

SUNY DOWNSTATE MEDICAL CENTER
UNIVERSITY HOSPITAL OF BROOKLYN
POLICY AND PROCEDURE

Subject: <u>WORKFORCE CONFIDENTIALITY</u>	No. <u>HIPAA-25</u>
	Page 1 of 5
Prepared by: <u>Shoshana Milstein RHIA, CHP, CCS</u>	Original Issue Date: <u>12/2002</u>
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Approved by: <u>Margaret Jackson, MA, RN</u> <u>William P. Walsh, MBA, MSW</u> <u>Patricia Winston, MS, RN</u> <u>Michael Lucchesi, MD</u>	Effective Date: <u>12/2017</u> Standards: for Privacy of Individually Identifiable Health Information, 45 CFR §164.502(j), § 164.530 (e) (f)
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I. PURPOSE

To ensure that all SUNY Downstate workforce members remain committed to protecting the privacy and confidentiality of protected health information (PHI) in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.

II. POLICY

A. Confidentiality Requirements

All SUNY Downstate workforce members, including employees, physicians, volunteers, students, trainees, residents, interns, temporary personnel, consultants and contractors, must abide by the documented HIPAA privacy policies and procedures to ensure the privacy protection of patients' PHI.

B. Sanctions & Mitigation

SUNY Downstate will apply appropriate sanctions against SUNY Downstate workforce members who fail to comply with the HIPAA privacy policies and procedures.

1. Workforce members implicated in a breach, or suspicion of a breach, of the HIPAA privacy regulations must be reported to the appropriate disciplinary oversight office for investigation, whether the individual's status is pursuant to employment, contractual agreement or other relationship with SUNY Downstate.

2. Depending upon the severity of the violation, appropriate disciplinary measures will be applied:
 - a. For employees represented by a collective bargaining unit, appropriate action will be taken, pursuant to the applicable collective bargaining agreement, to implement an appropriate disciplinary penalty. Such penalty may include, but is not limited to the following:
 - i. Letter of reprimand;
 - ii. Suspension;
 - iii. Fine;
 - iv. Loss of accrued leave credits;
 - v. Demotion;
 - vi. Termination.
 - b. For employees not represented by a collective bargaining unit, sanctions may include actions up to and including termination of employment.
 - c. For non-employees, sanctions will be determined and applied by the affiliated governing body through which that individual is appointed.
3. SUNY Downstate will then mitigate, to the extent possible, any known harmful effects of a use or disclosure of PHI made in violation of the HIPAA privacy standards.

C. Whistleblowers

1. There will be no retaliation against a SUNY Downstate workforce member or a business associate who believes in good faith that there was a violation of the HIPAA privacy standards and discloses PHI to:
 - a. A health oversight agency or public health authority authorized by law to investigate the violation;
 - b. An appropriate healthcare accreditation organization to report a failure to meet professional standards; or
 - c. An attorney retained on the workforce member's behalf for the purpose of determining his/her legal options with regard to the violation.
2. SUNY Downstate will not have violated the HIPAA privacy standards if a workforce member who is the victim of a criminal act discloses PHI to a law enforcement official, provided that:
 - a. The PHI disclosed is about the suspected perpetrator of the criminal act; and
 - b. The PHI disclosed is limited to the information delineated in the policy on Uses & Disclosures Not Requiring Patient Authorization.

III. RESPONSIBILITIES

It is the responsibility of all workforce members, including medical staff members and hospital staff members to comply with this policy. Medical staff members include physicians as well as allied health professionals. Hospital staff members include all employees, medical or other students, trainees, residents, interns, volunteers, consultants, contractors and subcontractors at the hospital.

IV. PROCEDURE

The development of the procedure section is the responsibility of the respective department. It is dependent upon the unique needs of each department's operating structure and shall be advanced and customized accordingly.

V. REASONS FOR REVISION-

Regulatory changes

VI. REFERENCES-

Standards for Privacy of Individually Identifiable Health Information, 45 CFR §164.502(j), § 164.530 (e) (f)

Date Reviewed	Revision Required (Circle One)		Responsible Staff Name and Title
6/ 2013	(Yes)	No	Shoshana Milstein, HIPAA Privacy Officer
9/2016	(Yes)	No	Shoshana Milstein, HIPAA Privacy Officer
12/2016	Yes	(No)	Shoshana Milstein, HIPAA Privacy Officer
12/2017	(Yes)	NO	Alexandra Bliss, Compliance Coordinator



WORKFORCE CONFIDENTIALITY OF PROTECTED HEALTH INFORMATION **ATTESTATION**

This statement applies to all SUNY Downstate employees, physicians, volunteers, students, trainees, residents, interns, temporary personnel, consultants, contractors and any other workforce members.

SUNY Downstate Medical Center is committed to protecting the privacy and confidentiality of health information about its patients while complying fully with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Protected health information is strictly confidential and should never be given, nor confirmed, to anyone who is not authorized under our policies or applicable law, statute, and/or regulation to receive this information.

