PRIVACY STANDARDS

The Privacy Standards define what types of information must be protected as well as provide for a client’s rights regarding health information. Client information by law is called Protected Health Information.

Administrative Requirements
Appalachian State University identified itself as a hybrid entity under the Health Insurance Portability and Accountability Act (HIPAA). As such, Appalachian State University identified those units within the university considered as healthcare providers and mandated guidelines for the security and privacy of protected health information for those units. The Communication Disorders Clinic is a healthcare provider and a covered unit at Appalachian State University. The Communication Disorders Clinic developed policies and procedures to ensure compliance with this federal law.

HIPAA requires that Covered Entities safeguard PHI and use and disclose it only to the minimum extent necessary. However, HIPAA contains important exceptions designed to facilitate client treatment, payment and billing concerns, and general operations.

Privacy Official – The Communication Disorders Clinic created a role of privacy official who is responsible for development, implementation, and maintenance of HIPAA policies and procedures for the Communication Disorders Clinic. The role is filled by the Director of the Communication Disorders Clinic. The Clinical Faculty Committee serves as the Privacy Oversight Committee.

The University Privacy Official oversees all activities related to HIPAA privacy regulations and privacy policies. This individual is responsible for investigating privacy complaints and possible privacy violations, as well as providing privacy education to university employees.

Designated Record Set – A designated record set is defined as a group of medical and billing records maintained by a covered entity used in whole or in part to make decisions about an individual’s treatment and claims processing. Specifically, designated record sets may include all contents of a paper-based or computer-based client record to include client account information, history information, test results, copies of reports generated by other providers, written correspondence, and email communications (whether stored on-line or printed out in the client chart).

Individuals have the right to access and request amendments only to protected health information in a designated record set as specified by the covered entity. The designated record set at the Appalachian State University Communication Disorders Clinic includes the following information in the client chart: audiology and hearing aid reports generated from sessions at the Communication Disorders Clinic, speech-language reports generated from sessions at the Communication Disorders Clinic, and therapy treatment plans and progress reports.

Client charts are stored in a locked cabinet in the Clinic Office. All persons requesting a Communication Disorders Clinic chart must have the expressed consent of the Communication Disorders Clinic Director. Only a limited number of clinical staff has keys to access this area. Senior undergraduate and graduate students in Communication Disorders have the privilege of checking out client charts for their use. The client chart must stay in the designated clinic areas and, when not in use, are returned to the Clinic Office.

Complaints – The Communication Disorders Clinic identified people who are responsible for receiving complaints and who are able to provide further information about matters covered by
the Notice of Privacy Practices. The Office staff is responsible for providing further information to clients. There is a complaint form available in the Clinic office with a sample form in the HIPAA Manual. If clients feel that their privacy rights have been violated, they may complain in writing to the Communication Disorders Clinic Privacy Officer, the University Privacy Official, or directly to the U. S. Department of Health and Human Services. The client may not be penalized in any way for filing a complaint. All documentation is retained for six years.

**Printing, Copying, and Faxing Client Information** – Care must be taken when printing, copying, and faxing client information. Faculty, staff, and students must be sure to:

- Promptly remove documents from printers and copiers
- Use a cover sheet when faxing documents
- Use pre-programmed fax numbers whenever possible
- Confirm the fax number before using it
- Call the intended recipient to confirm the arrival of the faxed document

The fax machine in the office is positioned so that no unauthorized person can access it or read incoming fax messages. All fax numbers are confirmed before sending a message. The office staff uses a Communication Disorders Clinic Fax Transmittal cover sheet with each faxed message. The transmittal form (see sample in the HIPAA Manual) contains an alert that confidential information is contained in the transmission.

**Disposal of Client Information** – Documents containing client information must be shredded. Faculty, staff, and students should place the material containing client information in the locked box in the professional preparation room. Staples should be removed before depositing a document for shredding.

