



Purpose:

Student Health Services/MGA Health Clinic HIPAA Policy/Procedure and Confidentiality Practices

Revision History: Created 3/2020

Definitions:

Business Associate (BA): means a person, contractor, vendor, institution, or other entity that, on behalf of the Health Care Component (HCC), but other than in the capacity of a member of the HCC workforce, performs, or assists in the performance of:

- A function or activity involving the use or disclosure of individually identifiable health information, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, practice management, and re-pricing; or
- Legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for the HCC, or to or for an organized health care arrangement in which the HCC participates, where the provision of the service involves the disclosure of individually identifiable health information from the HCC or arrangement, or from another business associate of the HCC or arrangement, to the person.

Disclosure: means the release, transfer, provision of access to, or divulging in any manner of information outside the entity holding the information.

Health Care means care, services, or supplies related to the health of an individual. Health care includes, but is not limited to, the following:

- Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual, or that affects the structure or function of the body; and
- The sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.

Health Information means any information, including genetic information, whether oral or recorded in any form or medium, that:

- 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
- 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.

HIPAA: Health Insurance Portability and Accountability Act (1996)

Hybrid Entity: means a single legal entity that is a covered entity, whose business activities include both covered and non-covered functions; and that designates health care components. USG is a Hybrid Entity.

FERPA: Family Educational Rights and Privacy Act (1974)

Individually Identifiable Health Information (IIHI) means health information, including demographic information collected from an individual, that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

PHI: means individually identifiable health information that is transmitted by or maintained in or by electronic media; or transmitted or maintained in any other form or medium; except for individually identifiable health information in:

- Education records covered by the Family Educational Rights and Privacy Act (FERPA);
- Student health records made or maintained by a physician or other health care professional which are used only in connection with the provision of treatment to the student and which are not available to anyone other than persons providing such treatment or other health care professional who has been asked to review such records by the student; and
- Employment records held by USG in its role as employer.

Exceptions: Health information on students is not PHI when it constitutes an education or a “treatment record” under the FERPA Act. Please contact University Counsel with questions about the interplay between HIPAA/FERPA

Covered function: means those functions of a covered entity the performance of which makes the entity a health plan, a health care provider or a health care clearinghouse. MGA Health Clinic engages in covered functions (HIPAA) regarding non-student patient encounters/treatment/health services within the *hybrid* entity of USG

Covered entity: means a health plan, a health care clearinghouse, or a health care provider who transmits any health information in electronic form in connection with furnishing, billing, or receiving payment for health care. Entities may include physician, nurse practitioner, business associate, partners, emergency medical services/transport staff, and hospitals.

Use: means, with respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within the entity that maintains such information.

Workforce: means employees, including temporary agency or contract employees, health care professionals, including medical students and interns, volunteers, trainees, and other persons whose conduct, in the performance of work for the HCC, or a component of the HCC, is under the direct control of USG, whether or not they are paid by USG.

EMR: Electronic Medical Records, sometimes referred interchangeably as Electronic Health Records/EHR

SHS: Student Health Services

MGA: Middle Georgia State University

USG: University System of Georgia

USO: University System Office

NP: nurse practitioner

Persons affected:

All staff, covered entities, and patients of Middle Georgia State University Student Health Services, University System of Georgia

Context:

HIPAA Identifiers

The Health Insurance Portability and Accountability Act (HIPAA) privacy rule sets forth policies to protect all individually identifiable health information that is held or transmitted. These are the 18 HIPAA Identifiers that are considered personally identifiable information. This information can be used to identify, contact, or locate a single person or can be used with other sources to identify a single individual. When personally identifiable information is used in conjunction with one's physical or mental health or condition, health care, or one's payment for that health care, it becomes Protected Health Information (PHI).

(A) Names

(B) All geographic subdivisions smaller than a state, including street address, city, county, precinct, ZIP code, and their equivalent geocodes, except for the initial three digits of the ZIP code if, according to the current publicly available data from the Bureau of the Census:

- (1) The geographic unit formed by combining all ZIP codes with the same three initial digits contains more than 20,000 people; and
- (2) The initial three digits of a ZIP code for all such geographic units containing 20,000 or fewer people is changed to 000

(C) All elements of dates (except year) for dates that are directly related to an individual, including birth date, admission date, discharge date, death date, and all ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older

(D) Telephone numbers

(L) Vehicle identifiers and serial numbers, including license plate numbers

(E) Fax numbers

(M) Device identifiers and serial numbers

(F) Email addresses

(N) Web Universal Resource Locators (URLs)

- (G) Social security numbers
- (O) Internet Protocol (IP) addresses
- (H) Medical record numbers
- (P) Biometric identifiers, including finger and voice prints
- (I) Health plan beneficiary numbers
- (Q) Full-face photographs and any comparable images
- (J) Account numbers
- (R) Any other unique identifying number, characteristic, or code, except as permitted by paragraph (c) of this section
- (K) Certificate/license numbers

If a communication contains any of these identifiers, or parts of the identifier, such as initials, the data is to be considered “identified”. To be considered “de-identified”, ALL of the 18 HIPAA Identifiers must be removed from the data set.

