

SANCTIONS FOR VIOLATIONS OF CONFIDENTIALITY: REFRAINING FROM  
INTIMIDATING OR RETALIATORY ACTS (HIPAA)

I. Policy Section

14.0 Risk Management

II. Policy Subsection

14.4

Date of most recent changes

March 24, 2004

III. Policy Statement

Grand Rapids Community College will apply appropriate sanctions against members of our workforce who fail to comply with our policy and procedures or applicable laws protecting the privacy and confidentiality of Protected Health Information (PHI).

IV. Reason for Policy

Compliance to HIPAA mandates

To improve the effectiveness and efficiency of the nation's health care system

V. Entities Affected by this Policy

All employees who administer or process PHI

VI. Who Should Read this Policy

All employees

VII. Related Documents

(See links)

VIII. Contacts

Sharon Gates, Director of Payroll/Fringe Benefits, Privacy Officer

IX. Definitions

HIPAA – Health Insurance Portability & Accountability Act  
PHI – Protected Health Information

X. Procedures

Grand Rapids Community College will apply appropriate sanctions against members of our workforce who fail to comply with our privacy policies and procedures or the requirement of the HIPAA Privacy Rule.

Types of Violations:

1. Inadvertent uses or disclosures of PHI
2. Intentional use or disclosure of PHI
3. Use or disclosure of PHI for personal gain or malice

**Disciplinary Sanctions:**

Discipline for violations will consist of, counseling, verbal warning, written warning, final written warning, suspension, or termination based upon the appropriate level of progressive discipline. Grand Rapids Community College reserves the right to accelerate or modify action depending upon the nature and severity of offense and other factors deemed relevant by the College.

Sanctions will not apply to disclosures that might otherwise constitute violations to rules or laws if they are made by workforce members who:

1. In good faith report an allegation of a failure to meet professional or legal standards, to a health oversight agency or public health authority authorized to investigate the reported conduct; health care accreditation organization, or an attorney retained by or on behalf of the reporting workforce member; or
2. Are victims of crimes reporting those crimes to the appropriate authorities, or
3. File complaints, testify, assist or participate in an investigation, compliance review, proceeding or hearing, with the secretary of Health and Human Services; or
4. Oppose an unlawful practice or act allegedly attributed to our organization, provided the individual has a good faith belief that the practice is unlawful and the manner of opposition is reasonable, and does involve a disclosure of Protected Health Information in violation of HIPAA.

Grand Rapids Community College will not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against any individual for the exercise of any right granted under HIPAA, or for participation by the individual in any process established by HIPAA described above.

### **Reporting and Filing Requirements:**

For all levels of violation, all written documentation relating to the violation and subsequent actions will be kept on file in appropriate administrative files for no less than six (6) years after the date of the final resolution of the violation, or for a period of time specified by our organizations document retention policies or applicable state or federal laws, whichever is longer. The disciplinary action and appropriate documentation shall also be placed in the employee's personnel file. Disciplinary sanctions shall be reported to the applicable professional licensing board as appropriate.

### **Mitigation**

Grand Rapids Community College is required to mitigate to the extent practicable, any harmful effect that is known by the College of a use or disclosure of Protected Health Information that is in violation of its policies and procedures or the requirements of HIPAA or its business associate.

### **Refraining from Intimidating or Retaliatory Acts**

Grand Rapids Community College may not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against any individual for the exercise of any right granted under HIPAA, or for participation by the individual in any process established by HIPAA. Members of our workforce involved in the following activities shall be protected from retaliatory actions.

1. Any individual or other person for:
  - a. Filing of a complaint with the Secretary;
  - b. Testifying, assisting, or participating in an investigation, compliance review, proceeding, or hearing; or
  - c. Opposing any act or practice made unlawful by HIPAA, provided the individual or person has a good faith belief that the practice opposed is unlawful, and the manner of the opposition is reasonable and does not involve a disclosure of Protected Health Information in violation of HIPAA.

### **Disclosures by Whistleblowers and Workforce Member Crime Victims**

1. Grand Rapids Community College is not considered to be in violation of the HIPAA requirements if a member of our workforce or a business associate discloses Protected Health Information, provided that:
  - a. The workforce member or business associate who believes in good faith that our organization has engaged in conduct that is unlawful or otherwise violates professional or clinical standards, or that the care, services, or conditions provided potentially endangers one or more patients, workers, or the public; and

- b. The disclosure is to:
  1. A health oversight agency or public health authority authorized by law to investigate or otherwise oversee the relevant conduct or conditions of an organization or to an appropriate health care accreditation organization for the purpose of reporting the allegation of failure to meet professional standards or misconduct by the covered entity; or
  2. An attorney retained by or on behalf of the workforce member or business associate for the purpose of determining the legal options of the workforce member or business associate with regard to the conduct that is unlawful or violates professional or clinical standards, or that the core services or conditions provided by our entity potentially endangers one or more patients, workers, or the public.

**Disclosures by workforce members who are victims of a crime:**

1. Grand Rapids Community College is not considered to be in violation of HIPAA if a member of our workforce who is the victim of a criminal act discloses Protected Health Information to a law enforcement official, provided:
  - a. The Protected Health Information disclosed is about the suspected perpetrator of the criminal act; and
  - b. The Protected Health Information disclosed is limited to the following information:
    - i. Name and address
    - ii. Date and place of birth
    - iii. Social Security number
    - iv. ABO blood types and rh factor
    - v. Type of injury
    - vi. Date and time of treatment
    - vii. Date and time of death, if applicable
    - viii. Description of distinguishing characteristics, including height, weight, gender,
    - ix. Race, hair and eye color, presence or absence of facial hair, scars and tattoos.

XI. Forms

N/A

