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VETERANS BULLETIN
No. 15-2

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NEW JERSEY VETERANS MEMORIAL HOMES
RESIDENT HEALTH RECORDS

1. **Purpose.** To reinforce and clarify the policy of protecting the privacy of resident healthcare records.
2. **Applicability.** This Bulletin applies to all employees of the New Jersey Veterans Memorial Homes (VMH). The term employee includes contracted employees and temporary hires as well as permanent staff.
3. **Reference.**
 - a. Health Insurance Portability and Accountability Act of 1996 (HIPAA)
 - b. Open Public Records Act of 2001 (OPRA), specifically N.J.S.A 47:1A-9
 - c. Veterans Healthcare Services Divisional Policy and Procedure Manual, section 39-02-002
4. **Background information.**
 - a. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) created the standards for privacy of individually identifiable health information, the so-called Privacy Rule. This protects all individuals' identifiable health information which is referred to as Protected Health Information (PHI). Our resident's health files are PHI.
 - b. Another facet of the HIPAA Privacy Rule is that of minimum necessity, e.g. the VMH must make reasonable efforts to use only the minimum amount of PHI needed to accomplish the intended purpose of the use, disclosure or request. As a rule of thumb, entire medical records should not be disclosed unless justified.

**This bulletin supersedes VA Bulletin No. 4-10, 2 June 2010.*

- c. The Open Public Records Act of 2001 (OPRA) exempts certain information from disclosure to the public. Specifically, N.J.S.A 47:1A-9 upholds exemptions contained in other State or federal statutes and regulations, Executive Orders of the Governor, Rules of Court, Constitution of this State, or judicial case law, such as HIPAA.

5. Responsibilities.

- a. Management. To insure that all employees are aware of this Bulletin and are trained in privacy policies and procedures as necessary and appropriate for those employees to carry out their assigned duty functions.
- b. Employees. To become knowledgeable with the content of this Bulletin and practice, on a routine basis, the safeguarding of resident PHI in accordance with established practices and procedures.

6. Procedures.

- a. Patient information is confidential. This includes all patient information, whether it is in oral, electronic or paper format. Information about residents will not be released or discussed with others unless it is necessary for the patient's medical care or as required or permitted by law. Employees are required to protect and preserve that confidentiality.
- b. PHI will be discussed in private, and only those directly involved in the resident's care or those authorized by the resident will be present. Resident's charts shall be kept secure from unauthorized access. Seeking access to PHI out of curiosity, for malicious purposes, financial gain or personal agendas is prohibited.
- c. Employees in the discharge of their official duties may learn information about residents that is considered private and/or confidential, whether written, faxed, electronic or oral. This information must be respected and not discussed with unauthorized persons either inside or outside the Veterans Memorial Home (VMH).
- d. All VMHs will ensure the confidentiality, integrity, and availability of all electronic PHI that the VMH creates, receives, maintains, or transmits. VMHs must protect against any reasonably anticipated threats or hazards to the security or integrity of such information by the use of encryption, password protection, and security logging. VMHs must protect against any reasonably anticipated uses of disclosures of such information that are not permitted or required under Division Policy.
- e. Routine disclosures. Generally physicians, nurses, and those involved in the treatment and care of residents are granted access to entire medical records, as required for the care of the resident. Review of requests is not required.

f. Non-Routine Disclosures.

- (1) With Non-Routine disclosures or requests (e.g. disciplinary cases and hearings), the VMH must limit the disclosure to only the minimum amount of PHI necessary to accomplish the purpose of the request as outlined in HIPAA Policy 1022, "Notice of Information Practices."
 - (2) When PHI is requested, it must be redacted or de-identified (HIPAA term) to the greatest extent possible while still accommodating the purpose of the request.
 - (3) Non-Routine disclosures should be vetted through the VMH designated HIPAA Privacy Officer.
7. Additional information and guidance is available at www.hhs.gov/ocr/hipaa.
 8. Questions or inquiries concerning this Bulletin should be addresses to BG Steven Ferrari, Director, Division of Veterans Healthcare Services at 609-530-6967 or by e-mail at steven.ferrari@dmava.nj.gov.

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