

## Appendix K

### STATEMENT OF PROTECTION OF PRIVACY AND SECURITY OF PHI IN THE PATIENT TRACKING SYSTEM

VHHA is committed to protecting the privacy and security of Protected Health Information submitted to the Patient Tracking System in accordance with federal Health Insurance Portability and Accountability Act Standard for Privacy and Security of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164, related guidance and advice published by the Department of Health and Human Services or its designee (hereinafter referred to as the "HIPAA Rules"), and the Virginia Health Records Privacy Act (Code of Virginia § 32.1-127.1:03). As result, VHHA agrees to the following with respect to PHI submitted to the Patient Tracking System.

For the purposes of this Statement, "Covered Entity" shall mean any covered entity that submits information to the Patient Tracking System in accordance with the Memorandum of Understanding between Regional Healthcare Preparedness Coordinating Group and the Participating Regional Organization (the "MOU").

The following terms used in this Statement shall have the same meaning as those terms in the HIPAA Rules: breach, data aggregation, designated record set, disclosure, health care operations, individual, minimum necessary, notice of privacy practices, protected health information, required by law, Secretary, security incident, subcontractor, unsecured protected health information, and use.

1. **Permitted Uses and Disclosures of Protected Health Information.** VHHA provides services for and on behalf of Covered Entity that may involve the use and/or disclosure of Protected Health Information. As permitted by this Statement and as otherwise permitted by the HIPAA Rules, VHHA may make any and all uses and disclosure of Protected Health Information necessary to perform its duties and obligations with respect to the Patient Tracking System.
2. **Use or Disclosure of Protected Health Information.** VHHA shall not, and shall ensure that its directors, officers, employees, and agents do not, use or disclose Protected Health Information received in connection with the Patient Tracking System in any manner that would constitute a violation of the HIPAA Rules or Virginia law if disclosed by the Covered Entity, except that VHHA may use or disclose Protected Health Information in a manner permitted pursuant to the Patient Tracking Policies and Procedures, as permitted by this Statement, for the proper management and administration of VHHA, to carry out its legal responsibilities, to provide data aggregation services relating to health care operations of Covered Entities, or as required by law. Pursuant to the MOU between the Regional Healthcare Preparedness Coordinating Group and the Covered Entity, the Covered Entity explicitly acknowledges and agrees that VHHA's disclosure, by and through its subcontractors, of PHI received from the originating Covered Entity to legitimate users of the Patient Tracking System in accordance with the Patient Tracking Policies and Procedures shall be considered

permitted disclosure of PHI. To the extent VHHA is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, VHHA shall comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations(s). VHHA agrees to make uses and disclosures and requests for Protected Health Information consistent with any minimum necessary policies and procedures of the Covered Entity, subject to the Covered Entity providing VHHA with notice of such policies and procedures and provided they do not conflict with the Patient Tracking System Terms of Use and Patient Tracking System Policies and Procedures.

3. **Subcontractors.** To the extent VHHA discloses Protected Health Information to a subcontractor of VHHA that creates, receives, maintains, or transmits Protected Health Information in order for VHHA to fulfill its duties and obligations to the Virginia Department of Health or originating Covered Entities, VHHA shall obtain prior to making any such disclosure: (a) reasonable assurances from such subcontractor that PHI will be held confidential, as provided pursuant to this Statement, and disclosed only as required by law or for the purposes for which it was disclosed to the subcontractor; (b) an agreement by the subcontractor to be bound by the same restrictions, terms and conditions that apply to VHHA pursuant to this Statement; (c) reasonable assurances from the subcontractor that it will implement reasonable and appropriate safeguards to protect any electronic Protected Health Information that it creates, receives, maintains or transmits on behalf of a Covered Entity or VHHA; and (d) an agreement from the subcontractor to immediately notify VHHA of any breaches of the confidentiality of the disclosed Protected Health Information, to the extent it has obtained knowledge of such breach. Covered Entity hereby grants permission to VHHA to enter into such subcontractor relationships.
  
4. **Safeguards Against Misuse of Information.** VHHA agrees that it will implement all appropriate and commercially reasonable safeguards consistent with the HIPAA Rules to maintain the security of, and prevent the improper use or disclosure of, Protected Health Information. VHHA agrees to implement administrative, physical and technical safeguards, and comply with Subpart C of 45 C.F.R. Part 164, to protect the confidentiality, integrity and availability of the electronic Protected Health Information that it creates, receives, maintains or transmits on behalf of Covered Entity, as required by the HIPAA Rules. In the event of any improper use and/or disclosure of Protected Health Information, VHHA shall work to implement procedures for mitigating the harmful effects of such improper use and/or disclosure. Where practicable, Covered Entity shall work cooperatively with VHHA with respect to such mitigation.

