

POLICY AND PROCEDURE CONCERNING CONFIDENTIALITY

Appendix C **PENALTIES**

I. CIVIL FINES

- HHS can impose a civil fine on “any person who violates a provision of this part a penalty not more than \$100 for each such violation, except that the total amount imposed of an identical requirement or prohibition during a calendar year may not exceed \$25,000.” 42 USC Sec. 1320d-5(a)(1)

Example A: One unauthorized person sees a ten patient hospital list. The fine is **\$1000**. (1 unauthorized person * 10 patients * \$100)

Example B: Ten unauthorized persons see a ten patient hospital list. The fine is **\$10,000**. (10 unauthorized persons * 10 patients * \$100)

Example C: A ten patient hospital list is published in the newspaper. The fine is **\$250,000**. (???? unauthorized persons * 10 patients * \$25,000)

II. CRIMINAL PENALTIES

- Criminal penalties apply for **knowingly** accessing, using or disclosing PHI (Protected Health Information) improperly (42 USC Sec. 1320d-6):
 - A. Up to a **\$50,000** fine and/or imprisonment for up to one (1) year for **knowingly** using PHI inappropriately. (Example: Gossiping)
 - B. Up to a **\$100,000** fine and/or imprisonment for up to five (5) years for inappropriately accessing PHI under “false pretenses”. (Example: Forging a signature; lying to get information)
 - C. Up to a **\$250,000** fine and/or up to ten (10) years imprisonment for inappropriately accessing PHI for “commercial advantage” or to do malicious harm. (Example: Selling information; releasing information to the newspaper)