Entity Explained and OHCA and ACE Designations

APPLICABILITY:

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

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

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

I. Description

The University of North Carolina Health Care System (UNC Health) is comprised of individual member facilities.

It is the policy of UNC Health to comply with and maintain system-wide privacy policies and procedures in accordance with federal and state privacy laws including but not limited to the Health Insurance Portability and Accountability Act of 1996 , P.L. No. 104-191, 110 Stat. 1938 (1996) and the regulations promulgated thereunder (HIPAA), the Health Information Technology for Economic and Clinical Health Act (HITECH), the Genetic Information Nondiscrimination Act of 2008 (GINA), and North Carolina laws governing information privacy.

Each UNC Health facility is regulated by HIPAA as a "Covered Entity" as well as by North Carolina laws

governing health information privacy. UNC Health facilities have collectively formed an organized health care arrangement (OHCA) under HIPAA. Pursuant to HIPAA (45 CFR §164.506(c)(5)) a covered entity that participates in an organized health care arrangement may disclose protected health information (PHI) about an individual to other participants in the organized health care arrangement for any health care operations activities of the organized health care arrangement. UNC Hospitals (UNCH) and the UNC School of Medicine (defined below) have also separately formed an affiliated covered entity (ACE) under HIPAA.

II. Definitions

Affiliated Covered Entity – Legally separate covered entities that are associated in business.

Common control – exists if an entity has the power, directly or indirectly, significantly to influence or direct the actions or policies of another entity.

Common ownership – exists if an entity or entities possess an ownership or equity interest of 5 percent or more in another entity.

Covered Entity (CE) – A health plan, a health care clearinghouse, or a health care provider who transmits any health information in electronic form in connection with a transaction covered by the Privacy Rule.

Organized Health Care Arrangement (OHCA) – An organized system of health care in which more than one Covered Entity participates, and in which the participating entities

- a. Hold themselves out to the public as participating in a joint arrangement; and
- b. Participate in joint activities that include at least one of the following: Utilization Review, Quality Assessment and Improvement activities, or Payment activities.

III. Rationale

This policy explains the composition of the UNC Health organized health care arrangement and the affiliated covered entity by and between UNCH and the UNC School of Medicine as well as the process for amending these designations.

Included within the scope of this policy are the patient care programs of the UNC School of Medicine (except as specifically noted in the description of the ACE below). As a result, this policy shall apply to all UNC School of Medicine 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 UNC Health or any other healthcare entity.

IV. Policy

A. UNC Health OHCA Membership Designation

UNC Health is comprised of individual member facilities who have together formed an OHCA (hereinafter referred to as the "UNC Health OHCA"). As of the approval date of this policy, the following entities are designated as individual covered entities participating in the UNC Health OHCA (*future updates of the list of individual member facilities shall be set forth in Exhibit A to this policy*):

- Caldwell UNC Health Care (Caldwell Memorial Hospital, Incorporated)
- Chatham Hospital (Chatham Hospital, Incorporated)
- Johnston UNC Health Care (Johnston Health Services Corporation)
- UNC Lenoir Health Care (Lenoir Memorial Hospital, Incorporated)

- Nash UNC Health Care (Nash Hospitals, Inc., Nash MSO, Inc., NHCS Physicians, Inc.)
- Pardee UNC Health Care (Henderson County Hospital Corporation d/b/a Margaret R. Pardee Memorial Hospital)
- UNC REX Healthcare (Rex Hospital, Inc.)
- Wayne UNC Health Care (Wayne Memorial Hospital, Inc.)
- UNC Rockingham Health Care (UNC Rockingham Health Care, Inc.)
- UNC Hospitals (UNC Medical Center or UNCCMC)
 - N.C. Cancer Hospital
 - N.C. Children's Hospital
 - N.C. Women's Hospital
 - Hillsborough Campus
 - UNC School of Medicine Clinical Programs
- UNC Physicians Network (UNC Physicians Network, LLC)
- UNC Physician Network Group Practices (UNC Physician Network Group Practices, LLC)

Each of these covered entities provides one or more types of health care services (such as acute care hospital, skilled nursing, home health, and outpatient clinical services), all of which are part of the OHCA.

B. Permitted Uses and Disclosures of PHI

A covered entity ("CE") that participates in an OHCA, inclusive of its workforce members, may disclose PHI about an individual to other participants in the OHCA for any health care operations of the OCHA.

