

Policy on Secondary Use of PHI on VHIE

Definitions:

“Accountable Care Organization” (“ACO”) shall mean a legal entity that is recognized and authorized under applicable state and federal law, is identified by a tax identification number and is formed by one or more providers that agree to work together to be accountable for providing coordinated high quality care to patients as established and authorized by the applicable federal, state or private health plan program contracting with the ACO.

“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.

“Health Plan” shall mean a group health plan, health insurance company, health maintenance organization, a government health program, employee health benefit plan or other third party payer of health care as defined in the HIPAA Privacy Regulations, 45 CFR 160.103 and who qualify as a Covered Entity under 45 CFR 160.103.

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 or Accountable Care Organizations for the purpose of disease management, utilization review or quality assessment or improvement. Utilization review includes precertification and preauthorization of services, concurrent and retrospective review of services. It does not include post-payment audits of services rendered.

“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 as set forth in this Policy. PHI on the Exchange may be made available by VITL for Quality Review under a Use Agreement between VITL and a Health Plan or Accountable Care Organization as set forth below.

VITL Approval 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 to a Health Plan or Accountable Care Organization (“Recipient Organization”) if the Recipient Organization has beneficiaries or attributed lives who receive treatment in Vermont, has been approved by VITL, through its Executive Committee or its designee Committee, to access the PHI of its beneficiaries or attributed lives, and has executed a written use agreement with VITL which obligates the Recipient Organization to the following provisions:

- to use and limit access to the PHI only for the purpose of Quality Review for its beneficiaries or attributed lives;
- to acknowledge 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 to it from the Exchange;
- to update its Notice of Privacy Practices and/or beneficiary information, to describe its use of PHI from the Exchange for Quality Review purposes relating to its beneficiaries or attributed lives 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 has opted out of the Exchange; and
- to comply with the VHIE policies and procedures.

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