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**SUBJECT: ADMINISTRATIVE REQUIREMENTS**

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**GENERAL STANDARD: (PRIVACY RULE SECTION 164.530)**

AHS will take the necessary steps to comply with the administrative requirements of the Privacy Rule, including designating a Privacy Official, implementing general standards and guidelines, training its workforce and documenting all such actions.

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**PRIVACY RULE:**

**I. Privacy Official/Personnel Designations.**

- A. A CE must designate a Privacy Official who is responsible for the development and implementation of the policies and procedures of the entity.
- B. A CE must designate a contact person or office who is responsible for receiving complaints and who is able to provide further information about matters covered by the notice of privacy practices.
- C. A CE must document the personnel designations in Paragraphs I. A and I. B above, and retain such documentation for at least six years from the date of its creation, or the date when it was last in effect, whichever is later.

**II. Training. See the AHS General Standard and Guidelines on “Training.”**

**III. Sanctions. See the AHS General Standard and Guidelines on “Sanctions.” Sanctions do not apply to a member of the CE’s workforce with respect to actions that are covered by and that meet the conditions of Paragraphs VI and VII below.**

**IV. Safeguards.**

- A. A CE must have in place appropriate administrative, technical, and physical safeguards to protect the privacy of PHI.
- B. A CE must reasonably safeguard PHI from any intentional or unintentional use or disclosure that is in violation of the Privacy Rule.
- C. A CE must reasonably safeguard PHI to limit incidental uses or disclosures made pursuant to an otherwise permitted or required use or disclosure.

V. **Mitigation.** A CE must mitigate, to the extent practicable, any harmful effect that is known to the CE of a use or disclosure of PHI in violation of its policies and procedures or the Privacy Rule by the CE or its business associate.

VI. **Retaliatory Acts.** A CE may not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against:

- A. Any individual for the exercise by the individual of any right under, or for participation by the individual in any process established by the Privacy Rule, including the filing of a complaint with the CE.
- B. Any individual or other person for:
  - 1. Filing a complaint with the Secretary of Health and Human Services;
  - 2. Testifying, assisting, or participating in an investigation, compliance review, proceeding, or hearing under Part C of Title XI; or
  - 3. Opposing any act or practice made unlawful by the Privacy Rule, provided the individual or person has a good faith belief that the practice opposed is unlawful, and the manner of the opposition is reasonable and does not involve a disclosure of PHI in violation of the Privacy Rule.

VII. **Disclosures by Whistleblowers and Workforce Member Crime Victims.**

- A. A CE is not considered to have violated the Privacy Rule if a member of its workforce or a business associate discloses PHI, provided that:
  - 1. The workforce member or business associate believes in good faith that the CE has engaged in conduct that is unlawful or otherwise violates professional or clinical standards, or that the care, services or, conditions provided by the CE potentially endangers one or more patients, workers, or the public; and
  - 2. The disclosure is to:
    - a. A health oversight agency or public health authority authorized by law to investigate or otherwise oversee the relevant conduct or conditions of the CE or to an appropriate health care accreditation organization for the purpose of reporting the allegation of failure to meet professional standards or misconduct by the CE; or
    - b. An attorney retained by or on behalf of the workforce member or business associate for the purpose of determining the legal options of the workforce member or business associate with regard to the conduct described in Paragraph VII. A. 1 above.

- B. A CE is not considered to have violated the Privacy Rule if a member of its workforce who is the victim of a criminal act discloses PHI to a law enforcement official, provided that:
1. The PHI disclosed is about the suspected perpetrator of the criminal act; and
  2. The PHI disclosed is limited to:
    - 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 mustache), scars, and tattoos.

**VIII. Waiver of Individual Rights.** A CE may not require individuals to waive their rights to file a complaint with the Secretary of Health and Human Services or any other rights available to them under the Privacy Rule, as a condition of the provision of treatment, payment, enrollment in a health plan, or eligibility for benefits.

**IX. Complaints.** See the AHS General Standard and Guidelines on “Complaints.”

**X. Policies and Procedures.**

- A. A CE must implement policies and procedures with respect to PHI that are designed to comply with the standards, implementation specifications, or other requirements of the Privacy Rule. The policies and procedures must be reasonably designed, taking into account the size of and the type of activities that relate to PHI undertaken by the CE, to ensure such compliance.

