



# HIPAA HYBRID COVERED ENTITY DECLARATION

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# Table of Contents

Declaration	1
Definitions that Apply to this Declaration	2
Business Associate	2
Covered Entity	3
Covered Functions	3
Covered Transaction	3
Electronic Media	4
Electronic Protected Health Information (ePHI)	4
Health Care Component	4
Hybrid Entity	4
Individually Identifiable Health Information	4
Protected Health Information (PHI)	5
Regulatory Basis for the Function of a Hybrid Entity	6
Designation of Health Care Covered Components	7
References	8



# Declaration

The Health Insurance Portability and Accountability Act (HIPAA) was passed in 1996 with the goal of protecting the private information of individuals receiving health care. Utah State University (USU) hereby declares that it operates as a Covered Entity that qualifies as a Hybrid Entity under HIPAA. In accordance with 45 CFR 164.105(c)(1) and (2), this declaration designates a list of the units within USU that carry out Covered Functions and are considered Health Care Component as defined in 45 CFR, Part 160.103. This declaration shall be in effect continuously, and shall be reviewed annually to maintain an accurate list of Health Care Components

## Definitions that Apply to this Declaration

### **BUSINESS ASSOCIATE**<sup>i</sup>

(1) Except as provided in paragraph (2) of this definition, Business Associate means, with respect to a Covered Entity, a person who:

(i) On behalf of such Covered Entity or of an organized health care arrangement<sup>ii</sup> in which the Covered Entity participates, but other than in the capacity of a member of the workforce of such Covered Entity or arrangement, performs, or assists in the performance of:

(A) 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 repricing; or

(B) Any other function or activity regulated by this subchapter; or

(ii) Provides, other than in the capacity of a member of the workforce of such Covered Entity, legal, actuarial, accounting, consulting, data aggregation,<sup>iii</sup> management, administrative, accreditation, or financial services to or for such Covered Entity, or to or for an organized health care arrangement in which the Covered Entity participates, where the provision of the service involves the disclosure of Individually Identifiable Health Information from such Covered Entity or arrangement, or from another Business Associate of such Covered Entity or arrangement, to the person.

(2) A Covered Entity participating in an organized health care arrangement that performs a function or activity as described by paragraph (1)(i) of this definition for or on behalf of such organized health care arrangement, or that provides a service as described in paragraph (1)(ii) of this definition to or for such organized health care arrangement, does not, simply through the performance of such function or activity or the provision of such service, become a Business Associate of other covered entities participating in such organized health care arrangement.

(3) A Covered Entity may be a Business Associate of another Covered Entity.

## COVERED ENTITY

A Health Plan, Health Care Clearinghouse, or Health Care Provider who transmits any health information in electronic form in connection with a Covered Transaction.<sup>iv</sup>

(1) **Health Plan:** With certain exceptions, an individual or group plan that provides or pays the cost of medical care.<sup>v</sup>

(2) **Health Care Clearinghouse:** A public or private entity, including a billing service, repricing company, community health management information system or community health information system, and “value-added” networks and switches that either process or facilitate the processing of health information received from another entity in a nonstandard format for the receiving entity.

(3) **Health Care Provider:** A provider of services, a provider of medical or health services, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business.<sup>vi</sup>

## COVERED FUNCTIONS

Those functions of a Covered Entity the performance of which makes the entity a Health Plan, Health Care Provider, or Health Care Clearinghouse.<sup>vii</sup>

## COVERED TRANSACTION

The transmission of information between two parties to carry out financial or administrative activities related to health care and includes the following transmissions:

- (1) Health care claims or equivalent encounter information
- (2) Health care payment and remittance advice
- (3) Coordination of benefits
- (4) Health care claim status
- (5) Enrollment and disenrollment in a Health Plan
- (6) Eligibility for a Health Plan
- (7) Health Plan premium payments
- (8) Referral certification and authorization
- (9) First report of injury
- (10) Health claims attachments
- (11) Health care electronic funds transfers (EFT) and remittance advice

(12) Other transactions prescribed by regulation

## **ELECTRONIC MEDIA**

(1) Electronic storage material on which data is or may be recorded electronically, including, for example, devices in computers (hard drives) and any removable/transportable digital memory medium such as magnetic tape or disk, optical disk, or digital memory card; or

(2) Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the Internet, extranet or intranet, leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media. Certain transmissions, including paper, via facsimile, and of voice, via telephone, are not considered to be transmissions via Electronic Media if the information being exchanged did not exist in electronic form immediately before the transmission.

## **ELECTRONIC PROTECTED HEALTH INFORMATION (ePHI)**

Individually Identifiable Health Information transmitted by or maintained in Electronic Media.