FERPA Personally Identifiable Information:

"Personally Identifiable Information" The term includes, but is not limited to—

- (A) The student’s name
- (B) The name of the student’s parent or other family members
- (C) The address of the student or student’s family
- (D) A personal identifier, such as the student’s social security number, student number, or biometric record
- (E) Other indirect identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name
- (F) Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty
- (G) Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

For the purpose of these procedures, employee records and student records subject to the Family Education Rights and Privacy Act are specifically excluded from the definition of a health records.

Procedures:

Maintenance and Review of Health Care Records

Except as noted below, it is the policy of MGA to allow individuals to inspect and obtain copies of their own health information and to request the amendment of their health information which is maintained by or at MGA. Additionally, MGA allows individuals to request information regarding disclosures of their health information made by MGA to third parties.

For purposes of these policies and procedures, employee records and student records subject to the Family Educational Rights and Privacy Act are specifically excluded from the definition of "health record".

Individuals will typically be denied access to information contained in psychotherapy notes, or to information that was obtained from a non-MGA source under an agreement of confidentiality. MGA may otherwise choose to deny access to certain health information contained in the health record if, in the judgment of a licensed health care professional, such access could cause harm to the individual or to another person.

MGA will allow an individual to amend information in their health record where the information in question was created by MGA and is inaccurate or incomplete. Otherwise, MGA may allow an individual to request an amendment of their health record, which may be reviewed by a licensed health care professional at the requestor's expense. Amendment requests should be directed in writing to MGA's Director of Student Health Services, who will, after appropriate consultations and investigation, make a recommendation to the Vice President for Student Affairs regarding the requested amendment. The Vice President shall, after receiving the recommendation and within a reasonable time, determine whether to grant the amendment request. If the request is denied, MGA will provide the individual a written explanation and allow the individual to submit a statement of disagreement to become a part of their health record. The Vice President's decision may be appealed to the President of the University.

Except for health care information released pursuant to a signed authorization or otherwise exempted by statute, MGA will, upon request, provide an individual with information regarding the release of their identifiable health information to third parties that was made for purposes other than treatment, payment, and healthcare operations (as defined in HIPAA). Reasonable attempts will be made to provide this information in a format requested by the individual. Otherwise, it may be provided in any format mutually agreed upon.

Requests for access to health information, requests to amend health information, or requests for an accounting of disclosure of health information shall be in writing and shall be made to MGA's Director of Student Health Services. Initial responses to such requests typically will occur within thirty days of an access request or sixty days in the case of request for amendment or for an accounting of disclosure. In the event of denial, the response will include an explanation of the denial and will inform the individual of their right to and the process for appeal. MGA may, at its discretion, charge a requestor a fee not to exceed the actual cost of compiling, copying, and mailing requested information.

Security

Each healthcare record maintained by MGA in physical form will be kept appropriately secured in a locked location. Each electronic healthcare record maintained by MGA shall be kept in a secure

environment and protected by appropriate electronic safeguards. Protected health information stored in computers is to be password protected. Passwords are individual specific and are not to be shared by or accessible to more than one individual.

Electronic transmission devices, including computers, telefax machines, and other electronic equipment over which protected health information may be received or transmitted are to be maintained in secure sites and/or away from public access. Computer screens containing protected health information are to be inaccessible to public view. Computers that store protected health information are to be secured before being left unattended.

Health information may only be accessed by authorized personnel. With the exception of the use and disclosure of health information directly related to treatment and to the extent practicable, access to health information by MGA employees or other authorized personnel is restricted to the minimum necessary to execute their job responsibilities. It is the responsibility of each MGA department, division or unit to identify those persons or classes of persons who are authorized to access, use or disclose health information and specifically to identify to what health information to which they may have access.

Physical access to controlled areas and user accounts that provide access to protected health information are to be revoked upon the termination of an employee, student, or trainee or when others, such as contractors and vendors, no longer require access.

