

## Policy on Secondary Use of PHI on VHIE

### Definitions:

“Authorization” shall mean an individual’s act of giving specific written permission for the use or disclosure of his or her protected health information in a form which meets all of the requirements set forth in the HIPAA Privacy Regulations, 45 CFR § 164.508, including without limitation, an expiration date and notice of the individual’s right to revoke.

“De-identified” shall mean that all identifying information related to an individual as set forth in the HIPAA Privacy and Security Rule, 45 CFR Section 164.514 (b), are removed from the protected health information.

“Exchange” or “The Vermont Health Information Exchange” (“VHIE”) shall mean the health information exchange network operated by VITL.

“Health Care Operations” shall mean activities of a Participating Health Care Provider providing treatment to an individual relating to quality assessment and improvement, evaluations relating to the competence of treating providers or necessary management and administrative activities all as defined in the HIPAA Privacy Regulations, 45 CFR §164.501.

A “Participating Health Care Provider” means a health care provider, including any health care organization meeting the definition of a health care facility as defined in 18 VSA § 9402, who has executed an effective VHIE Data Services and Participation Agreement with VITL.

“Protected Health Information” (“PHI”) shall mean identifiable personal information in any form or medium about the past, present or future physical or mental health or condition of an individual as defined in the HIPAA Privacy Regulations, 45 CFR § 160.103.

“Quality Review” shall mean the review of PHI by health plans, insurance carriers or other third party payer for the purpose of disease management, case management or quality assessment or improvement.

“Treatment” shall mean the provision, coordination, or management of health care and related services by one or more health care providers.

### Policy

#### Protected Health Information

Protected health information (“PHI”) shall not be made available on the Exchange for any purposes other than the treatment of the subject individual, payment related to that treatment or necessary health care operations of the Participating

Health Care Provider who accesses PHI for treatment purposes, except for Quality Review under the following condition. PHI on the Exchange may be made available by VITL for Quality Review with the patient's specific Authorization and a use agreement between VITL and any health plan, insurance carrier or other third party payer.

Authorizations and Use Agreements for Quality Review

In the event that PHI is requested for Quality Review, VITL may provide access to PHI on the Exchange of individuals who have signed an Authorization specifically permitting the health plan, insurance carrier or other third party payer ("Recipient Organization") to obtain access to their PHI on the Exchange. VITL and the Recipient Organization must have executed a written use agreement which obligates the Recipient Organization to the following provisions:

- to use and limit access to the PHI only for the purpose of Quality Review;
- to agree to an Authorization form to be obtained from individuals, which complies with the requirements of 45 CFR § 164.508 and 42 CFR § 2.31 (relating to alcohol and substance abuse programs) and specifically sets forth the intended purpose;
- to agree to provide VITL access to the Authorizations, upon reasonable request;
- to agree that no PHI for care for which an individual has self paid and that is subject to the individual's requested restriction to prevent disclosure to a health plan will be released from the Exchange;
- to update its Notice of Privacy Practices to describe, when authorized by the individual, its use of his or her PHI from the Exchange for Quality Review purposes only;
- to comply with all federal and state laws and regulations protecting the confidentiality of PHI;
- to designate staff who may access the Exchange for PHI as authorized by individuals for Quality Review;
- to maintain policies and procedures for the appropriate access, training, and discipline of staff with regard to access to the Exchange for Quality Review;
- to maintain policies and procedures to prohibit any discrimination against an individual who does not authorize access to his or her PHI on the Exchange; and
- to comply with the VHIE Policy on Privacy and Security Events.

De-identified PHI

In the event that de-identified PHI is requested for clinical research from data maintained for the Exchange, VITL, through its Executive Committee, or its designee Committee, shall review the request to determine if it should be approved. In making its determination, the Committee may consider any Institutional Review Board approval supporting the request. If approved, VITL, through an approved Data Subcontractor, shall prepare the de-identified PHI requested and shall be reimbursed for its expenses by the requesting party. The requesting party shall be required to provide contract assurances that no attempt shall be made by it to “identify” the de-identified PHI from the Exchange provided for the approved research.

VITL shall make available upon request an annual report of all approved requests for de-identified PHI from the Exchange, including the date of the de-identified data release, the entity to which the data was released, and a summary of the research involved.