**Training** – The Communication Disorders Clinic set up a program for training for all people associated with the Communication Disorders Clinic. The training is customized to present policies and procedures for each of the different roles of Communication Disorders Clinic staff, faculty, and students. Training is provided:

- To each staff, faculty, and student before the April 16, 2003 privacy compliance date and annually thereafter.
- To each new member of the staff or faculty within a reasonable period of time after the person is hired.
- To each member of the staff or faculty who has changed job functions.
- To each member of the staff or faculty whose functions are affected by a change in the HIPAA regulations.
- To each member of the faculty or staff whose functions are affected by a material change in the policies or procedures.
- To each student entering the Department of Communication Sciences and Disorders and who are participating in a clinical practicum.
- To each volunteer worker in the Communication Disorders Clinic who might handle any PHI.

Written documentation of training sessions will be filed with the Institute for Health and Human Services office. All personnel are required to sign a confidentiality agreement form (see sample in the HIPAA Manual).

**Documentation** – The Communication Disorders Clinic maintains the HIPAA Policies and Procedures Manual where changes to HIPAA policies are documented. The manual includes an overview of the HIPAA legislation, information for students concerning the privacy and security of
client information, and other pertinent documents. The HIPAA Manual can be found at www.cdclinic.appstate.edu. The Communication Disorders Clinic also keeps documentation for authorizations, restrictions, complaints, any breaches to the HIPAA legislation with sanctions, and training delivered. The documentation must be kept for six years.

**Office Management** – HIPAA asks Covered Entities to use common sense to protect PHI. “Incidental disclosures” are allowed, which means that waiting rooms and appointment postcards are permissible. However, Covered Entities must take reasonable measures to ensure that PHI is not released to the general public. Only those employees and students designated by the Director of the Communication Disorders Clinic and the Clinical Faculty Committee can have access to protected health information maintained in the Communication Disorders Clinic.

**Marketing** – HIPAA does allow Covered Entities to use PHI in marketing their own products and services.

**Employee termination** – In the event that an employee is terminated or resigns, the following procedures should be followed to ensure the privacy and security of the PHI at the Communication Disorders Clinic:

- All keys to the Communication Disorders Clinic are returned
- All equipment/software, desk and working premises are inventoried and appropriate measures taken to remove all PHI from the equipment
- The network administrator is notified for revoking electronic access to systems or records containing protected information.
- If needed, notify the Appalachian State University Police for revoking physical access to records containing protected information.

**Individual Client Rights**

**Access to information** – All clients receive a copy of their diagnostic reports. Clients can get copies of treatment reports from the “current” visit at no charge. They can request more information in writing using the “Request to Access Information” form (see sample in the HIPAA Manual). There will be an administrative charge for copying the information. Some requests may be denied. All requests and denials are documented.

The client can receive a copy of his or her health information for as long as the information is maintained in a designated record set. Health information that cannot be inspected would include information compiled for lawsuits. Other access can be denied on grounds that the information is not reviewable, such as information obtained from another healthcare provider under promise of confidentiality.

The following procedure is to be followed when a client requests access to health information:

- Client completes the “Request to Inspect and Copy Information” form and returns it to the office staff.
- The office staff will forward the request to the Communication Disorders Clinic Privacy Official.
- The Privacy Official forwards the request to the licensed health care provider professional for review of appropriateness of access. The health care provider must respond within 30 days.
- If approved, the client may be charged a fee based on the cost of copying and postage.
- The licensed health care professional may deny the request.
The client has the right to request the denial be reviewed by another health care professional. The client is provided or denied access on the basis of the second health care professional’s determination.

All related forms are to be retained in the client chart.

Designated record sets subject to access by clients are retained in the Communication Disorders Clinic for three years. The record sets are then transferred to the University Archives for an additional ten years or more, based on the Communication Disorders Clinic plan for the disposition of records.

Amendment of information – The client may request that health information be amended in cases where information was not reported accurately. Only information generated by service delivery at the Appalachian State University Communication Disorders Clinic can be requested for amendment. Requests for amending information must be made in writing. The Communication Disorders Clinic will process most requests within 60 days. Some requests may be denied. Clients can request a review of a denied request. All denials and requests are documented. There is an amendment request form available in the Clinic office (see sample in the HIPAA Manual).