The unauthorized access to or unauthorized use or disclosure of health information that exists in any MGA health record may subject the responsible employee, student, or trainee to disciplinary action up to and including termination of employment or suspension or expulsion from a student or trainee program. This extends to the unauthorized use or disclosure of health information that is overheard during the course of business or health information that is otherwise learned or secured by any MGA employee, student or trainee by virtue of their employment or academic or training association with MGA.

MGA departments that become aware of the unauthorized use or disclosure of protected health information that causes or reasonably could cause harm should immediately report the incident to the MGA Privacy Officer, the Vice President for Student Affairs, the Director of Human Resources, or MGA's University Counsel. These officials will work with USG officials, to the extent practicable, to attempt to minimize the known harmful effects and/or correct known instances of harm. In any case of a breach of unsecured PHI, MGA will follow HIPAA breach notification requirements.

All MGA employees, students, or trainees who may use, disclose, or have access to identifiable health information contained in any health record must, as a condition of continued employment or training, complete a training program that outlines employee responsibility and patient rights under the statutory privacy regulations contained in HIPAA.

Any written records of required actions, activities or assessments will be retained for a minimum of ten years.

Permitted Uses and Disclosure of PHI

It is the policy of MGA that an individual's identifiable health information may only be used within MGA or disclosed to entities outside MGA after notification to and/or with the expressed permission of the individual, except in cases of emergency/health/safety threat or where specifically permitted or required by law. Access to health information maintained by MGA is limited to those who have a valid business or medical need for the information or otherwise have a right to know the information. With the exception of

purposes related to treatment, access to an individual's health information or the use or disclosure of an individual's health information must, to the extent practicable, be limited to only that necessary to accomplish the intended purpose of the approved use, disclosure or request.

Information maintained by MGA for purposes related to the administration of a University System health plan will not be used for employment related purposes, including but not limited to, annual evaluations, employee discipline, promotion, retention or termination. MGA strictly segregates functions related to health plan administration from employment decisions.

An individual's health information may be used by MGA for treatment, payment, and healthcare operations (as defined by HIPAA) after MGA has provided to the individual a copy of these policies and procedures and has made a good faith effort to obtain an acknowledgment of its receipt. Additionally, MGA may use an individual's health information for other purposes or may disclose an individual's health information to external entities for other purposes upon obtaining a valid authorization from the individual giving permission for that stated use or disclosure. Further, MGA may use and disclose an individual's health information without prior permission or authorization where the health information has been sufficiently "de-identified", so as to hide the identity of the individual(s), is part of a "limited data set", or for other uses where allowable by law.

Health information may be used or disclosed without an individual's acknowledgment of receipt of these policies and procedures in the event of an emergency or where a communications barrier makes prior permission or notification impossible.

From time to time, MGA may disclose identifiable health information to other entities for use by the individual for treatment. Further, MGA may disclose identifiable health information to other entities to assist the individual in obtaining payment and, under limited circumstances, may disclose identifiable health information to other entities for purposes associated with healthcare operations.

Communication of Health Information

It is the policy of MGA to inform individuals about MGA's privacy practices as they relate to health information that may be maintained by MGA in order to safeguard health information in MGA's possession, and, to the extent practicable, to protect the communication of health information, including oral information, from intentional or unintentional use or disclosure. It is further MGA's policy to accommodate, to the extent practicable, the requests of individuals regarding the place, time, and method of communicating to them their own health information. Information related to health documents/medical records is provided to all patients with initial encounter forms and posted in a visible location at the front desk, with unlimited copies of Privacy Practices/Patient Rights and Responsibilities available by request at any time.

MGA will publicly disseminate these policies and procedures and make a good faith effort to receive an acknowledgment of such receipt prior to the first date of employment or student training. MGA will not knowingly use or disclose health information in a manner inconsistent with these policies and procedures, except to the extent that emergency patient care would be compromised. MGA reserves the right to amend these policies and procedures as deemed necessary or advisable and, to the extent and in a manner practicable, will inform individuals of material changes to these policies and procedures. These policies and procedures constitute an official policy statement and may not be amended, or otherwise altered, by any area of MGA without the approval of an authorized MGA official.

Health information that is communicated in any form is to be treated as confidential and in a manner that reasonably protects the communication from being intentionally or unintentionally overheard or intercepted by those who do not have a need or right to know the information. It is the responsibility of each MGA department, division or unit to implement practices that protect the confidentiality of oral, written and electronic communications.

To the extent practicable, MGA will accommodate the written request of an individual to have their health information communicated to them at a time, place, and in a manner of their choosing. If the request is impractical or impossible for MGA to accommodate, this will be clearly communicated to the individual requesting the accommodation.

