Policy Summary

1. The units of the UW-Madison Health Care Component and each individual or unit within UW-Madison that is a Business Associate of a covered entity (hereafter collectively referred to as “units”) shall be included in an appropriate Continuity of Operations Plan (COOP) which has been suitably developed or modified to address the standards set forth by the HIPAA Security rule.

2. The COOP documentation and templates provided by the University of Wisconsin Police Department do not explicitly address the specific needs of a unit that stores or processes ePHI. The following components must be included in a COOP in order to meet the requirements of the HIPAA Security rule. The COOP must:

   2.1 Establish and implement procedures to create and maintain retrievable exact copies of ePHI.

   2.2 Establish (and implement as needed) procedures to restore any loss of ePHI.

   2.3 Establish (and implement as needed) procedures to enable continuation of critical business processes for protection of the security of ePHI while operating in emergency mode.

   2.4 Establish (and implement as needed) procedures for obtaining necessary electronic protected health information during an emergency.

   2.5 Establish and implement procedures to preserve (and as needed restore) documentation needed for compliance with the HIPAA Security rule.

   2.6 Establish and implement procedures that, to the extent practical, preserve (and as needed restore) security audit data needed for compliance with the HIPAA Security rule.

   2.7 Establish (and implement as needed) procedures that allow facility access in support of the procedures established in items 1. to 6. above.

   2.8 Establish and implement procedures for periodic testing and revision of, at a minimum, those components of the COOP that involve or affect items 1. to 7. above.

   2.9 Incorporate into the COOP procedures the assessment of the relative criticality of specific applications and data that store or process ePHI.
3. Responsibility for the procedures listed in I.B. is among the duties of the UW-Madison HIPAA Security Officer and the HIPAA Security Coordinator of each unit, as described in Policy # 8.2 “HIPAA Security Oversight”.

Who This Policy Applies To
Applies to all members of the UW-Madison Health Care Component.

Rationale
In enacting HIPAA, Congress mandated the establishment of Federal standards for the privacy of individually identifiable health information. Under the patchwork of laws existing prior to adoption of HIPAA and the Privacy Rule, personal health information could be distributed—without either notice or authorization—for reasons that had nothing to do with a patient’s medical treatment or health care reimbursement. For example, unless otherwise forbidden by State or local law, without the Privacy Rule patient information held by a health plan could, without the patient’s permission, be passed on to a lender who could then deny the patient’s application for a home mortgage or a credit card, or to an employer who could use it in personnel decisions. The Privacy Rule establishes a Federal floor of safeguards to protect the confidentiality of medical information. State laws which provide stronger privacy protections apply over and above the new Federal privacy standards.

Policy Detail
Each unit should already be covered by the COOP of their school, college or division, (or some other parent organizational entity within UW-Madison.)

1. If the unit is already covered by a COOP, that plan should be modified in order to meet the minimum requirements for a COOP that includes within its scope a unit that stores or processes ePHI, as defined in I.B. above.

2. If the unit not already covered by a COOP, the unit should be included in an existing COOP, develop its own COOP, or participate in the development of a broader COOP that includes the unit. The instructions and templates for development of a COOP are provided by the University of Wisconsin Police Department at: http://uwpd.wisc.edu/continuity-of-operations-plans-coop/.

3. While the COOP described in A. or B. above is being modified or developed, the unit should implement an interim version of the procedures that meet the minimum requirements for a COOP that includes within its scope a unit that stores or processes ePHI, as defined in I.B. above.

Consequences for Non-Compliance
Failing to comply with this policy may result in discipline for the individual(s) responsible for such non-compliance.

Further, the US Department Health and Human Services (HHS) Office for Civil Rights (OCR) is responsible for enforcing the HIPAA Privacy and Security Rules, and an individual’s non-compliance may result in institutional non-compliance and/or an investigation by OCR. OCR attempts to resolve investigations by obtaining voluntary compliance and entering into Corrective Action Plans and Resolution Agreements. Failures to comply with HIPAA or cooperate with OCR in an investigation may result in civil and/or criminal penalties.
Supporting Tools

Additional information may be found at www.compliance.wisc.edu/hipaa

Definitions

1. **Continuity of Operations Plan** ("COOP"): A unit’s COOP is activated if a disaster or emergency severely affects the unit. The plan ensures delivery of essential functions and guides the ‘rebuilding’ of the affected unit.

2. **Electronic Protected Health Information** ("ePHI"): Any individually identifiable health information protected by HIPAA that is transmitted by or stored in electronic media.

3. **Protected Health Information** ("PHI"): Health information or health care payment information, including demographic information collected from an individual, which identifies the individual or can be used to identify the individual. PHI does not include student records held by educational institutions or employment records held by employers.

Responsibilities

HIPAA Privacy Officer
HIPAA Security Officer

Link to Current Policy

[TBD]

Link to Related Policies

https://compliance.wisc.edu/policies-and-forms/

Link to Policy History

N/A

Review / Approval

- HIPAA Executive Board, March 26, 2020