

TOTAL HOMECARE SOLUTIONS

Category: Patient Information Number: 4.003.3
Subject: Use and Disclosure of Protected Health Information
Applies: All Staff and Clients/Caregivers Page: 1 of 11

Purpose: To ensure that all THS Staff and Caregivers understand the permissible and required uses and disclosure of protected health information.

Policy: Ensure that the agency promotes and protects the patient's protected health information.

Definitions:

Protected health information means individually identifiable health information:

- (1) Except as provided in paragraph (2) of this definition, that is:
 - (i) Transmitted by electronic media;
 - (ii) Maintained in electronic media; or
 - (iii) Transmitted or maintained in any other form or medium.
- (2) Protected health information excludes individually identifiable health information in:
 - (i) Education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g;
 - (ii) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); and
 - (iii) Employment records held by a covered entity in its role as employer.

Individually Identifiable Health Information is information that is a subset of health information, including demographic information collected from an individual, and:

- (1) Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
- (2) Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and
 - (i) That identifies the individual; or
 - (ii) With respect to which there is a reasonable basis to believe the information can be used to identify the individual.

Protected Health Information and Individually Identifiable Health Information may be summarized as described below:

- Information doctors, nurses, and other health care providers put in a patient's medical record
- Conversations a doctor has about a patient's care or treatment with nurses and others

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- Information about a patient in a health insurer's computer system
- Billing information about a patient at their clinic, etc.
- Includes not only medical info, but also name, birthdates, address, billing info, etc

Total Homecare Solutions (THS) employees may have access to confidential health information. THS employees are required to handle such information in a confidential manner at all times during and after employment with THS.

- A. Employees must disclose confidential health information only in connection with and for the purpose of performing their assigned duties.
- B. Employees will request, obtain or communicate confidential health information only as necessary to perform their assigned duties and shall refrain from requesting, obtaining or communicating more confidential health information than is necessary to accomplish my assigned duties.
- C. Employees will take reasonable care to properly secure confidential health information on their computer and will take steps to ensure that others cannot view or access such information. When employees are away from their workstation or when their tasks are completed, employees will log off their computer or use a password-protected screensaver in order to prevent access by unauthorized users.
- D. Employees will not disclose their personal password(s) to anyone without the express written permission of the department head or record or post it in an accessible location and will refrain from performing any tasks using another's password.
- E. Any and all conversations regarding patients and anything relating to their medical or personal business that has been shared with an employee, must be held in strictest confidence. Any discussions among our employees should not take place around other clients, the front desk area or hall and should be limited to medical issues. Any gossip regarding patients is never appropriate either around the office or outside the office. Such breach of confidentiality may be cause for termination.

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I. Permissible Uses and Disclosures of PHI

Permissible Uses or Disclosures of Client Medical Information: All client personal health information will be protected and remain confidential **at all times**. In general, all uses and disclosures must be authorized, except for the purposes described below.

- 1. Treatment:** THS may use and disclose personal and health information to provide, coordinate or manage an individual's healthcare by us and other healthcare providers. THS may also disclose information to other doctors, nurses, technicians, staff and other healthcare professionals who become involved in an individual's care. *For example:* THS or a physician may determine that an individual may require the assistance of a physical therapist. After we have obtained an order from your physician, we will contact the therapist and give them the medical and personal information needed to coordinate and provide care. Also, we may call an individual with test results or to answer questions about an individual's care, or use and disclose health information.
- 2. Payment:** THS may use and disclose personal and health information to receive payment for services we provide, or to obtain prior authorizations for proposed treatments. *For example:* THS may need to provide an insurance company, or federally funded program such as Medicare or Medicaid/Cal, with information about medical conditions and the healthcare that is required, in order for THS to receive payment for services rendered by THS.
- 3. Healthcare Operations:** THS may use personal and health information for our own operations. We may also use and disclose personal and health information to conduct staff training programs and inform them about treatment options and alternatives. These uses are required to run our company and to make sure that all of our patients receive quality care. *For example:* THS may use health information to review the services we provide, and the performance of our staff involved in your care. Information may also be used to develop programs to meet your needs and the educational requirements of our employees.
- 4. Individuals Involved In Client Care or Payment For Client Care:** Unless an individual objects, we may disclose personal and health information to a relative, friend, or any person identified by the individual, any PHI that is directly relevant to such person's involvement with the individual's care, or for payment for an individual's care.

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5. **Required By Law:** THS may use or disclose personal and health information, to the extent that such disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.
6. **Workers Compensation:** THS may disclose personal and health information in order to comply with the laws relating to workers' compensation or similar programs.
7. **Public Health Activities, Disaster Relief, Or to Avert a Threat to Health Or Safety and Disclosures about victims of Abuse, Neglect or Domestic Violence:** THS may use or disclose personal and health information based on the following criteria.
 - a. **Public Health Activities** – A covered entity may disclose protected health information for the public health activities and purposes described in this paragraph to a public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions; or, at the direction of a public health authority, to an official of a foreign government agency that is acting in collaboration with a public health authority.
 - b. **Disaster Relief** – In the individual's best interest as determined by the covered health care provider, in the exercise of professional judgment, we may use or disclose PHI to a public or private entity authorized by law or its charter to assist in disaster relief efforts.

