NOTICE OF MEETING

A Compliance and Ethics Committee meeting will be held on Wednesday, February 17, 2021, immediately following the Pension and Investment Committee meeting, at the Broward Health Corporate Spectrum Location: 1700 Northwest 49 Street, Fort Lauderdale, Florida, 33309. The purpose of this committee meeting is to review and consider any matters within the committee’s jurisdiction.

Persons with disabilities requiring special accommodations in order to participate should contact the District by calling 954-473-7481 at least 48 hours in advance of the meeting to request such accommodations.

Any person who decides to appeal any decision of the District’s Board with respect to any matter considered at these meetings will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings is made which record includes testimony and evidence upon which the appeal is to be based.
COMPLIANCE AND ETHICS COMMITTEE MEETING
Immediately Following the Legal Affairs & Governmental Relations Committee Meeting
Wednesday, January 20, 2021

The Compliance and Ethics Committee Meeting of the North Broward Hospital District was held on January 20, 2021, immediately following the Legal Affairs & Governmental Relations Committee Meeting, at the Broward Health Corporate Spectrum Location, 1700 NW 49th Street, Suite 150, Fort Lauderdale, Florida 33309.

1. NOTICE
Official notice and agenda of this meeting is attached to the minutes, titled EXHIBIT I and EXHIBIT II, as presented for consideration of the Committee.

2. CALL TO ORDER
There being a quorum present, the meeting was called to order by Chair Nancy W. Gregoire at 11:47 a.m.

3. COMMITTEE MEMBERS
Present: Commissioner Stacy L. Angier, Commissioner Marie C. Waugh, Commissioner Ray T. Berry, Vice Chair Commissioner Nancy W. Gregoire, Chair

Senior Leadership
Additionally Present: Gino Santorio, President/Chief Executive Officer Alan Goldsmith, Chief Operating Officer Alex Fernandez, Chief Financial Officer Linda Epstein, Corporate General Counsel Jerry Del Amo, Deputy General Counsel

4. PUBLIC COMMENTS
Chair Gregoire opened the floor for public comments, in which there were none.

5. APPROVAL OF MINUTES
Without objection, Chair Gregoire approved the minutes, dated December 16, 2020.
Motion carried without dissent.
6. **TOPIC OF DISCUSSION**

6.1. Kaufman Hall EMR Presentation (Presenters - Evan Katzman, Kaufman Hall, Dawn Samaris, Kaufman Hall)

Ms. Samaris gave an overview of the Evaluation Commissioner Report, which focused on the overview of ownership costs for Electronic Medical Records (EMR) software between Epic and Cerner.

Ms. Samaris reiterated that the focus was on the economic impacts to Broward Health and options presented by the two vendors.

After much discussion, it was agreed that this item be tabled pending an EMR presentation by Commissioner Berry at a future meeting.

6.2. Chief Compliance Officer Report (Presenter – Brian Kozik, Chief Compliance and Privacy Officer)

6.2.1. Compliance Department Updates

- Two-Year Work Plan
  - 55 reviews scheduled: 22 for FY21 and 23 for FY22.
    - FY21.
      - 6, audits completed.
      - 6, audits in-process.
      - 10, audits pending.

Mr. Kozik gave a high-level overview of the finalized audits.

- Completed Audits
  - Non-focus arrangements (11/1/19 - 1/31/20).
  - Observation/MOON/Condition Code 44 (1/1/19 - 3/31/19).
  - Focus arrangements CIA Year 5 Quarter 2.
  - Two-midnight Rule (10/1/18 - 12/31/18) – OIG request.
  - Coding audits FY20 Quarter 2 at BHIP (10/19 - 12/31/19).
  - Focus arrangement CIA Year 5 Quarters 3 and 4.

- Current Audits
  - Coding Review for stroke patients who underwent a mechanical thrombectomy (“coiling”) or received intravenous thrombolysis (IV) tissue-type plasminogen activator (tPA).
    - In process.
    - Objective is to ensure the coding was accurate for patients that underwent a mechanical thrombectomy.

  - Tracking and Remuneration Audit for Employed Physician Agreements
In process.
Objective is to examine payments made during the review period and verify internal controls were effective and consistent with terms of agreement.

- Clinical Trials – Broward Health Medical Center’s Institutional Review Board (IRB)
  - In process.
  - Objective is to determine if BHMC’s Institutional Review Board is following the requirements under:
    - Centers for Medicare and Medicaid Services regulations.
    - Guidelines regarding the operations of an IRB.

- BHMC Coding Audit for FY20
  - In process.
  - Objective is to review inpatient and outpatient coding to ensure it meets federal coding guidelines and Broward Health’s accuracy rate of 95%.

- Tracking and Remuneration for Community Care Partners
  - In process.

