

ST. JOSEPH'S HEALTHCARE SYSTEM  
ADMINISTRATIVE POLICIES AND PROCEDURES

Effective Date: December 14, 2007      Reference: 1625      Page: 1 of 2

Supersedes: December 14, 2007      Section / Reference:

Reviewed / Revised: September 4, 2008

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SUBJECT: SANCTIONING EMPLOYEES WHO VIOLATE HIPAA POLICIES

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**PURPOSE**

St. Joseph's Healthcare System (SJHS) has established and will apply appropriate sanctions against members of its workforce who fail to comply with the organization's policies and procedures. This policy is designed to give guidance and ensure compliance with all applicable laws and regulations related to sanctioning for violating SJHS policies and procedures. Under the Health Insurance Portability and Accountability Act, penalties for misuse or misappropriation of health information include both civil monetary penalties and criminal penalties. Civil penalties range from \$100 for each violation to a maximum of \$25,000 per year for the same violations. Criminal penalties vary from \$50,000 and/or one year imprisonment to \$250,000 and/or ten years imprisonment (42 U.S.C. §§ 1320d-5 and 1320d-6).

**LEGAL/REGULATORY CITES**

**45 C.F.R. § 164.308(C)**

**POLICY**

1. SJHS will apply appropriate sanctions against members of its workforce who fail to comply with the SJHS policies and procedures; after educational briefings.
2. The type of sanction applied shall vary depending on the severity of the violation, whether the violation was intentional or unintentional, whether the violation indicates a pattern or practice of improper access, use or disclosure of health information, and similar factors.
3. Employees, agents, and other contractors should be aware that violations of a severe nature may result in notification to law enforcement officials as well as regulatory, accreditation, and/or licensure organizations.
4. The policy and procedures contained herein do not apply specifically when members of SJHS workforce exercise their right to:
  - a. file a complaint with DHHS;
  - b. testify, assist, or participate in an investigation, compliance review, proceeding, or hearing under Part C of Title XI;
  - c. oppose any act made unlawful by the HIPAA Security rule; provided the individual or person has a good faith belief that the act opposed is unlawful, and the manner of the opposition is reasonable and does not involve a disclosure of electronic protected health information in violation of the HIPAA Security rule;

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- d. disclose electronic protected health information as a whistleblower and the disclosure is to a health oversight agency; public health authority; or an attorney retained by the individual for purposes of determining the individual's legal options with regard to the whistleblower activity; or
  - e. an employee who is a victim of a crime and discloses protected health information to a law enforcement official, provided that the protected health information is about a suspected perpetrator of the criminal act; and is limited to the necessary information.
5. The Vice President of Human Resources in conjunction with the Compliance Officer, and specific Departmental Director are responsible for determining the severity of sanctions necessary.
  6. All sanctioning of employees will be documented and retained for a period of at least 6 years from the date of its creation or the date when it was last in effect, whichever is later.
  7. Personnel are hereby advised that in addition to the sanctions outlined in this document, civil and/or criminal penalties may apply.

**PROCEDURES**

1. Human Resources will investigate any allegations of wrongful actions and determine and apply the appropriate sanction(s) in conjunction with the Compliance Officer.
2. Failure to comply with SJHS policies or procedures or with the requirements of HIPAA regulations will be subject to disciplinary action pursuant to Human Resources sanction policies 701 and 406.
3. All investigations and sanctioning actions will be documented by Human Resources and securely stored.