



ADMINISTRATIVE POLICIES & PROCEDURES

TITLE: CONFIDENTIALITY OF RESIDENT INFORMATION

POLICY: Board directors, employees, volunteers, physicians, students, and independent contractors shall be diligent in safeguarding resident protected health information (PHI) and electronic protected health information (e-PHI). Everyone has an obligation to actively protect and safeguard resident PHI and e-PHI in a manner designed to prevent the unauthorized access, use or disclosure of such information. In general, resident information shall not be divulged to anyone except when necessary to provide services to residents or to perform one's duties.

ELIGIBILITY: This policy applies to Vincentian Collaborative System (Vincentian), and its ministry entities.

DEFINITIONS:

Protected Health Information (PHI) is information that relates to the past, present or future physical or mental health or condition (such as the medical record, lab test results, MARs) of a resident which identifies the resident by name or which provides information (such as a social security number, home address, phone number, photograph, driver's license number, auto license plate number, etc.) that can be used to identify the resident.

POLICY SOURCE:

- HIPAA Omnibus Rule:
45 CFR Parts 160; 162 and 164
- VCS Corporate Compliance Program

ORIGINATION DATE:4/13/2003

CROSS-REFERENCE:

- Policy 402: Disclosing PHI for Treatment, Payment and Healthcare Operations
- Policy 403: Restricting Uses and Disclosures
- Policy 410: Authorizations – Obtaining for Use and Disclosure

DATE REVIEWED: 12/1/2020

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Authorization is a signed document which must be obtained whenever protected health information (PHI) is used or disclosed other than for treatment, payment or business operations.

Minimum necessary is limiting the access, use and disclosure of, and request for, protected health information (PHI) to that which is minimally necessary and only to those with a need to know and/or with a signed authorization for the resident.

Treatment, Payment and Business Operations (TPO) refers to the providing of services and care to residents, the billing of those services to the resident's payor(s) and other like business-related operations of VCS. Treatment includes the sharing of PHI among facility nursing staff and with attending or consulting physicians when directly related to the care of the resident. Treatment also includes the sharing of PHI with a pharmacy or clinical laboratory for the purpose of ordering services for the resident and the sharing of PHI with activities staff, social services or dietary services for the services they provide to the resident. TPO does not include marketing and any psychotherapy notes or medical records.

Responsible Party is the individual or party, such as a Power of Attorney, spouse or other family member, who is responsible for assisting or handling the resident's financial matters and/or healthcare decision-making.

PROCEDURES:

I. General Instructions for Privacy

- A. Resident PHI shall not be accessed, disclosed or shared with any individual or entity without the signed authorization of the resident or responsible party. The only exceptions to this rule are when the disclosure is made for:
 - 1. the treatment of the resident,
 - 2. the payment of resident care, or for
 - 3. the business operations of the facility.
- B. Conversations, regarding PHI, between employees that are not necessary for the treatment of a resident or for the payment of services are strictly prohibited.
- C. The sharing of PHI will be the minimum necessary to provide optimum care (See Addendum for examples).
- D. Reasonable efforts should be made to safeguard written documents with PHI.

II. Privacy and the Treatment of Residents

- A. Verbal or telephone conversations between staff or with the resident/responsible party are permissible, provided the conversations concern treatment of the resident or payment for resident care. All reasonable efforts should be made to maintain confidentiality of such communications.
- B. An authorization signed by the resident or his/her legal guardian (Power of Attorney) is required for the sharing of psychotherapy information in any form (verbal, written or electronic), including written psychotherapy notes or applicable portions of the medical records. Please see Policy 411: Authorizations – Obtaining for Use and Disclosure
- C. A signed authorization is required for the release of information not related to treatment, payment and business operations. (See Addendum for examples)
 - 1. The authorization must be signed by a competent resident or his/her responsible party.
 - 2. The authorization must be obtained by Social Services and/or medical records.

III. Privacy and Non-Clinical Departments

- A. Non-clinical departments such as Dietary, Housekeeping/Environmental Services, and Social Services are equally responsible for protecting the privacy of resident PHI.
- B. PHI shared with non-clinical employees by caregivers must be the minimum necessary for the protection of the resident PHI and the protection/safety of the employee.

IV. Knowledge of a violation or potential violation of this policy must be reported directly to your department head or administrator. You may also report a violation to the Vincentian Compliance & Privacy Officer (412-548-4027) or to the Compliance Hotline (1-866-435-2201).

IV. Any alleged violation of this policy will be investigated by the administrator and/or the Vincentian Compliance & Privacy Officer. Failure to adhere to the provisions of this policy may result in disciplinary action up to and including termination of employment or the business relationship with Vincentian. Please see the Vincentian Employee Handbook.