- Business Associate Agreement (“BAA”) System-Wide
  - In process.
  - Audit period, 1/1/2017 - 12/31/2019.

- Centers for Medicare and Medicaid Services (CMS) Audit of 20% Bonus for COVID-19 Inpatient Waivers
  - In process.
  - Objective is to complete CMS’s first medical review of the 20% add-on payment for treating COVID-19 inpatient waivers.
  - Each hospital reviewed 25 cases, for a total of 100 cases.
    - 98 cases were coded correctly.
    - Two (2) cases were coded incorrectly.
    - Does not impact financial reimbursement.
    - Coding was corrected.
SafeGuard Services Audit of Broward Health Medical Center Short Stay
- Completed.
- Objective is to determine whether Medicaid payments made for inpatient stays less than two days were in accordance with state and federal laws, regulations, and policies between October 1, 2014 through March 31, 2018.
- A Final Findings Report will be sent to CMS and the State. Once approved, the State will communicate with Broward Health Medical Center.

HIPAA Breaches for November
- 2020 Impermissible disclosures of Patient Health information (PHI).
  - 33, total.
- December Impermissible disclosures of PHI.
  - (1) BHMC.
  - (1) CDTC.
  - (1) BHIP.
  - (1) BHN.

Table Top Exercise – Incident Breach Response and Readiness
- Objectives
  - Develop, test, deploy, and provide training on data security and privacy policies and procedures, including breach response teams; joint incident response plans and simulations with key vendors; and training for management teams.
  - Respond to active and potential breach situations, assisting BH in responding as our situation develops.
  - Assist in post-breach remedial efforts from the legal standpoint, including strong documentation showing good practices and changes made based on the incident.
  - Respond to ransomware and other cybercrime situations.
- In conjunction with Information Systems, Emergency Preparedness Teams and outside experts, Greeberg Traurig, LLP.
- Planning a table top exercise on patient privacy and a security breach.

HIPAA Policies
- The below Broward Health HIPAA Policies have been reviewed:
  - Business Associate Agreement.
  - Notice of Privacy Practices of Medical Information.
  - Release of Information to the Media.
  - Release of Protected Health Information.
  - Information Blocking (new).
• 340B Program External On-Site Audit
  o In process.
  o Objective is to provide external audit documentation as required by the Health Resources and Services Administration (HRSA) auditor for integrity of the program. All sites are required to have an external audit of each 340B registered location.
  o Audit Focus.
    ▪ Hospitality eligibility.
    ▪ Internal controls.
    ▪ Duplicate accounts.
    ▪ Diversion (transactional testing).
  o Effective October 2020, upon notification of audit, HRSA now requires a clinical crosswalk to be submitted.
  o 340B Compliance Meeting occurs bimonthly.

• ACHA
  o December 17, 2020, Broward Health Medical Center received a request for medical record and billing documentation for services paid by the Florida Medicaid program for five (5) claims with dates of service from February 2016 to July 2016.
  o HIM submitted all requested information to ACHA.

• Centers for Medicare and Medicaid Services (CMS) Price Transparency
  o The final rule requires hospitals to publish standard charges, including discounted and negotiated rates, for all items and services in a specified online format as well as update the files annually, effective January 1, 2021.
    ▪ Hospitals must post standard charges for all items and services on a public-facing website in a machine-readable format.
    • Broward Health is meeting the minimum requirements, including gross charges, self-pay rates and negotiated rates for those payors whose reimbursement is based on a percent-of-charge.
    • A machine-readable file for each region is currently posted on the Broward Health website under Patient and Visitor Information/Pricing Transparency.
    ▪ Hospitals must provide pricing for at least 300 “shoppable” services.
      • 70 services are mandatory.
      • Hospitals may select the remaining 230 services from a list of commonly provided services.
      • Broward Health intends to meet this requirement by maintaining an internet-based price estimator tool.
• Other Department Activities
  o Compliance Council.
    ▪ Next meeting scheduled for January 25, 2021.
  o CDTC
    ▪ Week of January 11th, the first formal compliance meeting was held to introduce the new regional compliance officer.

6.2.2. CIA Year 5 Annual Report Update (Presenter – Brian Kozik, SVP, Chief Compliance and Privacy Officer)
• OIG’s response to Fifth Annual Report on January 7, 2021. OIG Comments and questions:
  o Compliance Officer – holding two roles.
  o Board – requested the types of information the members receive that enabled them to make the resolution of an effective compliance program.
  o One policy question.
  o Three questions related to the IRO.
  o Disclosure Log – requested updates on eight (8) disclosures.
  o Reportable Events – requested a certification for the CFO regarding an overpayment.
  o Requested an update to three (3) disclosures dating back to 2017, 2018 and 2019.
  o Requested an update on the two-midnight review.
  o Four (4) questions regarding certifications.
• Response is due February 8, 2021.