The following procedure is to be followed when a client requests to amend health information:

- Client completes the “Request to Amend Health Information” form and returns it to the office staff.
- The office staff will forward the request to the Communication Disorders Clinic Privacy Official.
- The Privacy Official forwards the request to the licensed health care provider professional for review of the amendment request. The health care provider in most instances will respond within 60 days.
- If approved, the health care provider amends the information and informs the client that the amendment is made.
- All other relevant health care professionals and business associates are informed of the amendment.
- The amendment may be denied for the following reasons:
  - Information was not created by the Communication Disorders Clinic
  - Information is not a part of the designated record set
  - Information is determined to be accurate and complete
- A written statement of denial must be provided to the client.
- The client may submit a written statement disagreeing with the denial.
- A written rebuttal to the client’s statement of disagreement may be prepared and given to the client.
- All forms and other written information must be appended to the designated record set section that is the subject of the dispute. If the client has submitted a statement of disagreement, the material appended must be included with subsequent disclosure.
- If the client has not submitted a statement of disagreement, the client’s request for amendment and its denial must be included with subsequent disclosures only if the client has requested such action.
- When informed by another HIPAA covered entity of an amendment, the Appalachian State University Communication Disorders Clinic must amend the health information.
- All requests for amendment and subsequent correspondence must be maintained as long as the protected health information is in the client’s designated record set.

Restrictions on disclosures – The client has the right to request that the Appalachian State University Communication Disorders Clinic restrict the uses and disclosure of the client’s protected health information. Requests for restricted use and disclosure of information must be
made in writing. The Communication Disorders Clinic does not have to agree to the restrictions. All requests are documented. There is a restricted use/alternative communication request form available in the Clinic office (see sample in the HIPAA Manual).

Any restriction agreement must be documented in the client’s record and communicated to all relevant workforce staff. If the Communication Disorders Clinic agrees to the restriction, then the Communication Disorders Clinic and any relevant Business Associate may not use or disclose the protected health information covered by the restriction. The Communication Disorders Clinic or the client may terminate the agreement at any time. If the client does not agree with termination initiated by the Communication Disorders Clinic, the Communication Disorders Clinic may act on the termination only after the client is informed of the termination.

The following procedure is to be followed when a client requests restricted use and disclosure to health information:

- Client completes the "Request for Restricted Use or Alternative Communication" form and returns it to the office staff.
- The office staff will forward the request to the Communication Disorders Clinic Privacy Official.
- The Privacy Official forwards the request to the licensed health care provider professional for review. The health care provider must respond within 30 days.
- If approved, the relevant workforce staff is informed of the restricted use or disclosure.
- The licensed health care professional may deny the request.
- Documentation of the restriction or denial of the restriction should be noted in the client chart.

**Accounting of disclosures** – Clients have the right to an accounting of disclosures by the Communication Disorders Clinic and its Business Associates during a specified time period up to six years prior to the date of the request. They may request an accounting of disclosures for treatment, payment and health care operations for up to three years. The covered entity may either provide the disclosures of both the entity and the business associates or may give the disclosures of the covered entity with a list of business associates for the client to contact.

A request for an accounting of disclosures must be made in writing from the client (see sample in the HIPAA Manual). The Communication Disorders Clinic will process most requests within 60 days. Some types of disclosures will not be included, e.g. those already authorized as a part of treatment. The first accounting of each calendar year is free. There will be a charge for other accountings. All requests are documented.

The following procedure is to be followed when a client requests an accounting of disclosures of health information:

- Client completes the “Request for an Accounting of Disclosures” form and returns it to the office staff.
- The office staff will forward the request to the Communication Disorders Clinic Privacy Official.
- The Privacy Official reviews the request and initiates the processing of the request with the staff. The staff must respond within 60 days.
- The Accounting of Disclosures form is completed.
- Accounting for each disclosure must include the following:
  - Date of disclosure
  - Name of person or entity who received the information, if known
  - Address

5
Brief description of the protected health information disclosed
Brief description of the purpose of the disclosure

The right to accounting does not include disclosures:
- To carry out treatment, payment, or healthcare operations
- That occurred prior to April 14, 2003
- To the client about his or her own information
- To person’s involved in the client’s care
- Which are incidental to otherwise permitted uses and disclosures
- For national security or intelligence purposes
- Which are part of an approved limited data set with a data use agreement
- To correctional institutions

All disclosures, which are not exempted, are entered in the staff notes.
Disclosure to the client may be suspended if a health oversight agency or law enforcement official indicates, in writing, that such accounting to the client would impede their activities.