- Joint notice by separate covered entities: CEs that participate in OHCA may present a Joint Notice of Privacy Practices, provided that:
 - All the participating CEs agree to abide by the terms of the notice with respect to PHI created or received by the CE as part of its participation in the OHCA.
 - The joint notice meets the content specifications of a Notice of Privacy Practices, except that the required statements may be altered to reflect that the notice covers more than one CE; and
 - Describes with reasonable specificity the CEs, or class of entities, to which the joint notice applies;
 - Describes with reasonable specificity the service delivery sites, or classes of service delivery sites, to which the joint notice applies; and
 - If applicable, states that the CEs participating in the OHCA will share PHI with each other, as necessary to carry out treatment, payment, or health care operations.
 - The CEs included in the joint notice must provide the notice to individuals in accordance with UNC Health Policy. Provision of the joint notice to an individual by any one of the CEs included in the joint notice will satisfy the provision requirement with respect to all others covered by the joint notice.

C. UNC Health OHCA Member Responsibilities

- Share PHI with the other UNC Health OHCA participants when such information is needed for treatment, payment, or health care operations, according to the provisions of the privacy regulations and other applicable laws.
- Provide the NPP, if the respective participant is the first service provider, and make reasonable efforts to obtain written acknowledgement of receipt of the notice from the patient.

D. ACE Designation

HIPAA permits legally separate covered entities to designate themselves as a single affiliated covered entity for purposes of complying with the Privacy Rule if all of the covered entities designated are under common

ownership or control. See 45 C.F.R. § 164.105(b). As set forth in the most recent *Designation as an Affiliated Covered Entity dated June 1, 2019, by and between the University of North Carolina Health Care System - UNC Hospitals and the University of North Carolina at Chapel Hill, School of Medicine*, the following entities have formed a single affiliated covered entity (hereinafter referred to as the "UNCMC ACE") and have formally designated the following entities as members of the UNCMC ACE:

- UNC Hospitals
 - N.C. Cancer Hospital
 - N.C. Children's Hospital
 - N.C. Women's Hospital
 - Hillsborough Campus
- UNC School of Medicine clinical programs ("SoM") including:
 - All clinical patient care programs established or maintained by the School of Medicine ("SoM") at the University of North Carolina at Chapel Hill including all SoM workforce (including faculty, staff and SoM students) providing clinical and related support services to or at UNC Health member facilities.

NOTE: The UNC SoM provides clinical services and medico-administrative services to entities that are not members or affiliates of the UNC Health. Such entities are not considered to be part of the UNC Health OHCA or the UNCMC ACE. UNC SoM personnel providing clinical or medico-administrative services to such entities may be considered part of the workforce of the particular entity and thus subject to that entity's privacy structure, policies, and procedures when rendering services related to the entity's patients.

E. Amending the OHCA and the ACE

The UNC Health OHCA and UNCH/UNCSOM ACE designations may be amended from time to time, as appropriate and as reflected in this policy. Amendments to the participants in the UNCH/UNCSOM ACE shall be completed in accordance with 45 CFR §§ 164.103 and 164.105(b). Documentation of each ACE designation will be maintained by UNC Health for six (6) years from the date on which it was last in effect.

F. Adoption of UNC Health HIPAA Policies and Notice of Privacy Practices Among UNC Health OHCA Member Facilities and the UNCMC ACE Members.

- Joint Notice. Health care providers and other covered entities that participate in an organized health care arrangement (OHCA) may use a single, joint notice that covers all of the participating covered entities (provided that the conditions at 45 CFR 164.520(d) are met). The UNC Health OHCA uses a Joint Notice of Privacy Practices (NPP) and has agreed, as permitted by law, to share protected health information ("PHI") among the participants of the OHCA as needed for treatment, payment, and health care operations, unless otherwise prohibited by law.
- Similarly, the members of an OHCA may also adopt a common set of policies. The Members of the UNC Health OHCA have independently determined which (if any) of the UNC Health HIPAA Privacy Policies that they wish to adopt. The UNC Health Privacy Office has a master record with all such elections, and each facility has its own separate record of which policies it has adopted.
- The ACE designation allows the UNCH/UNCSOM ACE members to share a common set of HIPAA policies, procedures, and forms, and also permits UNCH/UNCSOM ACE members to share PHI in certain circumstances as permitted by HIPAA. Each of the UNC Health member facilities participating in the UNCMC ACE (and their respective workforce) have adopted the UNC Health Privacy Policies for each of their facilities as it relates to clinical information used or disclosed by UNC SOM workforce.