- B. A CE must change its policies and procedures as necessary and appropriate to comply with changes in the law, including the standards, requirements, and implementation specifications of the Privacy Rule.
1. When a CE changes a privacy practice that is stated in its notice of privacy practices (“Notice”), and makes corresponding changes to its policies and procedures, it may make the changes effective for PHI that it created or received prior to the effective date of the Notice revision, if the CE has included in the Notice a statement reserving its right to make such a change in its privacy practices; or
  2. A CE may make any other changes to policies and procedures at any time, provided that the changes are documented and implemented in accordance with Paragraph X. E below.
- C. Whenever there is a change in law that necessitates a change to the CE’s policies or procedures, the CE must promptly document and implement the revised policy or procedure. If the change in law materially affects the content of the Notice, the CE must promptly make the appropriate revisions to the Notice in accordance with the AHS General Standard and Guidelines on “Notice of Privacy Practices.”
- D. To implement a change as provided by Paragraph X. B. 1 above, a CE must:
1. Ensure that the policy or procedure, as revised to reflect a change in the CE’s privacy practices as stated in its Notice, complies with the standards, requirements, and implementation specifications of the Privacy Rule;
  2. Document the policy or procedure, as revised (as set forth below in Paragraph XI); and
  3. Revise the Notice as required by the AHS General Standard and Guidelines on “Notice of Privacy Practices” to state the changed practice and make the revised Notice available as required by such General Standard and Guidelines. The CE may not implement a change to a policy or procedure prior to the effective date of the revised Notice.
  4. If a CE has not reserved its right to change a privacy practice that is stated in the Notice, the CE is bound by the privacy practices as stated in the Notice with respect to PHI created or received while such Notice is in effect. A CE may change a privacy practice that is stated in the Notice, and the related policies and procedures, without having reserved the right to do so, provided that:
    - a. Such change meets the requirements in Paragraph X. D. 1 through X. D. 3 above; and

- b. Such change is effective only with respect to PHI created or received after the effective date of the Notice.
- E. A CE may change, at any time, a policy or procedure that does not materially affect the content of the Notice, provided that:
  - 1. The policy or procedure, as revised, complies with the standards, requirements, and implementation specifications of the Privacy Rule; and
  - b. Prior to the effective date of the change, the policy or procedure, as revised is documented (as set forth in Paragraph XI below).

**XI. Documentation.** A CE must:

- A. Maintain the policies and procedures provided for in Paragraph X above in written or electronic form;
- B. If a communication is required by the Privacy Rule to be in writing, maintain such writing, or an electronic copy, as documentation; and
- C. If an action, activity, or designation is required by the Privacy Rule to be documented, maintain a written or electronic record of such action, activity, or designation.

A CE must retain the documentation required by this Paragraph XI for six years from the date of its creation or the date when it last was in effect, whichever is later.

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**GUIDELINES:**

- 1. Thea Schwartz is the AHS Privacy Official.  
  
Phone number: 802-241-4244  
Email: [theas@wpgate1.ahs.state.vt.us](mailto:theas@wpgate1.ahs.state.vt.us)
- 2. AHS has implemented, and will continue to implement, reasonable administrative, technical and physical safeguards to protect the privacy of PHI.
- 3. AHS will advise its workforce members that violations concerning an individual's privacy interests are brought to the attention of the Privacy Official. AHS will also commit its Business Associates to report violations of Business Associate contracts to AHS. The Privacy Official will require that all alleged violations be investigated, and if valid, AHS will seek to mitigate the effects of such violations.
- 4. AHS will communicate, through training and periodic reminders to its workforce, that it will not permit retaliation against patients/enrollees or other persons.

5. AHS will communicate, through training and otherwise, that it will not, and cannot, require patients/enrollees to waive any rights available to them under the Privacy Rule.
6. AHS has prepared and implemented Standards and Guidelines to comply with the Privacy Rule.
7. AHS has included within its Notices of Privacy Practices a statement reserving its right to make changes in its privacy practices. Thus, such changes will apply to all PHI created or received by AHS, including PHI created or received before the effective date of changes to the Notices.
8. The Privacy Official will work closely with legal counsel to ensure that changes in law are evaluated to determine whether they necessitate changes to these Standards and Guidelines, or any Notice of Privacy Practices. AHS will require review from legal counsel before any changes are made to these Standards and Guidelines, or any Notice of Privacy Practices.
9. The Privacy Official is responsible for ensuring that all documentation required by the Privacy Rule is maintained as required by the Privacy Rule.