Documentation of the accounting of disclosures should be noted in the client chart.

**Alternative communications** – The Appalachian State University Communication Disorders Clinic must accommodate reasonable requests by clients to receive communications of protected health information by alternative means or at alternative locations. Requests for alternative communications must be made in writing. The Communication Disorders Clinic will process most requests within 60 days. There may be a cost for the change. All requests and denials are documented. There is a restricted use/alternative communication request form available in the Clinic office (see sample in the HIPAA Manual).

The following procedure is to be used when a client requests alternative means or alternative locations for receiving protected health information:

- Client completes the “Request for Restricted Use or Alternative Communication” form and returns it to the office staff.
- The office staff will forward the request to the Communication Disorders Clinic Privacy Official.
- The Privacy Official forwards the request to the licensed health care provider professional for review. The health care provider must respond within 30 days.
- If approved, the relevant workforce staff is informed of the restricted use or disclosure.
- The licensed health care professional may deny the request.
- Documentation of the restriction or denial of the restriction should be noted in the client chart.

**Use and Disclosure**

**Authorizations** – The Communication Disorders Clinic requires written authorization from clients or their representatives before disclosing information outside of treatment, payment, or operations (TPO). The Communication Disorders Clinic verifies from the client that the authorization is valid. Authorizations are valid for one year, unless amended by the client. The most recent authorization is the one used for disclosure.

To ensure that authorizations are signed and filed appropriately, the following procedures are to be followed at all times:

- The completed authorization form to use and disclose protected health information to another health care provider is to be signed by the client or legal guardian.
The clinical educator in charge of the case is responsible for reviewing all paperwork submitted by the client for appropriate completion and signature.

The administrative staff is responsible for confirming authorization prior to releasing the reports.

When processing authorizations from other agencies that may not be a covered entity under HIPAA, the authorization form must meet HIPAA standards before the Communication Disorders Clinic will release the information.

In cases where the authorization form does not meet HIPAA standards, the client or legal guardian will be asked to sign the Communication Disorders Clinic’s HIPAA-compliant authorization form approving the disclosure.

In general, unless a use or disclosure is for purposes of treatment, payment, or healthcare operations or otherwise noted in the Notice of Privacy Practices, the Appalachian State University Communication Disorders Clinic must obtain the client’s written authorization to use and disclose protected health information. This includes:

- Any part of the client’s written record
- Telephone conversations with other health care providers
- Observation of treatment/discussions with family members or friends who are not legal guardians

**Disclosures with “opt out”** – The Communication Disorders Clinic will disclose information to a family member, representative, or other person if

- The client has agreed to the disclosure.
- The client cannot agree to the disclosure, but the Communication Disorders Clinic believes that the client would agree.
- The client cannot agree to the disclosure, but the Communication Disorders Clinic believes that it is in the client’s best interest.

All disclosure decisions are documented.

**Disclosures with no “opt out”** – The Communication Disorders Clinic has procedures for disclosures that do not require client approval. Requests must be in writing and are reviewed by the University attorney. All disclosure decisions are documented.

**Other requirements** – When using or disclosing PHI, the Communication Disorders Clinic may disclose information in limited “datasets.” The limited dataset can only contain de-identified information. Information concerning what information is considered PHI can be found in “Using Client Information in the Classroom” found in the HIPAA Manual. A written agreement between the Communication Disorders Clinic and the recipient of the limited dataset must be obtained. The agreement must include: permitted uses and disclosures of the information, name of the person or persons permitted to use and disclose the information, stated appropriate safeguards to protect the information, and stated appropriate safeguards that the recipient will not attempt to identify or contact the individuals whose data are included in the limited dataset. The Communication Disorders Clinic Privacy Official must approve the memorandum.
Minimum Necessary
Minimum necessary means having access to the amount of information necessary to perform a task. An employee or student may not have access to information that is not required to complete job duties. Minimum necessary also applies when releasing information to others. The information released should include what is requested or what is necessary.

PHI is shared only as needed to do clinic functions. The Director, Communication Disorders Clinic faculty, and administrative staff have access to all client charts. Graduate students have access to the client charts only for clients in their care. Undergraduate students enrolled in the participant/observer course have access to the charts of the clients they are observing. All other undergraduate students, academic faculty not involved in the Communication Disorders Clinic, and faculty and students outside the Communication Disorders Clinic do not have access to any client charts. The Director reviews all non-routine requests to determine PHI to be disclosed.