## **HEALTH CARE COMPONENT**

A component or combination of components of a Hybrid Entity designated by the Hybrid Entity.<sup>viii</sup>

## **HYBRID ENTITY<sup>ix</sup>**

A single legal entity that:

- (1) Is a Covered Entity
- (2) Conducts both Covered and Non-Covered functions, and
- (3) Designates Health Care Components<sup>x</sup>

## **INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION**

Information that is a subset of health information, including demographic information collected from an individual, and:

(1) Is created or received by a Health Care Provider, Health Plan, employer, 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 past, present, or future payment for the provision of health care to an individual; and

(i) That identifies the individual or

(ii) With respect to which there is a reasonable basis to believe the information can be used to identify the individual.

### **PROTECTED HEALTH INFORMATION (PHI)**

Individually Identifiable Health Information that is transmitted by or maintained in Electronic Media or any other form or medium. PHI excludes Individually Identifiable Health Information in:

- Family Educational Rights and Privacy Act (FERPA) Education records<sup>xi</sup>
- Other FERPA-covered Records<sup>xii</sup>
- Employment records held by a Covered Entity in its role as employer

Records pertaining to individuals who have been deceased for more than 50 years.

## Regulatory Basis for the Function of a Hybrid Entity

Health Care Components of a Hybrid Entity <sup>xiii</sup> are subject to the provisions of HIPAA, while non-covered components are not. This distinction allows USU units that are not acting as Health Care Providers or as Health Plans to collect and use data that might otherwise be considered PHI without conforming to restrictions as set forth in HIPAA. However, when units at USU function as Health Care Components, they must provide safeguards<sup>xiv</sup> as follows:

(A) Its Health Care Components do not disclose PHI to another component of the Covered Entity in circumstances in which the Privacy Rule would prohibit such disclosure if the health care component and the other component were separate and distinct legal entities;

(B) Its Health Care Components protect electronic PHI with respect to another component of the Covered Entity to the same extent that it would be required under the Security Rule to protect such information if the health care component and the other component were separate and distinct legal entities; and

(C) If a person performs duties for both the Health Care Component in the capacity of a member of the workforce of such component and for another component of the entity in the same capacity with respect to that component, such workforce member must not use or disclose PHI created or received in the course of or incident to the member's work for the health care component in a way prohibited by Privacy Rule.



## Designation of Health Care Covered Components

The following components of the University are designated as Health Care Components under the regulations based on their carrying out Covered Functions:

Name Of Health Care Component	Department/Organization
Adult Balance	Communicative Disorders & Deaf Education (ATHC – Athletics Academics Complex)
Adult Hearing Center	Communicative Disorders & Deaf Education
Biomedical Clinic	Center for Persons with Disabilities
Clinical Services	Center for Persons with Disabilities
Marriage and Family Therapy	Family Child Human Development
Memory Clinic	Center for Persons with Disabilities
Pediatric Hearing Center	Communicative Disorders & Deaf Education (ECERC - Early Childhood Education & Research Center)
Psychology Community Clinic	Psychology Department
Speech Clinic	Communicative Disorders & Deaf Education
Up to 3 Early Intervention	Center for Persons with Disabilities
Human Resources – Employee Health Plan	USU Eastern Human Resources
Student Health and Wellness Clinic	Student Services
Human Resources – Employee Health Plan	USU Human Resources
Athletic Sports Medicine	Athletic Department
Athletics/ Sports Medicine	Price Athletic Department
Supporting University Entities	Department/Organization
USU IT Network	Office of Information Technology
Internal Audits	Internal Audits

## References

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- i Department of Health and Human Services 45 CFR 160.103 Definitions
  - ii Privacy of Individually Identifiable Health Information Definitions 164.501
  - iii Privacy of Individually Identifiable Health Information Definitions 164.501
  - iv Department of Health and Human Services 45 CFR 160.103 Definitions
  - v 2791(a)(2) of the Preventive Health Services Act, 42 U.S.C. 300gg-91(a)(2)
  - vi 1861(u) of the Preventive Health Services Act, 42 U.S.C. 1395x(u)
  - vii Department of Health and Human Services 45 CFR 164.103 Definitions
  - viii Department of Health and Human Services 45 CFR 164.103, .105 Definitions and Organizational requirements
  - ix Department of Health and Human Services 45 CFR 164.103 Definitions
  - x Department of Health and Human Services 45 CFR 164.105(a)(2)(iii)(D)
  - xi Family Educational Rights and Privacy Act (FERPA) 20 U.S.C. 1232g
  - xii Family Educational Rights and Privacy Act (FERPA) 20 U.S.C. 1232g(a)(4)(B)(iv)
  - xiii Department of Health and Human Services 45 CFR 164.105 Organizational requirements
  - xiv Department of Health and Human Services 45 CFR 164.105 Organizational requirements