It is the policy of UC San Diego Health to protect the privacy and confidentiality of restricted information, including personally identified information (PII) and protected health information (PHI). When using a fax machine to transmit restricted information, workforce members must use appropriate safeguards, such as:

- Use a fax cover sheet with confidentiality language and the sender’s / receiver’s contact information;
- Verify the recipient’s fax number prior to transmitting documents;
- Transmit to a secure fax location;
- Limit the fax to the minimum number of pages for the intended business purpose;
- Do not include restricted information on the fax cover sheet;
- Promptly report misdirected faxes involving restricted information to the UCSD Health Sciences Privacy Office at 858.657.7487 or as an iReport event (Category: Confidentiality).

The Privacy Office will investigate the incident and advise the sender on all corrective actions to promote accurate faxing and prevent re-occurrence. To learn more, review UCSD Health Policy, MCP 18.2, Faxing Protected Health Information.

PROVIDING PHI TO INDIVIDUALS

Before giving documents to patients, such as the After Visit Summary (AVS), check that you are handing the correct document to the correct patient. The AVS contains sensitive patient information such as diagnoses and medications. Documents given to the wrong individual may lead to a breach in patient privacy.
In order to reduce potential risks and vulnerabilities, all workforce members must follow all policies and procedures, and entities must ensure that incidents are reported and mitigated in a timely manner.

UCSD Health Sciences Compliance Program is committed to actively educating our faculty and staff on the rules and implications of HIPAA. All UCSD Health employees are required to complete mandatory compliance trainings each year. Completion of the 2015 Annual Compliance Training was due on or before June 26, 2015 for all UCSD Health employees and faculty (including Medical Center and Professional School employees). If you have yet to complete the required training, please log-in to UCLearning as soon as possible to complete your training. Once logged in, you can access the module by searching for “2015 Annual Compliance Training” if you are not already registered for the course. Any questions on registration can be directed to Tamitha Mueller, Learning Management System Specialist, at trmueller@ucsd.edu.

Vigilance in preventing privacy breaches starts with our employees. In addition to the trainings offered, there are multiple resources available to assist with related topics, including encryption of personal devices which may be used to access PHI. See the June 2015 Compliance Newsletter for guidance on your responsibility for protecting your devices. As a reminder, details on how to secure your mobile device can be accessed on Blink here and also at UCSD HS Information and Technology.

If you or someone you know has reason to believe that a privacy violation may have occurred, please contact Cheryl Nikas, Privacy Program Manager, at (858) 657-7487 or via email at hscomply@ucsd.edu.
INFORMATION SECURITY RESOURCES

Computer and Network Security

UCSD Network Security

Identify Phishing Scams

Cloud Security and Your Data

INFORMATION SECURITY: PHISHING RISKS & CLOUD SECURITY

Phishing Risks -- Any Link Could Lead to Compromise
Think twice before clicking on any links in email messages. Just like a letter in the mail, emails are easy to fake and offer no guarantee of the sender.

Cloud Security
Do not store Restricted Information (RI) in the Cloud, such as Dropbox, OneDrive, Google Apps, iDrive, EverNote, and SurveyMonkey. Check with the Information Security Office before using any Cloud services to determine if a UC HIPAA Business Associate Agreement (BAA) is in place and encrypt the files prior to upload. Read Blink’s "Guidelines for Cloud Computing".

DATA BREACHES IN THE NEWS...

University of Virginia Breach
The University of Virginia (UVa) has acknowledged that attackers breached some of its IT systems. The school took down its systems on Friday, August 14, to perform a security upgrade; systems were restored in Sunday, August 16. All users will be required to change their passwords. The attack reportedly focused on the email accounts of two UVa employees whose work is related to China. For information on the breach, click here.