Averting a Threat to Health or Safety – A covered entity may, consistent with applicable law and standards of ethical conduct, use or disclose protected health information, if the covered entity, in good faith, believes the use or disclosure: (A) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and (B) Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat; or (ii) Is necessary for law enforcement authorities to identify or apprehend an individual: (A) Because of a statement by an individual admitting participation in a violent crime that the covered entity reasonably believes may have caused serious physical harm to the victim; or (B) Where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody, as those terms are defined in §

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164.501.

- d. **Disclosures about Victims of Abuse, Neglect or Domestic Violence** - THS may disclose personal and health information to the appropriate authorities if we reasonably believe that an individual is a possible victim of abuse, neglect, domestic violence.
8. **Health Oversight:** THS may disclose personal and health information to a health oversight agency for activities authorized by law. This may include but is not limited to Joint Commission on Accreditation of Healthcare Organizations (JCAHO) surveys, investigations, inspections, licensure or disciplinary actions.
9. **Legal Proceedings and Law Enforcement:** THS may disclose personal and health information (in limited circumstances) to law enforcement and/or in response to a subpoena, court or administrative order, warrant, discovery request or other lawful process. The specifics for when THS staff may disclose protected health information for law enforcement purposes are outlined in 45 C.F.R. §164. 512(f). However, staff may wish to consult with the Privacy Officer before using or disclosing PHI in this regard to ensure any potential use or disclosure is permissible. The specifics for which THS may disclose personal health information are outlined in section §164.512F of the *Department and Health and Human Resources under the Standard: Disclosures for law enforcement purposes*.

a. Legal Proceedings

- (e) Standard: Disclosures for judicial and administrative proceedings--(1) Permitted disclosures. A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:
- (i) In response to an order of a court or administrative tribunal, provided that the covered entity discloses only the protected health information expressly authorized by such order; or
- (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
- (A) The covered entity receives satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or

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(B) The covered entity receives satisfactory assurance, as described in paragraph (e)(1)(iv) of this section, from the party seeking the information that reasonable efforts have been made by such party to secure a qualified protective order that meets the requirements of paragraph (e)(1)(v) of this section.

(iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protecting health information if the covered entity receives from such party a written statement and accompanying documentation demonstrating that:

(A) The party requesting such information has made a good faith attempt to provide written notice to the individual (or, if the individual's location is unknown, to mail a notice to the individual's last known address);

(B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and

(C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:

(1) No objections were filed; or

(2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

(iv) For the purposes of paragraph (e)(1)(ii)(B) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information, if the covered entity receives from such party a written statement and accompanying documentation demonstrating that:

(A) The parties to the dispute giving rise to the request for information have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute; or

(B) The party seeking the protected health information has requested a qualified protective order from such court or administrative tribunal.

(v) For purposes of paragraph (e)(1) of this section, a qualified protective order means, with respect to protected health information requested under paragraph (e)(1)(ii) of this section, an order of a court or of an administrative tribunal or a stipulation by the parties to the litigation or administrative proceeding that:

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(A) Prohibits the parties from using or disclosing the protected health information for any purpose other than the litigation or proceeding for which such information was requested; and

(B) Requires the return to the covered entity or destruction of the protected health information (including all copies made) at the end of the litigation or proceeding.

(vi) Notwithstanding paragraph (e)(1)(ii) of this section, a covered entity may disclose protected health information in response to lawful process described in paragraph (e)(1)(ii) of this section without receiving satisfactory assurance under paragraph (e)(1)(ii)(A) or (B) of this section, if the covered entity makes reasonable efforts to provide notice to the individual sufficient to meet the requirements of paragraph (e)(1)(iii) of this section or to seek a qualified protective order sufficient to meet the requirements of paragraph (e)(1)(iv) of this section.

(2) Other uses and disclosures under this section. The provisions of this paragraph do not supersede other provisions of this section that otherwise permit or restrict uses or disclosures of protected health information.

b. Law Enforcement

(f) Standard: Disclosures for law enforcement purposes. A covered entity may disclose protected health information for a law enforcement purpose to a law enforcement official if the conditions in paragraphs (f)(1) through (f)(6) of this section are met, as applicable.

(1) Permitted disclosures: Pursuant to process and as otherwise required by law. A covered entity may disclose protected health information:

(i) As required by law including laws that require the reporting of certain types of wounds or other physical injuries, except for laws subject to paragraph (b)(1)(ii) or (c)(1)(i) of this section; or (ii) In compliance with and as limited by the relevant requirements of:

(A) A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;

(B) A grand jury subpoena; or

(C) An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that:

(1) The information sought is relevant and material to a legitimate law enforcement inquiry;

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(2) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and

(3) De-identified information could not reasonably be used.

