
University of Wisconsin-Madison
Policy and Procedure

Policy Number: 9.3
Policy Title: Responding to Student Noncompliance with Policies and
Procedures Relating to the HIPAA Privacy and Security Rules
Effective Date: April 14, 2003
Last Revision Date: September 13, 2014
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I. Policy

This policy addresses noncompliance by students with UW-Madison's policies and procedures governing the confidentiality of protected health information under the HIPAA Privacy and Security Rules.

This policy applies to students in a clinical health professional training program at UW-Madison who have access to protected health information. Students who access protected health information in their role as employees (e.g., a student who is employed as a student hourly to answer phones in a clinical department) would be considered an employee, not a student, for purposes of this policy. In this case, refer to Privacy Policy # 9.2 "Responding to Employee Noncompliance with Policies and Procedures Relating to the HIPAA Privacy and Security Rules."

It is the policy of UW-Madison to take appropriate steps to promote compliance with the requirements for maintaining the confidentiality of protected health information. UW-Madison takes seriously its requirements under HIPAA to protect the confidentiality of protected health information and will respond appropriately to violations of UW-Madison HIPAA policies and procedures.

The appropriate response to such violations will depend on a number of factors including the severity of the violation and the record of the student. The response will be decided after investigating the specific facts of the situation and may include, but is not limited to, such actions as: system changes, additional education, a written reprimand, disciplinary probation, a suspension, and expulsion.

Students who are training in UW-Madison facilities who report, in good faith, violations of HIPAA policy requirements shall not be retaliated against. They may report any retaliation to their training program coordinator, department chair/director, the dean/director, the Dean of Students or the UW-Madison Privacy Officer. If reported to anyone other than the Privacy Officer, it shall be referred to the Privacy Officer. The Privacy Officer shall determine who will investigate the matter.

II. Definitions

- A. Protected Health Information ("PHI"): Health information or health care payment information, including demographic information collected from

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an individual, which identifies the individual or can be used to identify the individual. PHI does not include student records held by educational institutions or employment records held by employers.

III. Procedures

Each school or college that educates students who will have access to PHI as part of their health professional training program will develop a school/college based disciplinary policy/procedure that is consistent with UWS Chapter 14 and/or UWS Chapter 17. The policy/procedure will, at a minimum, address the following.

- A. An educational process by which students will be informed of the requirements of HIPAA and the consequences of not complying.
- B. Progressive sanctions based on the severity of the violation and/or repetition of violations, recognizing at least the following four categories of violation:
 - 1. Type I – these violations are inadvertent or accidental breaches of confidentiality that may or may not result in the actual disclosure of patient information (for example, sending/faxing information to an incorrect address).
 - 2. Type II – these violations result from failure to follow existing policies/procedures governing patient confidentiality (for example, talking about patients in areas where others might hear, failure to obtain appropriate consent to release information, failure to fulfill training requirements).
 - 3. Type III – these violations include inappropriately accessing a patient’s record without a need to know (for example, accessing the record of a friend or family member out of curiosity without a legitimate need to know the information).
 - 4. Type IV – these violations include accessing and using patient information for personal use or gain or to harm another individual.

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- C. A process for notification of the office of the Dean of Students when the sanction recommended is to be documented in a student's conduct file.
- D. Automatic referral to the Dean of Students will occur if the violation is particularly egregious or repetitive in nature and the school/college would recommend disciplinary probation, suspension or expulsion.
- E. All violations must be reported promptly to the UW-Madison Privacy Officer to determine, among other things, whether a breach has occurred that requires notification to patients or to the Department of Health and Human Services.

IV. Documentation Requirements

Any sanctions applied under this policy must be documented in a written or electronic record. This documentation must be retained by the UW-Madison Privacy Officer for six years from the date of its creation or the date when it was last in effect, whichever is later.

V. Forms

None.

VI. References

- 45 CFR 164.530 (e) HIPAA Privacy Rule
- 45 CFR 164.530 (j) HIPAA Privacy Rule

VII. Related Policies

- Policy Number 8.8 "Notification and Reporting in the Case of Breach of Unsecured Protected Health Information"
- Policy Number 9.2 "Responding to Employee Noncompliance with Policies and Procedures Relating to the HIPAA Privacy and Security Rules"

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VIII. For Further Information

For further information concerning this policy, please contact the UW-Madison HIPAA Privacy Officer or the appropriate unit HIPAA Privacy Coordinator or sub-Coordinator. Contact information is available within the “Contact Us” tab at hipaa.wisc.edu.

Reviewed By

Chancellor
Chancellor’s Task Force on HIPAA Privacy
UW-Madison HIPAA Privacy Officer
UW-Madison Office of Legal Affairs

Approved By

Interim HIPAA Privacy and Security Operations Committee