MGA will recognize personal representatives authorized by individuals, the courts, or by state law for purposes of communicating health information. Personal representatives may be parents or legal guardians of minor children or persons who are legally authorized or specifically identified by individuals, such as a close friend or family member, to act on behalf of the individual. MGA may, without prior authorization of an individual, and where necessary due to emergency or other professionally sound reason, communicate health information with persons directly involved in the care of the individual. MGA may refuse to provide information to personal representatives, or to the individuals themselves, where it is determined that access to the information may be detrimental to or otherwise not in the best interest of the individual, may endanger or breach the confidentiality of a third party or is precluded by statute.

Violation of this policy or negligence on behalf of any MGA employee or student or trainee resulting in or having the potential to result in the unauthorized release of identifiable health information may result in disciplinary action up to and including termination of employment or suspension or expulsion from a student or trainee program.

Notification and Authorization

It is the policy of MGA that an individual's identifiable health information may typically only be used or disclosed pursuant to notification to and/or permissions granted by the individual, unless otherwise permitted or required by statute.

MGA will provide individuals with a copy of these policies and procedures prior to the commencement of employment or training, unless an emergency or a communications barrier makes providing or obtaining these policies and procedures impossible or impracticable, and will make a good faith effort to obtain acknowledgment of its receipt.

Except in emergency situations where patient care might be compromised, MGA will not use or disclose identifiable health information in a manner inconsistent with these policies and procedures.

Only approved forms may be used for providing notification and no additions, deletions, or modifications may be made to the forms without the approval of an authorized MGA official.

MGA allows individuals to request restrictions on the use and disclosure of their health information for treatment, payment, and healthcare operations. Following review by authorized MGA personnel, MGA may choose not to agree to the requested restrictions. MGA will adhere, however, to any restrictions to which it agrees.

Acknowledgments of receipt of these policies and procedures will be retained by MGA for a minimum of ten years. Any agreed upon restrictions arising out of a notification will remain in effect until revoked by the individual or until the individual is notified by MGA that MGA will no longer honor the agreed upon restrictions.

In the event MGA receives more than one authorization or permission from an individual that appear to be in conflict with each other, MGA will abide by the more restrictive patient permission, until the conflict is resolved. MGA will attempt to determine the true intentions the affected individual and thus resolve the conflicting permissions as soon as is practicable.

An individual's health information may be used or disclosed by MGA for purposes other than treatment, payment, and health care operations, such as for research. Use and disclosure for such purposes requires a valid, signed authorization specifically detailing what information will be used or disclosed, how and by whom the information will be used or disclosed, and during what time period the information will be needed or a statement indicating there is no defined duration.

Authorizations are valid only for the conditions outlined in the document and may not be used for any purpose or purposes not specifically stated and agreed to by the signing individual. MGA will allow an individual to revoke his or her authorization at any time by submitting a written request. However, any such revocation shall not be retroactive to the extent that MGA has already relied and acted on a prior authorization.

Additional Resources:

<https://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/index.html>

https://www.usg.edu/legal/hipaa/policies_procedures_for_hipaa_compliance

<https://policies.mga.edu/policy-manual/section-10-records/10-6-MGA-privacy-policy.php>

<https://policies.mga.edu/policy-manual/section-4-student-affairs/4-1-student-handbook-code-of-conduct/4-1-1-Student-Resources/4-1-1-19-health-services.php>

<https://www.mga.edu/health-clinic/index.php>

<https://www.hhs.gov/sites/default/files/2019-hipaa-ferpa-joint-guidance-508.pdf>

<https://policies.mga.edu/policy-manual/section-4-student-affairs/4-1-student-handbook-code-of-conduct/index.php>

https://www.mga.edu/technology/docs/Incident_Response_Procedures.pdf

<https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/permitted-uses/index.html>

<https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/model-notices-privacy-practices/index.html>

https://www.hhs.gov/sites/default/files/exchange_treatment.pdf

https://www.hhs.gov/sites/default/files/exchange_health_care_ops.pdf

https://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/understanding/special/emergency/final_hipaa_guide_law_enforcement.pdf

https://www.usg.edu/records_management/schedules/all_schedules

<https://www2.ed.gov/policy/gen/guid/fpco/pdf/ferparegs.pdf>

Attachments:

Refer to the following documents/links:

https://www.mga.edu/health-clinic/docs/Patient_Rights_and_Responsibilities.pdf

https://www.mga.edu/health-clinic/docs/HIPAA_Notice_of_Privacy_Practices.pdf

https://www.mga.edu/health-clinic/docs/Records_Release.pdf

https://www.mga.edu/technology/docs/Incident_Response_Procedures.pdf

Student Assistant Confidentiality Agreement (PDF only)