INSTITUTIONAL GME POLICY --HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) VIOLATIONS
Approved by GMEC – May 24, 2013

The Sponsoring Institution endorses Health Information Privacy and enforces the HIPAA Privacy Rule, which protects the privacy of individually identifiable health information and the HIPAA Security Rule, which sets national standards for the security of electronic protected health information.¹

HIPAA Privacy Rule
The HIPAA Privacy Rule protects the privacy of individually identifiable health information, called protected health information (PHI).²

HIPAA Security Rule
The Security Rule protects a subset of information covered by the Privacy Rule, which is all individually identifiable health information a covered entity creates, receives, maintains or transmits in electronic form. Specifically, covered entities must:³

1. Ensure the confidentiality, integrity, and availability of all e-PHI they create, receive, maintain or transmit;
2. Identify and protect against reasonably anticipated threats to the security or integrity of the information;
3. Protect against reasonably anticipated, impermissible uses or disclosures; and
4. Ensure compliance by their workforce.

The Sponsoring Institution and Hawaii Residency Programs, as employer of the residents, have taken security measures to reduce risks and vulnerabilities related to HIPAA.

- Information Access Management: All residents must review and agree to the HIPAA Confidentiality Agreement which includes understanding the use and disclosure of protected health information is limited to the “minimum necessary”. Access is authorized only when it is appropriate based on the user or recipient’s role.

- Workforce Training and Management: All incoming residents are required to attend a training session on HIPAA. This is provided during the Hawaii Residency Program Orientation.

- Workstation and Device Security: All residents must review and agree to the HIPAA Confidentiality Agreement which includes understanding that access codes/cards must not be given to any other individual. In addition, appropriate safeguards will be taken for any confidential information that is used for educational purposes including facially de-identifying information to be used/removed for educational purposes, appropriate use of computer passwords, and appropriate destruction of materials, when warranted.

According to the HIPAA Confidentiality Agreement:

- Residents may not use, disclose or transmit PHI for redisclosure in any manner that would violate the requirements of HIPAA.
Residents will not transmit PHI over the Internet or any other insecure or open communication channel unless the transmission is encrypted using standards in compliance with HIPAA regulations.

Residents will not maintain, store, or transmit electronic PHI in any format that constitutes Unsecured Protected Health Information under the HITECH provisions of HIPAA.

Residents must report activities by any person that he/she suspects may compromise the privacy or security of PHI. Reports made in good faith about such activities will be held in confidence to the extent appropriate for compliance needs.

Residents understand that their obligations under this agreement will continue even after their association with the residency program has ended.

Violations of HIPAA requirements, applicable policies of the Sponsoring Institution and/or applicable HRP policies will subject the resident to disciplinary action, which will be imposed based on the nature of the violation (including severity, whether it was intentional or unintentional, and whether the violation indicated a pattern or practice of improper use or disclosure). Penalties may include, but are not limited to, suspension or termination of residency participation or of access privileges at the healthcare provider’s facility/office and personal legal liability.

Procedure for addressing HIPAA Violations/Breaches

1. **As soon as an incident and/or breach is known** (ie. misplaced patient list, stolen laptop/iPad, misrouted patient information), the following persons **must** be notified:
   a. Program Director/Program Administrator
   b. Office of the DIO/Graduate Medical Education (GME) Administrator
   c. Compliance Officer for the site
   d. Any other personnel of the Sponsoring Institution as may be provided for under the policies of the Sponsoring Institution

2. For stolen property, law enforcement officials (ie. Honolulu Police Department) should be notified and police report completed.

3. If electronic devices were stolen, passwords must be changed as soon as possible. In addition, all data on the device should be remotely deleted.

4. The incident and its circumstances must be documented.

5. Residents should be aware that under certain circumstances, Breaches of Unsecured Protected Health Information are required to be reported to the patient and/or to the Secretary of the Department of Health & Human Services under the HITECH provisions of HIPAA. The Compliance Officer for the site will address according to the site’s policy and procedures.

Sanctions for violations of the HIPAA policies and procedures

As indicated above, HIPAA violations/breaches as well as related breaches of patient privacy or confidentiality will be subject to disciplinary action. At minimum, residents will be placed on Academic Notice for 90 days. With satisfactory performance during that period, a follow-up letter will be placed in the resident file stating that the resident has satisfactorily completed the period of Academic Notice. In addition, the residency program of the affected resident must provide HIPAA training to all their residents within 60 days of the breach.
While Hawaii Residency Programs, Inc. is not organized as a healthcare provider or Covered Entity subject to HIPAA, all residents who perform clinical duties for their residency program sites are healthcare providers, are members of the workforce of the program site (the provider's facility/office) and thus are directly governed by HIPAA. Accordingly, each resident is responsible for understanding and fully complying with the HIPAA policies for the healthcare provider facility/office where the resident is assigned.

References