Revision No	Dates of Changes	Responsible Parties	Summary of Change(s)
1	12/1/2020	Donna Schaub	Reviewed and Format Changes

ADDENDUM

HIPAA PRIVACY EXAMPLES

EXAMPLE #1 - NURSING

The attending physician stops you in the hallway to inquire about the resident's response to a new medication. He's in a hurry and there are a number of residents and family members close by.

INCORRECT: Discuss the resident right where you are, after all, he's the doctor.

CORRECT: You ask the attending physician to step down the hall several feet where you can talk in low tones and avoid the likelihood of being overheard by another resident or family member. Even if another resident or visitor overhears you, it is not a violation as you have taken *reasonable measures* to prevent a disclosure.

EXAMPLE #2 - NURSING

Helen, a warm-hearted volunteer of 15 years at the facility, approaches the charge nurse to inquire about Anna, a resident who has stopped attending bingo. Anna has had a nineteen-pound weight loss in the past 2 months and often appears disinterested and listless upon approach.

INCORRECT: You tell Helen that Anna has lost 19 pounds due to colon cancer and her prognosis is poor.

CORRECT: You realize that you are not permitted to discuss Anna's protected health information (PHI) with Helen. You may encourage Helen to spend quality time with Anna and express gratitude for her concern.

EXAMPLE #3 - NURSING

You were asked to assist housekeeping in cleaning a private room the day after the resident has passed away following a lengthy illness. The housekeeper asks you “Why did Mr. Smith die? I don’t want to get anything contagious from cleaning this room!”

INCORRECT: You tell the housekeeper that Mr. Smith had VRE and hepatitis B, after all, he’s deceased, who cares at that point?

CORRECT: Although Mr. Smith has passed away, he maintains his protection of privacy under HIPAA. Mr. Smith’s protected health information (PHI) should not be disclosed. The nurse should encourage the housekeeper to practice standard precautions in all instances.

EXAMPLE #4 - DIETARY

You are on the tray line--a resident's card/tray comes along and a change of diet from regular to mechanical soft is noticed by a co-worker. You are asked, "Gee, I wonder why Mrs. Smith's tray was changed to mechanical soft-have you heard anything?"

INCORRECT: Oh yeah, didn't you hear, she was in the hospital after she was choking in the dining room last week--I think I heard she had pneumonia from aspirating"

CORRECT: "Gee, I really don't know but I hope it's temporary and that she's feeling better." Discussion in the tray line would not be considered part of treatment, payment, and healthcare operations (TPO) and would therefore be a violation. However, a general statement provides no misinformation and the co-workers question is acknowledged.

EXAMPLE #5 - NURSE AID

You are using a VCS supplied device to enter information on Mrs. Smith’s ADLs. The admissions staff are touring a family through the facility. The family stops behind you and are curious about what you are doing.

INCORRECT: “Here let me show you how this works”.

CORRECT: “I am entering information into our electronic medical record. Due to HIPAA privacy concerns, I cannot show you our system.” You can continue to update the record as long as it is not viewable to others. If so, you should move to a more private area to update the record.

EXAMPLE #6 – ALL STAFF

You answer the phone and it's a call from Mrs. Smith's niece who asks for Mrs. Smith's room number. The called says that she wants to send Mrs. Smith a card, and "Oh, by the way, how is Aunt Harriet doing?" What should you do?

INCORRECT: "I heard the nurses talking earlier and your aunt is in congestive health failure. She is not expected to live much longer".

CORRECT: "Mrs. Smith is in room 221. She had a good day. If you have her privacy code, I can provide you with more information. If not, I would suggest that you contact her daughter for more information." HIPAA permits us to acknowledge that the resident is in our home, give a room number and a general health statement about the resident (i.e. "She is doing well today"). If the caller asks additional questions, refer the caller to the nurse who will require the resident's privacy code or suggest that the caller speak to the resident or her responsible party/POA.

EXAMPLE #7 – ALL STAFF

You are in the smoking area and a conversation is going on between two staff members about a resident. You overhear comments about the resident's illness (MRSA). What should you do?

INCORRECT: You continue to listen and pass information you have overheard along to anyone in or out of the facility.

CORRECT: "I am sorry to interrupt but your conversation is a violation of the privacy rules. Please take your conversation to somewhere more private." If they do not follow your suggestion, please report the HIPAA violation to your supervisor, Administrator or the Corporate Compliance Officer at (412) 548-4027.

EXAMPLE #8 – CLINICAL STAFF

You are on the telephone with a doctor or the lab and staff or a family member comes up to you to ask a question. What should you do?

INCORRECT: Continue your conversation and ignore the staff/family member.

CORRECT: Ask the staff to come back in a few minutes or the family member to have a seat in an adjacent area or the resident's room until your call is finished. If staff/family members are nearby and within listening distance of your conversation, close your door (if available), transfer the call to a private area (another room), or call the person back from a private area. We all must be observant of our surroundings.