Notice of Privacy Practices
The Notice of Privacy Practices (NPP) describes the privacy practices of the Communication Disorders Clinic. Brochure-sized copies will be made available to all clients in the Communication Disorders Clinic. All clients are asked to review the NPP upon their first visit. When the NPP changes, the brochure will be updated and the new version given to clients. All revisions are documented. All clients sign a consent form indicating they have reviewed the Notice of Privacy Practices. (See sample in the HIPAA Manual)

To ensure that clients have every opportunity to be advised of the Appalachian State University Communication Disorders Clinic privacy policy, the following procedures have been implemented:

- NPP brochure is posted in the waiting room
- NPP is posted on the Communication Disorders Clinic’s website
- Each new client or potential client receives a copy of NPP brochure
- NPP is provided to the client for review no later than the day of service delivery
- Copies of NPP are available for the client to keep
- A good faith effort is made to obtain the client’s written consent of the NPP on the first day of service delivery
- The signed consent form is retained in the client chart.
- All client charts are audited by the Accounts Clerk for the presence of the consent form.

Business Associates
The Communication Disorders Clinic has written agreements with organizations that receive PHI from the Communication Disorders Clinic. These organizations include hearing aid manufacturers, outside calibration companies, manufacturers of equipment containing PHI, and clearinghouses used to submit billing to various third party groups. Upon advice of the University Attorney, Business Associates Agreements are not required for insurance companies billed through the Communication Disorders Clinic. The client signs the Release of Insurance Payment Authorization form, which is used as the permission to disclose information to a third party insurance carrier.

As required by HIPAA and further refined through the HITECH Act, all Business Associates must comply with the privacy and security rules to protect PHI that may be shared with them. The Business Associates are directly answerable to the government and to the covered entity for any HIPAA breaches. (See sample agreement in the HIPAA Manual)
Breaches
A breach is the unauthorized acquisition, access, use, or disclosure of protected health information that compromises the security or privacy of such information, except where the person to whom the information is disclosed would not reasonably been able to obtain such information or in certain specified circumstances of inadvertent disclosure or unintentional acquisition of the information. The HITECH Act requires that clients be notified of any unauthorized acquisition, access, use, or disclosure of their unsecured protected health information.

The Communication Disorders Clinic must provide notice to affected individuals following the discovery of a breach of unsecured protected health information. Breaches would include, but not be limited to: theft of a computer containing protected health information, technical security breach, data sent to the wrong person, losing or misplacing client charts, and misuse of credit card information. This rule also is extended to include breaches that occur with a business associate.

There are three exceptions to the breach rule:

- Unintentional acquisition of protected health information by an employee or individual acting under authority of the covered entity or business associate.
- Inadvertent disclosure of information from one person to another, both of whom have authority to access protected health information at the same covered entity or business associate.
- Unauthorized disclosure to a person who did not retain the information, i.e., protected health information mailed to the wrong person and returned by the post office unopened and undeliverable.

In determining a breach the Communication Disorders Clinic will consider the following questions:

- Did a breach occur?
- Did the disclosure pose a significant risk of harm to the individual?
- Are there exceptions to the definition of breach or to the notification requirement?
- Did the data meet the encryption requirements?

If the answer is no to any of the above questions, then the incident is not reported as a breach. Documentation must clearly indicate how the matter was decided and why reporting was not necessary. There must be evidence that the incident did not need to be reported to the secretary of Health and Human Services.

If the determination is that the incident is one that should be reported and that certain protected health information was compromised, then the Communication Disorders Clinic must provide written notice to any affected individuals within 60 days after the discovery of the breach. The notice must include:

- A brief description of what happened, including the date of the occurrence and the date of discovery.
- A description of the information involved.
- Steps the individual should take to avoid potential harm.
- A description of the steps taken to investigate the breach, mitigate the harm to the individual, and to protect against further breaches.
- Contacts for additional information.
If the breach involves more than 500 individuals, then the Clinic must notify the media and the United States Department of Health and Human Services. The Clinic maintains a log of all breaches and submits them to the Department of Health and Human Services annually.