(2) Permitted disclosures: Limited information for identification and location purposes. Except for disclosures required by law as permitted by paragraph (f)(1) of this section, a covered entity may disclose protected health information in response to a law enforcement official's request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that:

(i) The covered entity may disclose only the following information:

(A) Name and address;

(B) Date and place of birth;

(C) Social security number;

(D) ABO blood type and rh factor;

(E) Type of injury;

(F) Date and time of treatment;

(G) Date and time of death, if applicable; and

(H) A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.

(ii) Except as permitted by paragraph (f)(2)(i) of this section, the covered entity may not disclose for the purposes of identification or location under paragraph (f)(2) of this section any protected health information related to the individual's DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissue.

(3) Permitted disclosure: Victims of a crime. Except for disclosures required by law as permitted by paragraph (f)(1) of this section, a covered entity may disclose protected health information in response to a law enforcement official's request for such information about an individual who is or is suspected to be a victim of a crime, other than disclosures that are subject to paragraph (b) or (c) of this section, if:

(i) The individual agrees to the disclosure; or

(ii) The covered entity is unable to obtain the individual's agreement because of incapacity or other emergency circumstance provided that:

(A) The law enforcement official represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred, and such information is not intended to be used against the victim;

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(B) The law enforcement official represents that immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure; and

(C) The disclosure is in the best interests of the individual as determined by the covered entity, in the exercise of professional judgment.

(4) Permitted disclosure: Decedents. A covered entity may disclose protected health information about an individual who has died to a law enforcement official for the purpose of alerting law enforcement of the death of the individual if the covered entity has a suspicion that such death may have resulted from criminal conduct.

(5) Permitted disclosure: Crime on premises. A covered entity may disclose to a law enforcement official protected health information that the covered entity believes in good faith constitutes evidence of criminal conduct that occurred on the premises of the covered entity.

(6) Permitted disclosure: Reporting crime in emergencies. (i) A covered health care provider providing emergency health care in response to a medical emergency, other than such emergency on the premises of the covered health care provider, may disclose protected health information to a law enforcement official if such disclosure appears necessary to alert law enforcement to:

(A) The commission and nature of a crime;

(B) The location of such crime or of the victim(s) of such crime; and

(C) The identity, description, and location of the perpetrator of such crime.

(ii) If a covered health care provider believes that the medical emergency described in paragraph (f)(6)(i) of this section is the result of abuse, neglect, or domestic violence of the individual in need of emergency health care, paragraph (f)(6)(i) of this section does not apply and any disclosure to a law enforcement official for law enforcement purposes is subject to paragraph (c) of this section.

10. Military and National Security: THS may disclose personal and health information to authorized military command authorities or federal officials if an individual is in the armed forces or are a veteran, or as required for lawful intelligence, counterintelligence and other national security activities.

11. Coroners, Medical Examiners and Funeral Directors: We may disclose personal and health information to a coroner or medical examiner if necessary to identify a deceased person or to determine a cause of death, or to a funeral director in connection with the performance of their duties.

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12. **Business Associates:** THS may provide some services through contracts with business associates. We may disclose PHI to a business associate after we obtain satisfactory assurance that the personal and health information will remain confidential, and after THS obtains the business associate's contractual agreement to safeguard all information.

II Required Uses and Disclosures:

Required Uses or Disclosures of Client Medical Information - THS is required to disclose protected health information:

- (i) To an individual, when requested under, and required by the Department and Health and Human Resources under the Privacy Rule, 45 C.F.R. § 164.524 or § 164.528; and
- (ii) When required by the Secretary to investigate or determine THS's regulatory compliance.

Disciplinary Action

Employees understand that as an employee of THS, a health care provider, that the use and disclosure of patient information is governed by the rules and regulations established under HIPAA, the Health Insurance Portability and Accountability Act of 1996, and related policies and procedures of THS. Therefore, with regard to patient information, employees commit to the following additional obligations:

- A. Employees are required to use and disclose confidential health information solely in accordance with the federal and company policies set forth above or elsewhere. Employees also are required to familiarize themselves with any periodic updates or changes to such policies in a timely manner.
- B. Employees are required to immediately report any unauthorized use or disclosure of confidential health information that employees become aware of to the appropriate supervisor using the reporting procedure provided at the Companies HIPAA website, info@thshomecare.com.

Employees who fail to fulfill any of the obligations set forth in this Policy and/or my violation of any terms of this Policy shall result in being subject to appropriate disciplinary action, up to and including, termination of employment per the THS employee discipline policy #2.014.1.

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QUESTIONS AND COMPLAINTS:

All THS employees may consult with the company Privacy Officer prior to making any report or disclosing any details of a specific incident. THS will not retaliate, and you will not be penalized in any way if you choose to file a complaint with THS or with the U.S. Department of Health and Human Services.

Contact Information:

Contact Office:
Total Homecare Solutions
Attention: Privacy Official
8170 Corporate Park Dr Ste 150
Cincinnati, OH 45242

Toll Free Telephone:
1-866-557-1403

Fax:
1-513-297-0861

E-Mail:
info@thshomecare.com