5. **Reporting of Inappropriate Disclosures of Protected Health Information.** VHHA shall notify Covered Entity as soon as practicable after becoming aware of an attempted or successful unauthorized access, use, disclosure, modification or destruction of Protected Health Information supplied by or on behalf of Covered Entity not provided for by this Statement, an interference with the Patient Tracking System operations that implicates widespread unauthorized disclosure of Protected Health Information, or any breach of unsecured Protected Health Information as required by 45 C.F.R. § 164.410, and any security incident of which it becomes aware.
6. **Access to Information.** Throughout the term of this relationship, VHHA shall make available to Covered Entity such Protected Health Information provided to VHHA by Covered Entity in a designated record set for so long as such information is maintained. In the event any individual requests access to Protected Health Information in a designated record set directly from VHHA, VHHA shall forward such request to Covered Entity. Any denials of access to the Protected Health Information requested shall be the responsibility of Covered Entity.
7. **Availability of Protected Health Information for Amendment.** Upon receipt of a request from Covered Entity to update Protected Health Information in a designated record set for an individual, VHHA agrees to incorporate any such amendment as may be required by 45 C.F.R. § 164.526. VHHA shall refer to Covered Entity any requests received by VHHA requesting amendments to Covered Entity-provided PHI. Any review and consideration of a requested amendment shall be the responsibility of Covered Entity.
8. **Accounting of Disclosures.** Upon request from Covered Entity, VHHA shall make available to Covered Entity such information as is in VHHA's possession and is required for Covered Entity to make an accounting, as required by 45 C.F.R. § 164.528. VHHA shall provide Covered Entity with the following information: (i) the date of the disclosure; (ii) the name of the entity or person who received the Protected Health Information, and, if known, the address of such recipient entity or person; (iii) a brief description of the Protected Health Information disclosed; and (iv) a brief statement of the purpose of such disclosure, which shall include an explanation of the basis for such disclosure. In the event the request for an accounting is delivered directly to VHHA, VHHA shall forward such request to Covered Entity. It shall be Covered Entity's responsibility to prepare and deliver any such accounting requested.
9. **Availability of Books and Records.** VHHA hereby agrees to make its internal practices, books and records relating to the use and disclosure of Protected Health Information received from, created or received by VHHA on behalf of Covered Entity, available to the Secretary of the Department of Health and Human Services (or its designee) for purposes of determining Covered Entity's and VHHA's compliance with the HIPAA Rules, subject to attorney-Provider and other applicable privileges.

### III. OBLIGATIONS OF COMPANY

1. **Notice of Privacy Practices.** Covered Entity shall notify VHHA of any limitation(s) in the notice of privacy practices of Covered Entity under 45 C.F.R. § 164.520, to the extent that such limitation may affect VHHA's or any subcontractor's use or disclosure of Protected Health Information. VHHA is not responsible for disseminating or complying with the notice of privacy practices of Covered Entity, other than as directed by Covered Entity and in accordance with the terms of this Statement.

### IV. TERMS AND TERMINATION

1. **Term.** This Statement shall become effective on execution of the MOU between the Regional Healthcare Preparedness Coordinating Group and the Covered Entity.
2. **Termination.**
  - a. **Automatic Termination.** This Statement will automatically terminate upon the termination or expiration of the MOU between the Regional Healthcare Preparedness Coordinating Group and the Covered Entity.
  - b. **Material Breach by VHHA.** Notwithstanding any provisions in this Statement or the Memorandum of Understanding to the contrary, Covered Entity may terminate the Agreement if Covered Entity determines that VHHA has breached a material term of this Statement. Covered Entity shall allow VHHA the opportunity to cure the alleged breach prior to terminating the relationship with VHHA. If VHHA does not cure the breach within thirty (30) days, Covered Entity may terminate.
  - c. **Effect of Termination.** Upon termination, it will not be possible for VHHA to destroy or return to Covered Entity Protected Health Information received from Covered Entity or Protected Health Information created or received by VHHA on behalf of Covered Entity. VHHA and Covered Entity, therefore, shall continue to use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic Protected Health Information to prevent use or disclosure of the Protected Health Information, other than as provided for in this Statement, for as long as VHHA retains the Protected Health Information.

### V. MISCELLANEOUS

1. **Survival.** The provisions of this Statement, which by their terms contain continuing obligations, shall survive the termination of the Statement. The respective obligations of VHHA as well as the effects of termination of this Statement, including retaining Protected Health Information by VHHA, shall specifically survive termination of this Statement.

2. **Interpretation.** This Statement shall be interpreted as broadly as necessary to implement and comply with the HIPAA Rules. The parties hereby agree that any ambiguity in this Statement shall be resolved in favor of a meaning that complies with the HIPAA Rules.
3. **Amendment.** VHHA may take such action as is necessary to amend this Statement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.
4. **Regulatory References.** A reference in this Statement to a section in the HIPAA Rules means the section as in effect or as amended.



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Sean T. Connaughton  
President  
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