Emory HIPAA Policy Frequently Asked Questions

• When would HIPAA apply to research studies conducted at Emory University?
  o For studies conducted at Emory and affiliates, Grady, and Children's Healthcare of Atlanta (CHOA), HIPAA will apply only to studies involving the use of PHI, which also provide treatment (as part of the research study) billed to an insurance company, Medicare/Medicaid or another government benefits program. If there is an objection from CHOA to this assessment of the applicability of HIPAA, then the paragraph below will apply to that study.
  o For studies that will obtain PHI from patients’ medical record or via interview/surveys at the Atlanta VA (AVAHCS), or CHOA, HIPAA will always apply. Even if the only interaction at these sites are interviews where PHI is collected (no data is collected from the medical record), HIPAA will still apply.

• My study is not providing treatment or billing. I am only collecting data from the medical record. HIPAA does not apply to me, right?
  o HIPAA always protects medical record information under covered entities. Certain studies may obtain PHI from the subject’s medical record. For these types of studies, researchers will need an authorization from the study participant to obtain that PHI from the Covered Entity that holds the medical record, or, alternatively, a waiver from the IRB to access the medical record without authorization (e.g. for retrospective chart reviews).

• What are the Emory schools/groups under the HIPAA covered entity (as of 9/1/2016)?
  o The Emory University Health Plan, which is governed by separate privacy and security policies.
  o Emory University Student Health Services to the extent to which educational records subject to FERPA are not involved.
  o Emory University School of Medicine health care providers who are proving treatment (or Research that includes treatment) and collecting payment involving HIPAA-covered billing.

• What schools are no longer under the covered entity?
  o Emory University School of Nursing
  o Emory University School of Public Health
  o Oxford College of Emory University Student Health Service
  o Other entities no longer included: Emory Autism Center, Emory Psychoanalytic Center and ECTRL

• What research studies will be covered by this new policy?
  o Studies created in eIRB on or after September 1, 2016

• My study is being conducted outside the US, and I am providing treatment to participants. I am planning to bring identifiable health information to the US. Will HIPAA apply to my study or do I need an authorization?
  o No, HIPAA does not apply to locations outside the U.S. A HIPAA authorization is not required either provided that the study does not involve treatment and electronic billing to insurance or a government benefits program within the U.S.

• My study is under the old HIPAA policy but I am going to submit my study for IRB renewal. Will my study now be under the new policy?
  o No. Only new studies created on or after September 1, 2016 will be under the new policy.

For additional questions, please contact the IRB Education and QA team or the Office of Compliance.
### What ICF/HIPAA Template a Study Team Should Use (if any)?

<table>
<thead>
<tr>
<th>Study conducted at Emory is prospectively collecting data, and it is treating and billing during research study</th>
<th>If under a covered entity, the study will be under Emory HIPAA policy (*)</th>
<th>Use main ICF/HIPAA template and complete HIPAA eIRB sections (**)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Study is collecting data from the medical record (any site) because is a...</td>
<td>Prospective or Retrospective chart review</td>
<td>No ICF/HIPAA template needed. Complete HIPAA sections in eIRB (**) and the worksheet to obtain complete consent/HIPAA waiver</td>
</tr>
<tr>
<td>Study conducted at Emory is collecting data from the medical record because is a...</td>
<td>Prospective study, although no billing and treatment is taking place for the purposes of the study</td>
<td>Complete HIPAA sections in eIRB (**). As data is being obtained from the MR, subjects need to consent/authorize with this template version: Emory Biomedical Consent/HIPAA Template-obtaining data from medical record, no treatment or billing</td>
</tr>
<tr>
<td>Study is collecting PHI from patients, via interviews, surveys, etc.</td>
<td>No other activity is taking place (no treatment or billing)</td>
<td>If at Emory (and affiliates), CHOA or Grady, consent may be needed, but HIPAA authorization is not required; HIPAA section (<strong>) does not need to be completed. If conducted at the AVAHCS: HIPAA authorization required, and the HIPAA section(</strong>) needs to be completed.</td>
</tr>
</tbody>
</table>

**Note:** If a study team (*) is accessing the medical record but not collecting PHI, a partial HIPAA waiver will suffice. If an informed consent is needed, it should be free of language assuring people their information is covered under HIPAA. Use this template: [Emory Biomedical Consent Template-HIPAA does not apply](#).

(*) **Emory HIPAA policy:** applies for studies under the Emory covered entity, Grady and CHO (but not the AVAHCS) in which treatment of subjects, and billing for such treatment is taking place. Remember: if you extract data from the medical record to store in the research record, you may need an authorization for this process even if not treating or billing for study purposes.

(**) The HIPAA sections in eIRB includes the following pages that deals with IIHI collection: Identifiable Health Information (IHI); HIPAA part 1 and HIPAA part 2.