



*Issuing Department:* Internal Audit, Compliance, and Enterprise Risk Management

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## **HIPAA Privacy Policies and Procedures**

### **Definitions**

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The definitions below apply to all of the NYU Langone Health HIPAA Privacy Policies and Procedures and are derived from the HIPAA Rules. Terms not otherwise defined shall have the same meaning as those terms have under the HIPAA Rules.

- **Authorization:** a patient's written permission to allow NYU Langone Health to Use or Disclose specified Protected Health Information. Different types of activities (e.g., Fundraising, Research) have specific authorization requirements.
- **Breach:** the acquisition, access, Use, or Disclosure of Protected Health Information in a manner not permitted by the HIPAA Rules that compromises the security or privacy of the Protected Health Information.
- **Business Associate:** a company or individual who performs a function or service for or on behalf of NYU Langone Health that creates, receives, maintains, or transmits Protected Health Information in connection with that function or service.
- **Business Associate Agreement:** a contract between NYU Langone Health and a Business Associate that meets the requirement specified by HIPAA.
- **Common Rule:** The Federal Policy for the Protection of Human Subjects. This regulation governs human subjects research.
- **Confidential HIV-Related Information:** is any information indicating that a patient has had an HIV-related test, has an HIV-related illness or AIDS, or has an HIV-related infection as well as any information that could reasonably identify the patient as a person who has had such a test, has an HIV-related illness or AIDS or has an HIV-related infection.
- **Disclosure or Disclose:** the release, transfer, provision of access to, or divulging of information, in any manner, outside the entity holding the information.
- **De-Identified Information:** de-identified information is health information that is not subject to the same regulations as Protected Health Information because there is no reasonable basis to believe the information could be used to identify an individual. Certain identifiers must be removed for information to be considered de-identified.
- **Designated Record Set:** a group of records maintained by or for NYU Langone Health that are medical records, billing records, a health plan's enrollment, payment, claims adjudication, and case or medical management records, or any group of records that is used, in whole or in part, by or for NYU Langone Health to make health care decisions about patients. The term *record* means any item, collection, or grouping of information

that includes Protected Health Information and is maintained, collected, used, or disseminated by or for NYU Langone Health.

- **Electronic Health Record:** an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.
- **Fundraising:** includes any activity undertaken to raise money or other things of value on behalf of NYU Langone Health. It also includes, but is not limited to: requests for donations; requests for special-purpose donations (e.g., to benefit cancer research or to remodel a reception area); requests for sponsorship of events or activities (e.g., charity dinner).
- **Genetic Information:** information about an individual's genetic tests, the genetic tests of their family members, information about a manifestation of a disease or disorder of an individual's family member. Genetic Information also includes information regarding any request for or receipt of genetic services and any research participation that includes these services.
- **Health Care Operations:** refers to a variety of activities undertaken by NYU Langone Health in the regular course of business. It includes conducting quality assessment and improvement activities, conducting fraud and abuse detection, business planning and development, management activities, and customer service.
- **Health Information:** means any information, including genetic information, whether oral or recorded in any form or medium, that: (1) Is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and (2) 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.
- **Health Information Management or HIM:** the department that is responsible, among other things, for maintaining NYU Langone Health's patient records and access to such information.
- **Health Plan:** a health plan, or insurer, means an individual or group plan that provides, or pays the cost of, medical care. This can include: a group health plan, an HMO, Medicare Part A or B, Medicaid, or a private health insurer.
- **HIPAA or HIPAA Rules:** means the Health Insurance Portability and Accountability Act of 1996 as may be amended from time to time. As referenced within these policies, this includes the Privacy, Security, and Breach Notification Rules and the HITECH Act.
- **Incident or Privacy/Security Incident:** the unauthorized access, use, disclosure, theft, loss, modification, or destruction of protected health information or personally identifiable information. Incidents do not always arise to the level of a breach.
- **Institutional Review Board or IRB:** the Institutional Review Board for NYU Langone Health which is responsible for overseeing compliance with laws and regulations for human subjects research.
- **Internal Audit, Compliance, and Enterprise Risk Management or IACERM:** the department that is responsible for overseeing NYU Langone Health compliance with the HIPAA Privacy Policies and Procedures. IACERM is also responsible for breach investigations and notifications required by the HIPAA Rules or state law.
- **Investigator:** an individual who is a NYU Langone Health Workforce Member involved in conducting Research.

