

 <p><b>HAWAII HEALTH SYSTEMS</b> CORPORATION "Quality Healthcare For All"</p> <p><b>POLICY</b></p>	<p>Department:</p> <p><b>Quality Through Compliance</b></p>	<p>Policy No.:</p> <p><b>CMP 026A</b></p>
	<p>Issued by:</p> <p>Audit and Compliance Committee</p>	<p>Revision No.:</p>
<p>Subject:</p> <p><b>Sanctions Policy</b></p>	<p>Approved by:</p> <p><i>Carol VanCamp</i></p> <p>HHSC Board of Directors By: Carol A. VanCamp Its: Secretary/Treasurer</p>	<p>Effective Date:</p> <p>September 19, 2013</p>
		<p>Supersedes Policy:</p>
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Last Reviewed: August 19, 2013. Next Review: August 19, 2016

- I. **PURPOSE:** This Policy is to ensure that appropriate sanctions that will be applied to employees, business associates and/or contract employees of Hawaii Health Systems Corporation (HHSC) who violate HHSC's privacy and security policies and state, federal, or local confidentiality laws or regulations, including, but not limited to, HIPAA.
  
- II. **DEFINITIONS:**

Workforce member: Employees, volunteers, trainees, and other persons who conduct, in the performance of work for a covered entity, is under the direct control of such entity, whether or not they are paid by the covered entity.

Business associate: A person who, on behalf of such covered entity or of an organized health care arrangement in which the covered entity participates, but other than in the capacity of a member of the workforce of such covered entity or arrangement, creates, receives, maintains, or transmits protected health information for a function or activity regulated by HIPAA, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, patient safety activities listed at 42 C.F.R. 3.20, billing, benefit management, practice management, and repricing; or provides, other than in the capacity of a member of the workforce of such covered entity, legal, actuarial, accounting, consulting, data aggregation, 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 protected health information from such covered entity or arrangement, or from another business associate of such covered entity or arrangement to the person.
  
- III. **POLICY:** Pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), a covered entity must take appropriate sanctions against employees who violate HIPAA and its accompanying regulations, including but not limited to the Privacy Rule and the Security Rule, and/or the Privacy and Security policies of HHSC.
  - A. Disciplinary Sanctions – Employees found to have violated protected health information (PHI) disclosure provisions will be disciplined in accordance with HHSC policy up to and including termination of employment. The type of sanction will

depend on the intent of the individual, severity of the violation, and the number of previous violations, if any.

- B. Level of Violation – Sanctions and discipline will follow appropriate HHSC HR Guidelines and discipline up to, and including termination.
- C. Investigation and Disciplinary Process – HHSC policy CMP 009A on investigations will be followed. In addition, all existing Human Resource policies, agreements, and processes will be followed.
- D. Mitigation - HHSC will mitigate, to the extent practicable, any harmful effect that is known to be the result of the use or disclosure of PHI in violation of HIPAA.
- E. Sanctions Exceptions – Sanctions will not apply to disclosures by employees or business associates who are “whistleblowers” or employees who are “crime victims.”
  - 1. Disclosures by Whistleblowers: HHSC is not considered to have violated PHI disclosure requirements if the disclosure is by an employee or business associate as follows:
    - a. The employee or business associate is acting in good faith on the belief that HHSC has engaged in conduct that is unlawful or otherwise violates professional or clinical standards; or
    - b. The employee or business associate is acting in good faith on the belief that the care, services or conditions provided by HHSC potentially endangers one (or more) HHSC patients, employees or members of the general public; and:
    - c. The disclosure is made to a federal or state health oversight agency or public health authority authorized by law to oversee the relevant conduct or conditions of the covered entity; or
    - d. The disclosure is made to an appropriate health care accreditation organization for the purpose of reporting the allegations of failure to meet professional standard or misconduct by HHSC; or
    - e. The disclosure is made to an attorney retained by or on behalf of the employee or business associate for the purpose of determining legal options regarding disclosure conduct.
  - 2. Disclosures by Crime Victims: HHSC is not considered to have violated the uses and disclosures requirement if a member of its workforce who is a victim of a criminal act discloses PHI to a law enforcement official about the suspected perpetrator of the criminal act, and the PHI is limited to the following:
    - a. Name, address, date of birth, place of birth, SSN, ABO blood type and rh factor, type of injury, date/time of treatment, date/time of death, and/or a description of distinguishing physical characteristics.
- F. HHSC will pursue remedies pursuant to the applicable agreement under which the contract employee is a member of our workforce, e.g., exclusion of the employee from HHSC workforce, up to termination of the agreement if warranted.
- G. HHSC facilities shall implement appropriate procedures to implement this Policy.

- IV. **APPLICABILILTY:** This policy applies to all HHSC employees, business associates, and or contract employees.
- V. **AUTHORITY:** Standards for Privacy of Individually Identifiable Health Information (HIPAA), 45 C.F.R., Subtitle A, Subchapter C, Section, 164.502(j), 164.530 (e)(1).
- VI. **ATTACHMENT:** None.