SUNY Downstate workforce members should never remove protected health information from Downstate's premises. If protected information must be removed for the performance of your job duties, you are responsible for ensuring that all of the reasonable and appropriate safeguards, including those listed below, are implemented at all times.

Definitions:

Protected Health Information (PHI)- Any patient information, including very basic information such as their name or address, that (1) relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual, and (2) either identifies the individual or could reasonably be used to identify the individual.

Our policies apply to protected health information in any form, including spoken, written or electronic form. It is the responsibility of every member of SUNY Downstate's workforce and medical staff to protect the privacy and preserve the confidentiality of all protected health information, whether onsite or offsite. This includes implementation of reasonable and appropriate safeguards at all times and compliance with the protective procedures below.

1. Public Viewing/Hearing

All SUNY Downstate workforce members are required to keep protected health information safe from public viewing and earshot. Protected health information should not be left in conference rooms, out on desks or on counters or in other areas where the information may be accessible to the public or to other employees who do not have a need to know the protected health information. SUNY Downstate workforce members must also refrain from discussing protected health information in public areas, such as elevators and reception areas. Curtains should be drawn in semi-private patient rooms and treatment related discussions should be held in lower tones. SUNY Downstate workforce members must review the patient's record for documented patient restrictions or objections before sharing information with friends and family of the patient, even if the individual is at the patient's bedside.

2. Databases and Workstations

SUNY Downstate workforce members are required to exit any confidential database upon leaving their workstations so that protected health information is not left on a computer screen where it may be viewed by individuals who are not authorized to see the information. Monitors should never be facing a public view. SUNY Downstate workforce members are not to disclose or release to other persons any item or process which is used to verify their authority to access or amend protected health information, including but not limited to, any passwords, personal identification numbers, access cards or electronic signatures. Workforce members will be held responsible and accountable for all activities occurring under his/ her account. These activities may be monitored.

3. Downloading, Copying or Removing

SUNY Downstate workforce members are not to download, copy or remove from SUNY Downstate any protected health information, except as necessary to perform their duties. All SUNY Downstate faculty

and other workforce members are required to encrypt files, documents, and messages containing sensitive or confidential information for protection against unauthorized disclosure while in process, storage or transit. USB drives & portable devices that are not encrypted are only authorized for temporary storage or file sharing between authorized users while the drives/devices are on-site. Drives & portable devices may not be taken off-site without the data either being permanently deleted or encrypted in accordance with SUNY Downstate standards. Long term or permanent storage of SUNY Downstate related files on USB drives and portable devices must meet SUNY Downstate encryption standards. Portable devices include but are not limited to, laptops, notebooks, hand-held computers, tablets (i.e. iPads), Personal Digital Assistants (PDAs), smart phones, and USB drives. Upon termination of employment or contract with SUNY Downstate, or upon termination of authorization to access protected health information, workforce members must return any and all copies of protected health information in their possession or under their control. In addition, workforce members must ensure that all protected health information is disposed of in an appropriate manner, either by shredding or placing the PHI in assigned, secure bins. Health information stored in old PC's that are being removed must be properly and permanently deleted.

4. Emailing and Faxing Information

It is mandatory that only SUNY DMC Office Outlook email messages be used for confidential communication purposes. Personal email accounts must never be used in the transmission of any PHI. SUNY Downstate workforce members are not to transmit protected health information over the Internet (including email) or other unsecured networks unless using the secure encryption procedure offered via Office Outlook. Appropriate policies must be followed when faxing patient information, including using a cover sheet containing a confidentiality notice, ensuring that the fax machine is located in a secure location and verifying receipt with the intended recipient, when appropriate.

5. Curiosity/ Concern/ Personal Gain/ Malice

SUNY Downstate workforce members are not to access, review or discuss information for purposes other than their stated duties. Workforce members may not look up birth-dates, addresses of friends or relatives or review the record of a public personality. SUNY Downstate workforce members are not to access, review or discuss patient information for personal gain or for malicious intent.

6. Policies & Procedures

SUNY Downstate workforce members are required to adhere to all of SUNY Downstate's HIPAA Privacy policies and procedures, including campus and department specific policies. All HIPAA Privacy policies can be located at www.downstate.edu/hipaa. The appropriate supervisor should be consulted if a workforce member is unsure how to proceed in a specific circumstance.

7. Training

SUNY Downstate workforce members are required to complete Downstate's HIPAA training program within two (2) weeks of orientation.

8. Violations

Violators of this policy are subject to employment, civil and criminal penalties.

9. Reporting a Violation or Concern

All workforce members must report activities that may involve ethical violations or criminal conduct. Reports can be made to the Compliance Line:

(877) 349-SUNY (7869) – Toll Free, 24-hours-a-day, 7-days-a-week; or

Click on the "Compliance Line" link at www.downstate.edu to make a report via the web.

I acknowledge that I have received SUNY Downstate Medical Center's Workforce Confidentiality of Protected Health Information Attestation and will abide by the policies and safeguards described herein.

Workforce Member Name

Workforce Member Signature

Date