UCLA Health System
UCLA Health was the target of a criminal cyber attack which may have placed some patients' personal information at risk. UCLA Health is working with the Federal Bureau of Investigation and computer forensic experts to continue to investigate the attack. There is no information currently available which indicates the hackers actually accessed or used the personal or medical information, but the investigation remains ongoing. For more information about the attack and services available to impacted patients, click here.
On July 1, 2015, the Centers for Medicare & Medicaid Services (CMS) released proposed revisions to the Hospital Outpatient Prospective Payment System (OPPS) and the Ambulatory Surgical Center (ASC) Payment System for 2016. Under the initial passage of the rule (CMS-1599-F), inpatient admissions were billable to Medicare Part A if the admitting physician reasonably expected that the patient would require a hospital stay that spanned at least two midnights, which would be supported by the medical record. Although scheduled to go into effect on October 1, 2013, a moratorium of full enforcement was put in place until September 30, 2015.

The revisions would impact the “2-Midnight Rule” by allowing inpatient hospital reimbursement for certain short inpatient stays through Medicare Part A on a case by case basis. Such shorter, inpatient stays would be reimbursable by Medicare Part A where the admitting physician determines that the patient will need less than two midnights of inpatient care but will require formal admission to the hospital on an inpatient basis. Any such determinations would require careful documentation and must be supported by complex medical factors. The proposal has no impact on the current presumptions in place for inpatient stays lasting less than 24 hours or stays spanning at least two midnights. Further, no changes are issued with respect to the review of stays under two midnights billed to Medicare Part A, as these stays will still be subject to medical review by Medicare Administrative Contractors (MACs) and Recovery Audit Contractors (RACs). While the flexibility of the proposed changes have been well received, healthcare providers are concerned at the lack of clear, objective standards in evaluating the appropriateness of these shorter-term stays.

CMS has declined to extend the moratorium of full enforcement beyond September 30, 2015, even though the proposed revisions are still pending a final rule. As a result, unless otherwise notified by CMS, the original iteration of the 2-Midnight rule will be in effect as of October 1, 2015, so it is imperative that UCSD Health staff and physicians are aware of the requirements of the rule. For more information on the proposed updates, please visit the CMS Fact Sheet on the 2-Midnight Rule.
Every inpatient admission requires specific documentation elements under the Medicare “Two Midnight Rule” in order to qualify for coverage under Medicare Part A:

- An order to ‘Admit to ‘Inpatient’.
- Attestation the episode of care is expected to extend over 2 midnights (proposed to be eliminated)
- **KEY:** Documentation within the body of the medical record of the reasonable clinical indicators at the time of admission which support the medical necessity of an anticipation the patient’s episode of care will extend over 2 midnights.
  
  **Note:** ‘Observation’ is appropriate for patients with potential clinical risks only, but no clinical findings at the time of admission.

- The IP order and medical necessity documentation MUST be authenticated by signing or co-signing, and dating, in the medical record prior to discharge by a physician with admitting privileges; and with knowledge and involvement in the patient’s clinical care.

Although a length of stay (greater than two midnights) is presumed to meet inpatient criteria, it does NOT preclude the requirement for medical record documentation to support the medical for the inpatient admission. Professional fees associated with an inpatient admission are at risk to be denied, if the inpatient admission is deemed to not meet the Medicare Two Midnight Rule requirements. To learn more, click [here](#).

### FACILITY BILLING: INPATIENT ADMISSIONS AND THE “TWO MIDNIGHT RULE”

**Billing Guidance**

**Non-Physician Practitioners (NPPs)**

Medicare Part B, Medi-Cal and certain other health payers reimburse for services provided by non-physician practitioners. Payer rules determine whether the service is billed in the name of the performing provider or the supervising physician. At UCSD, all Non-Physician Practitioners (NPP’s) must have a California License and be credentialed and privileged as follows – prior to treating patients:

- UCSD Health – Medical Staff: credentialed, license verification, privileged to practice medicine subject to scope of practice and state licensure; and
- UCSD Medical Group – Provider Relations: credentialed for billing with payer groups, National Provider Identifier (NPI) number, assignment of benefit (billing /collections) to UCSD Medical Group; and
- UCSD Health – Human Resources (HR): employment relationship, background screening, pre-employment physical / health screening, completion of on-boarding training, including: core compliance training, HIPAA privacy / information security, exclusion screening.