G. ACE Members and OHCA Members May Adopt or Create Procedures

Each of the members of the UNC Health OHCA and UNCCMC ACE may adopt its own procedures or internal guidelines to assist it in complying with the UNC Health HIPAA Policies that have been adopted as long as they do not conflict with the underlying UNC Health HIPAA policies. In the event of such a conflict, the UNC Health HIPAA policies shall control.

H. Use of Term "UNC Health"

Some members or affiliates of UNC Health are agencies of the State of North Carolina or its subdivisions, but others are not. Use of the "UNC Health" term of reference in no way relates to, implies, or designates a member or affiliate of UNC Health as an agency of the State of North Carolina or its subdivisions pursuant to N.C. Gen. Stat. § 116-37 or any other applicable law. The term is solely used for convenience.

I. UNC Health Members participating in separate Organized Health Care Arrangements

The UNC Health Privacy Policies shall also apply to participants in a UNC Health member facility's separate Organized Health Care Arrangement ("OHCA"), as defined in 45 CFR § 160.103, when those participants are providing care to a patient of a UNC Health OHCA member's facility. In this context, the UNC Health privacy policies will apply to outside physicians participating in an OHCA of a UNC Health member facility and others who provide health care services to UNC Health member facility patients.

V. References

HIPAA Regulations: 45 CFR §164.103 Definitions; §164.105 Organizational Requirements; §164.504(a) Definitions; §164.530 Administrative requirements: (i) Policies and procedures and (j) Documentation

VI. Related Policies

[UNC Health Notice of Privacy Practice](#)

VII. Responsible for Content

David Behinfar

Attachments

[Designation as an Affiliated Covered Entity Under HIPAA](#)

Approval Signatures

Step Description	Approver	Date
	Jerylyn Williams: Chief Audit & Compliance Ofcr	07/2020
SYSTEM Site Administrator	Emilie Hendee: HCS Attorney Sr	07/2020
	David Behinfar: HCS Exec Dir Privacy	07/2020

Applicability

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

COPY

UNIVERSITY OF NORTH CAROLINA HEALTH
FOR
UNC HOSPITALS
THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL, SCHOOL OF MEDICINE

DESIGNATION AS AN AFFILIATED COVERED ENTITY UNDER HIPAA
Effective Date: June 1, 2019

INTRODUCTION

The federal Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as “HIPAA,” allows legally separate covered entities (as defined under HIPAA) which are affiliated to designate themselves as a single covered entity for purposes of HIPAA, if all of the covered entities designated are under “common ownership” or “common control.” Under HIPAA, “common control” is defined to exist “if an entity has the power, directly or indirectly, significantly to influence or direct the actions or policies of another entity.” “Common ownership” is defined to exist “if an entity or entities possess an ownership or equity interest of 5 percent or more in another entity.”

SUMMARY OF OWNERSHIP/CONTROL OF ENTITIES

University of North Carolina Health was created by North Carolina statute (N.C.G.S. § 116-37). Pursuant to this statute, UNC Hospitals (UNCH) and the clinical patient care programs established or maintained by the School of Medicine of the University of North Carolina at Chapel Hill (UNC SOM Clinical Programs) are governed by the Board of Directors of University of North Carolina Health (UNC Health).

Based upon the ownership and/or management interests, both of these entities are under the “common ownership” or “common control” (as defined in HIPAA) of University of North Carolina Health.

DESIGNATION

Based on this “common ownership” and “common control,” the UNCH and UNC SOM Clinical Programs formally designate themselves as an “affiliated covered entity” under HIPAA, effective the 1st day of June, 2019. This designation supersedes all previous “affiliated covered entity” designations of UNC Health. UNCH and UNC SOM Clinical Programs provided at or for UNCH are commonly referred to collectively as the UNC Medical Center or “UNCMC”. Thus, this ACE may be referred to as the “UNCMC ACE”.

Some of the UNC SOM Clinical Programs are provided to entities that are not members or affiliates of UNC Health. Such entities are not considered to be part of the UNCMC ACE, and UNC SOM Clinical Programs personnel providing services to entities that are not members or affiliates of UNC Health are not deemed to be part of the UNCMC ACE workforce (as that term is defined in 45 CFR § 160.103) when performing services for entities that are not members or affiliates of UNC Health.

This document will be retained for six (6) years from the later of its effective date or the date when it was last in effect.

Superseded Designations

(To be retained for the later of six (6) years from their effective dates or the date last in effect.)

- Original Designation
- September 23, 2013
- November 18, 2013
- January 1, 2016
- April 1, 2018