6.3. Compliance Education (Presenter – Brian Kozik, SVP, Chief Compliance and Privacy Officer)


7. ADJOURNMENT

There being no further on the agenda, the Chair adjourned the meeting at 12:58 p.m.

Respectfully submitted,

Commissioner Marie C. Waugh, Secretary/Treasurer
Privacy Investigation Process Overview

Leslie Hernandez, Director, Privacy and Data
Sophie Ulysse, Senior Privacy Specialist

February 2021
Protected Health Information (PHI)

- PHI includes medical records and any other individually identifiable health information in any form (written, verbal or electronic).
- PHI is health information collected from an individual, created or received by a covered entity.
- Individually Identifiable: explicitly linked to an individual or reasonably expected to permit individual identification.
HIPAA BREACH OF PHI

• A HIPAA breach is the unauthorized acquisition, access, use, or disclosure of PHI which compromises its security and privacy.

• Every unauthorized disclosure or release of PHI is reviewed and investigated by the Corporate Compliance & Ethics Department.

• Vendors or third parties handling Broward Health patient PHI must notify us of any breach that has occurred with respect to their use or disclosure of PHI. Generally, Broward Health requires all vendors to notify them of a breach within five business days.
BREACH OF SECURITY – FLORIDA INFORMATION PROTECTION ACT (FIPA)

• A FIPA breach of Security is the unauthorized acquisition, access, use, or disclosure of Personal Information (PI) which compromises its security and privacy and is specific to Florida residents.

• Vendors or third parties handling Broward Health patient PI **must notify** us of any breach that has occurred with respect to their use or disclosure of PI. Generally, Broward Health requires all vendors to notify them of a breach within five business days.
BREACH EXCEPTIONS

There are three exceptions to the definition of “breach”:

1) The unintentional acquisition, access, or use of protected health information by a workforce member or person acting under the authority of a covered entity or business associate, if such acquisition, access, or use was made in good faith and within the scope of authority. (45 CFR 164.500-164.534)

2) The inadvertent disclosure of protected health information by a person authorized to access protected health information at a covered entity or business associate to another person authorized to access protected health information at the covered entity or business associate, or organized health care arrangement in which the covered entity participates. (45 CFR 164.500-164.534)

3) The covered entity or business associate has a good faith belief that the unauthorized person to whom the impermissible disclosure was made, would not have been able to retain the information. (45 CFR 164.402)
An impermissible use or disclosure of protected health information is presumed to be a breach unless the covered entity or business associate, as applicable, demonstrates that there is a low probability that the protected health information has been compromised based on a risk assessment.

**Risk assessment factors to consider:**

| The nature and extent of the protected health information involved, including the types of identifiers and the likelihood of re-identification; | The unauthorized person who used the protected health information or to whom the disclosure was made; | Whether the protected health information was actually acquired or viewed; and | The extent to which the risk to the protected health information has been mitigated. |
NOTIFICATION REQUIREMENTS

• Broward Health must provide notification in writing within **60 days** to affected individuals and report all reportable breaches effecting fewer than 500 individuals to the Office of Civil Rights within 60 days of the end of the calendar year in which the breach was discovered. (45 CFR 164.408)

• When there is a breach affecting 500 or more individuals, Broward Health must provide notification to the Secretary without unreasonable delay and in no case later than 60 days from discovery of the breach. In addition, media notice must be provided.

• FIPA is more stringent – if FIPA applies Broward Health must provide notification in writing within **30 days** to affected individuals.
REPORTER AND TYPE OF INCIDENTS REPORTED

- Identity Theft
- Impermissible Access
- Impermissible Disclosure
- Information Security Control
- Loss of Device/Document Containing PHI
- Patient Privacy Complaint
- Request for Amendment
- Security Breach

- Patient/Care Taker/Parent/Guardian: 75%
- Internally: 10%
- Vendor: 14%
- Regulatory Agency: 1%
INVESTIGATION STEPS

- Step 1: Identify the type of incident reported.
- Step 2: Gather all facts.
- Step 3: Conduct risk assessment.
- Step 4: Conduct root cause analysis.
- Step 5: Ensure corrective action completed. (CAP may include specialized HIPAA training, process updates, a disciplinary action, etc.)
- Step 6: Mitigate any harmful effects.
- Step 7: Complete notification if necessary.
- Step 8: Document all investigative efforts.
CONTENT IN NOTIFICATION SENT TO AFFECTED PATIENT

• Brief description of what happened and when it happened.

• Description of the types of unsecured PHI involved in the breach (example: the individual’s date of birth, social security number, etc.)

• Steps individuals should take to protect themselves from potential harm as a result of the breach.

• Brief description of what Broward Health is doing to investigate the breach, mitigate losses, and protect against any further breaches.

• Contact information for individuals to ask any additional questions.
Thank You