



THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL

STATEMENT ON ITS DESIGNATION AS A HYBRID ENTITY UNDER HIPAA

INTRODUCTION

The University of North Carolina at Chapel Hill (“University”) actively analyzed and addressed its responsibilities and obligations under the federal Health Insurance Portability and Accountability Act of 1996, as modified by the Health Information Technology for Economic and Clinical Health Act of 2009 (“HIPAA”). Fundamentally, HIPAA is a consumer protection law focused on protecting individuals’ health care information provided by the individual for the sole purpose of receiving health care treatment and includes information required to fulfill billing tasks and health care operations of the health care provider. The entities covered by HIPAA (“covered entities”) are those health care providers, health care clearinghouses and health plans that conduct specified transactions electronically. The University is not primarily engaged in the activities that define a covered entity but does have some units that perform functions that fit the “covered entity” definition.

HIPAA provides for a single legal entity whose business activities include both functions that are covered by the regulations and those that are not covered to designate itself as a “Hybrid Entity” regardless of whether those functions that are not covered are a primary part of the educational and research purposes or just a small percentage. Pursuant to this, the University has formally designated itself a “Hybrid Entity” for HIPAA compliance purposes. As a hybrid entity, the University is required to document identification of those of its units that perform covered functions (“covered University units”). As part of a hybrid entity, covered University units may freely share protected health information (“PHI”) among themselves for performance of treatment, payment, or health care operations. All other University units may not receive PHI without special authorization. These other University units are also not routinely subject to HIPAA compliance obligations intended for health care providers and health plans.

SUMMARY OF ASSESSMENT PROCEDURE

In 2003, a Steering Committee, comprised of representatives from administrative offices such as legal, human resources, information technology, and representatives from units providing health care, was designated to oversee the University’s implementation of HIPAA. As part of the University’s analysis in determining the proper designation of health care components in the hybrid entity, all University departments completed an initial HIPAA assessment to ascertain which campus units engaged in activities in which HIPAA privacy standards are applicable. From time to time units may be added to the “designated health component” list if an assessment determines that the unit is providing HIPAA-covered health care.

The University HIPAA Steering Committee members screened assessment responses and conducted site visits to departments and professional schools where there remained a question as to whether health care was being provided or where PHI was being created, maintained, or stored (*for a full definition of PHI see University of North Carolina-Chapel Hill Privacy of Protected Health*

Information Policy). This “Hybrid Entity” document identifies those University units that the Steering Committee determined provide HIPAA-covered functions or act as internal Business Associates to those covered University units (*for a full definition of Business Associate see University of North Carolina-Chapel Hill Privacy of Protected Health Information Policy*).

DESIGNATION

The University was utilized the following criteria established by the Department of Health and Human Services, and published as amendments to HIPAA in 2002, in determining which of its units were health care components, and thus covered University units:

1. A component that would meet the definition of a “covered entity” if it were a separate legal entity must be included in the health care component.
2. Divisions or departments of a covered entity that perform covered functions, or the covered functions themselves may be included.
3. Another component of the covered entity the activities of which would make it a Business Associate of the component that performs covered functions if the two were separate legal entities may be included. If these Business Associate-like functions are not designated as part of the health care component, the exchange of health care information probably would require an authorization because the covered entity cannot have a Business Associate contract with itself.

Based on these criteria, the University formally designated itself a hybrid entity under HIPAA. However, for purposes of HIPAA compliance, the University included the UNC-Chapel Hill School of Medicine as part of the UNC Health Care System affiliated covered entity. This decision reflects the consistently intertwined operations of and complex associations between the UNC-Chapel Hill School of Medicine and the UNC Health Care System. Responsibility for HIPAA compliance for the UNC-Chapel Hill School of Medicine therefore rests with the UNC Health Care System, although some operational issues necessarily involve input from the University.

The following University units are the officially designated health care components of the University and are therefore required to comply with HIPAA’s privacy rules and standards:

- **Accounting Services** – provides services to the University which, if external to the University, would make it a business associate for HIPAA purposes.
- **School of Dentistry** – health care provider.
- **Information Technology Services** – provides services to the University which, if external to the University, would make it a business associate for HIPAA purposes.
- **Internal Audit** - provides services to the University which, if external to the University, would make it a Business Associate for HIPAA purposes.
- **Department of Psychology** – limited to the following unit within the department:
 - Psychological Services Clinic – health care provider.
- **Student Health Services** – health care provider subject to HIPAA privacy standards only to the extent that Student Health Services provides treatment to non-students.
- **School of Nursing Clinic** – health care provider.
- **Office of University Counsel** – provides services to the University which, if external to the University, would make it a Business Associate for HIPAA purposes.
- **Waste Reduction and Recycling** – limited to the following unit within the department:
 - Confidential Shredding_ provides services to the University which, if external to the University, would make it a Business Associate for HIPAA purposes.