- **Limited Data Set:** a set of data in which most of the personal identifiers have been removed. Certain identifiers must be removed for a data set to be considered a Limited Data Set.
- **Marketing:** any oral or written communications with a patient about a product or service that encourages the patient to purchase or use that product or service. Marketing may also include the provision of patient information to another organization so that it may market its own products and services if NYU Langone Health receives direct or indirect Remuneration for providing the organization with this patient information. Marketing does not include communications that are made to describe a health related product or service provided by NYU Langone Health for Treatment purposes, case management, or care coordination purposes.
- **Medical Center Information Technology or MCIT:** The information technology department for NYU Langone Health. MCIT is responsible for overseeing NYU Langone Health compliance with the security rule regulations and implementing security safeguards in conjunction with IACERM.
- **NYU Langone Health:** as referenced within these policies includes the NYU Langone Health System, NYU Langone Hospitals (e.g., Tisch Hospital, NYU Langone Hospital-Brooklyn, NYU Langone Orthopedic Hospital, NYU Winthrop Hospital, New York State Article 28 locations), NYU School of Medicine, NYU Long Island School of Medicine, NYU Winthrop Certified Home Health Agency, , , the Sunset Park Health Council (i.e., the Family Health Centers at NYU Langone Health), the Southwest Brooklyn Dental Practice, and any entity controlled by any of them except were specifically excluded.
- **Payment:** the activities undertaken by NYU Langone Health to obtain or provide reimbursement for health care services it has provided. This includes billing, collection activities, and billing review activities.
- **Patient Directory:** the list of patients who are admitted to the Hospital, registered for an interventional procedure at an Article 28 outpatient space, or in the Emergency Department. This list is generated by NYU Langone Health's electronic health record system. An interventional procedure is any procedure requiring sedation or anesthesia, not including local anesthesia, including but not limited to the following procedures: endoscopy, catheterization, and interventional radiology.
- **Personal Representative:** a person who may legally act with authority on behalf of another person in making decisions about health care. In New York State, this is a health care surrogate under the Family Health Care Decision Act or a health care agent pursuant to a health care proxy.
- **Personally Identifiable Information or PII:** as defined by state law for breach notification purposes; generally a person's first name or first initial and last name in combination with any of the following:
  - Social security number,
  - Driver's license number or other identification number, or
  - Account number or credit/debit card number with the access code or password.
- **Privacy Board:** The NYU Langone Health IRB is designated as the Privacy Board. The Privacy Board is responsible for reviewing Research protocols involving the waiver or alteration of Authorizations.
- **Privacy Officer:** refers to the NYU Langone Health designated HIPAA Privacy Officer, who is responsible for overseeing compliance with HIPAA policies and procedures. The

Privacy Officer is a member of the Office of Internal Audit, Compliance, and Enterprise Risk Management.

- **Protected Health Information or PHI:** any individually identifiable health information (including demographic information) created, maintained, received, or transmitted by NYU Langone Health that relates to health status, provision of health care or payment for health care and identifies the individual or there is a reasonable basis to believe it can be used to identify the individual. PHI does not include employment records that a covered entity maintains in its capacity as an employer and education and certain other records subject to the Family Rights and Privacy Act (20 U.S.C. §1232g).
- **Psychotherapy Notes:** are notes by a mental health professional that (1) document or analyze the contents of a conversation during a private counseling session, or during a group, joint, or family counseling session, *and* (2) that are maintained separately from the patient's general medical record. If a mental health professional's notes are for any reason placed in the patient's general medical record, they are no longer Psychotherapy Notes. Psychotherapy Notes do not include medication related information, session start and stop times, and any summary of diagnosis, treatment plan, symptoms, and prognosis.
- **Remuneration:** direct or indirect payment that flows from or on behalf of a third party whose product or service is being described. It does not include payment for the Treatment of an individual. For marketing purposes, remuneration does not include non-financial or in-kind benefits. For sale of Protected Health Information purposes, remuneration does include non-financial or in-kind benefits.
- **Research:** a systemic investigation, including Research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. This includes: basic research studies, clinical trials, or studies involving human subjects.
- **Treatment:** the provision, coordination, or management of health care and related services among health care providers or by a health care provider with a third party, consultation between health care providers regarding a patient, or the referral of a patient from one health care provider to another.
- **Use:** with respect to PHI, means the sharing, employment, application, utilization, examination, or analysis of such information within an entity holding the information.
- **Vendormate:** NYU Langone Health's Vendor Credentialing Program used to streamline the collection and management of key information regarding the business operations and representatives of our suppliers in accordance with hospital and regulatory policy.
- **Waiver or Alteration of Authorization:** the decision of a qualified IRB or Privacy Board, as evidenced by proper documentation, that states the IRB or Privacy Board has waived or altered the HIPAA requirement for patient Authorization and permits NYU Langone Health to Use or Disclose the patient's Protected Health Information for Research purposes.
- **Workforce Member:** employees, trustees, faculty, medical staff, residents, fellows, students, volunteers, trainees, vendors, contractors, consultants, sponsored individuals, agents, and other persons whose conduct, in the performance of work for NYU Langone Health, is under the direct control of NYU Langone Health, whether or not they are paid by NYU Langone Health.

**Related Documents**

All HIPAA Privacy Policies and Procedures

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This version supersedes all NYU Langone Health (as defined in this Policy) previous policies, including but not limited to NYU Hospitals Center, New York University School of Medicine, Lutheran Medical Center, and Winthrop University Hospital.