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CENTRAL MICHIGAN UNIVERSITY

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OFFICE OF THE GENERAL COUNSEL
1303 WEST CAMPUS DRIVE
MT. PLEASANT, MI 48859
989-774-3971
FAX: 989-774-2477

TO: Members of the HIPAA Task Force
FROM: Eileen Jennings
SUBJECT: CMU Student Interns and Business Associate Agreements

We have received requests for business associate agreements (contracts) from internship sites regarding student interns. This notion has been discussed thoroughly between Eileen Jennings and Chris Tellner and amongst the privacy sub-committee. Based on our interpretation of the regulation we feel that student interns do not make CMU a business associate of our internship affiliates.

According to the Federal Register, business associate is defined as “a person who: On behalf of such covered entity (affiliate) or of an organized health care arrangement...but other than in the capacity of a member of the workforce of such covered entity (affiliate) or arrangement, performs, (healthcare related services)” (C.F.R. 160.103). When our students perform internships at hospitals and other healthcare providers, we do not believe that the University is performing services (healthcare related or protected health information related) on behalf of the hospitals and providers. The individual students may provide such services, but they do so as a “member of the workforce” of the healthcare provider. Workforce, as defined by the Federal Register, “means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity (affiliate), is under the direct control of such entity, whether or not they are paid by the covered entity” (CFR 160.103). Intern, as defined by Merriam-Webster’s dictionary, is “a recent medical graduate acting as assistant in a hospital for the purpose of clinical training; an advanced student in other fields gaining practical experience under supervision.”

Executing a business associate agreement exposes the University to increased potential liability for all unauthorized disclosures by the interns, whether incidental or not. The University should not sign these agreements unless we believe that the relationship falls within the definition in the HIPAA law. We will, however, sign an affiliation agreement addendum assuring our affiliates that we have instructed our students on the rules of privacy and security with regards to protected health information. It will continue to be important that all of the health related professional preparation programs provide the promised training. The HIPAA coordinating committee’s office will provide appropriate training materials derived from the employee training on HIPAA. Faculty members are welcome to use this standardized training or

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another form of training, as long as the training is comprehensive and accurate. This will continue the long standing tradition of well prepared, both clinically and ethically, CMU interns.