Credentialing with both the Medical Staff Administration Office and the Medical Group Provider Relations is required regardless of whether the NPP sees patients independently or will be submitting professional fee bills.

For patients seen in non-hospital licensed clinics, Medicare “Incident-to” billing is permitted when a non-physician provider (NPP) and an attending physician collaborate on an established patient when certain requirements are met. For hospital patients, Medicare permits certain types of evaluation and management (E/M) services to be split or shared between a physician and an eligible NPP. Refer to the [Billing Guidance document](#) on Non-Physician Practitioners (NPPs) to learn about the billing requirements and examples of “Incident to” and “Split/Shared Visits”.

### PROFESSIONAL FEE BILLING: MID-LEVEL PROVIDERS
REPORTING COMPLIANCE CONCERNS

Workforce members are our first line of defense in detecting and preventing violations and all workforce members are obligated to report actual or suspected violations. Always seek advice when you are not sure about the right ethical or legal thing to do. Do not guess whether a particular action is permitted.

UC San Diego Health Sciences absolutely prohibits retaliation against any workforce member who raises a compliance concern in good faith. Retaliation towards a workforce member who raises a compliance concern in good faith is subject to disciplinary action, up to and including termination.

If you believe someone has retaliated against you for raising a compliance concern, notify the Compliance Officer (858.657.7487) or call the UC Hotline immediately (800.403.4744).

COMPLIANCE REMINDERS...

**Federal Anti-Kickback Statute**

The Federal Anti-Kickback statute (AKS) is designed to protect patients and Federal health care programs (such as Medicare and Medicaid) from fraud and abuse.

- It is a felony to knowingly and willfully solicit, receive, offer or pay anything of value (also called “remuneration”) in return for 1) patient referrals, or 2) recommendations or orders for any item or service reimbursed by a Federal health care program.
- Actions that may violate this law include the receipt or offering of gifts or entertainment, forgiveness of debts, sales of items at less than fair market value, and payment for services that exceeds fair market value.

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REMINDER – Providing gifts or cash incentives to members or physicians in exchange for enrollment or accepting payments from drug or device manufacturers for coverage of their products is prohibited.

Compliance with this law is of the utmost importance to avoid causing a violation of the statute. Please contact the Compliance Office with any questions.

**OUTSIDE ACTIVITIES FOR FACULTY AND MSP STAFF PHYSICIANS**

All UCSD faculty members and MSP Staff Physicians appointed at more than 50% effort owe the University their “primary professional allegiance” which requires certain disclosures and approval requirements on teaching, research, clinical, or other scholarly activities that occur outside the University.

The specific policies which govern the disclosure and reporting obligations for UCSD faculty’s outside activities include APM 671 for Health Sciences Compensation Plan members, and APM 025 for those faculty who do not participate in the Health Sciences Compensation Plan.

Reporting requirements for MSP Staff Physicians are outlined in each physician contract, and additional resources and information for MSP Staff Physicians can be accessed here. Each faculty member and staff physician is responsible for fulfilling his or her reporting obligations under the governing policy, so please review the requirements and discuss any questions with your department business officer or department chair. Additional resources for information on conducting research outside the University can be accessed here.
RESEARCH MISCONDUCT RESULTS IN PRISON SENTENCE FOR FORMER IOWA STATE VACCINE RESEARCHER

Dong Pyou-Han, a former HIV vaccine researcher out of Iowa State University, was sentenced to 57 months in prison and fined $7.2 million following his conviction for falsifying data in HIV vaccine trials funded by the National Institutes of Health (NIH).

Han, who confessed to the fabrication prior to resigning in 2013, said the fabrication occurred in an effort to cover up an error with the samples that was made in the earlier stages of the trial. The University investigation resulted in a ban on receipt of federal funding for three years imposed by the Office of Research Integrity, but also caught the attention of Iowa Senator, Charles Grassley.

Senator Grassley’s involvement resulted in widespread media coverage, ultimately drawing the attention of the Des Moines federal prosecutor who moved forward with federal felony charges. While predominantly uncommon for “medium-level” fraud cases, this case serves as a reminder of the potential impact of research misconduct. Complete story and details of the case are available here.