

# **HIPAA Privacy Policies and Procedures**

**Help at Home, LLC**

**(“Help at Home”)**

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## **PP-01: Administrative Overview**

### **Purpose:**

To set forth the commitment of Help at Home, LLC, Help at Home Michigan, LLC, Statewide Healthcare, LLC, Excel Companion Care, LLC, Altrus LLC, Coastal Home Care, LLC, Adaptive Nursing and Healthcare Services, Inc., Adaptive LLC, and Community Care Services, LLC (“Help at Home”) to ensure that its practices regarding the privacy and security of Protected Health Information (“PHI”) comply with industry norms and, as applicable, federal and state laws and regulations governing the privacy and security of PHI, including but not limited to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act (“HITECH”) as expanded by the Affordable Care Act of 2010 (“ACA”) and the HIPAA Omnibus Rule of 2013 (“HIPAA Omnibus Rule”) and the Privacy Standards for the Protection of Protected Health Information, found at 45 CFR Part 160 and Part 164, Subparts A and E (“HIPAA Privacy Rule”) (collectively, the “Legal Requirements”). The purpose of this policy is to set forth the ways through which Help at Home will achieve these compliance goals.

### **Scope:**

These policies apply to all Help at Home Workforce members including, but not limited to full-time employees, part-time employees, trainees, contractors, interns and temporary workers (the “Help at Home Workforce”).

### **Policy:**

It is Help at Home’s policy to protect the privacy and safeguard the security of PHI in accordance with industry norms and all Legal Requirements. As Help at Home, LLC, Help at Home Michigan, LLC, Statewide Healthcare, LLC, Excel Companion Care, LLC, Altrus LLC, Coastal Home Care, LLC, Adaptive LLC, and Community Care Services, LLC are under common ownership and control, the companies have elected to be treated as one affiliated Covered Entity under HIPAA. These policies and procedures apply to the entire Help at Home Workforce. Help at Home will inform and train Help at Home Workforce regarding these HIPAA privacy policies and procedures (the “Help at Home Privacy Policies”)

### **Workforce Responsibilities:**

Help at Home will inform the Help at Home Workforce of its policies with respect to PHI, including these Help at Home Privacy Policies and Help at Home’s Security Policies. All individuals identified in the scope of these policies are responsible for meeting the requirements of the Help at Home Privacy Policies and all members of the Help at Home Workforce are expected to report any suspected violations.

All new and existing members of the Help at Home Workforce will be trained on compliance with HIPAA and these Help at Home Privacy Policies.

### **Compliance:**

1. Failure to comply with this or any other privacy policy (including retaliating against any individual who files a complaint or reports a suspected violation of HIPAA or other Legal Requirements) will subject the Help at Home Workforce member to disciplinary action ranging from additional training, warnings and reprimand to discharge, as the facts and circumstances of each incidence warrants; and, where appropriate, the filing of a civil or criminal complaint.
2. Help at Home agents and contractors who violate HIPAA, or their contractual obligations to Help at Home, will be subject to sanctions ranging from warnings to contract termination and, where appropriate, the filing of a civil or criminal complaint or reporting of the violation to the affected participant/ individual or to the Secretary, as appropriate or required by law.



3. Disciplinary decisions relating to violations of the HIPAA or Help at Home policies or procedures will be made by the Help at Home Workforce member's supervisor and the appropriate Human Resources representative, with oversight by the CEO, after considering the recommendations of the Privacy Officer and/or the Security Officer, as appropriate.

**Privacy Officer:**

Help at Home's Board of Managers or Senior Executive Team (the "Board") shall appoint an individual to serve as the privacy officer of Help at Home (the "Privacy Officer"). The Privacy Officer is responsible for maintaining and enforcing these privacy policies, investigating any suspected violations, responding to questions and complaints and communicating these policies to members of the Help at Home Workforce. The Privacy Officer will keep Help at Home management and the Board reasonably informed of matters arising under these policies.

**Retention:**

Every policy and procedure will be maintained for a minimum of six years from the date of its creation or when it was last in effect, whichever is later. Other Help at Home requirements may stipulate a longer retention. Log-in audit information and logs relevant to security incidents must be retained for six years.

**Privacy Policy Overview:**

1. It is Help at Home's policy to protect the privacy and safeguard the security of PHI in accordance with industry norms, and, as applicable, the Legal Requirements.
2. Help at Home will inform Help at Home Workforce of Help at Home Privacy Policies.
3. Help at Home's Privacy Officer and Security Officer will be responsible for: (a) furthering Help at Home's compliance with its Privacy Policies and applicable federal and state laws regarding the privacy and security of PHI by maintaining the accuracy of the Help at Home Privacy Policies; (b) answering Help at Home Personnel questions and concerns; (c) receiving and taking action in response to complaints made by Help at Home Workforce and suspected violations of the Help at Home Privacy Policies; and (d) overseeing the development of Help at Home's PHI training program. The Privacy Officer and Security Officer will keep Help at Home's legal counsel reasonably informed of matters arising under Help at Home's Privacy Policies so as to enable them to assist in managing risks to Help at Home as needed.
4. Help at Home Workforce are responsible and accountable for understanding and complying with the Help at Home Privacy Policies and for reporting suspected violations of the Help at Home Privacy Policies or the Legal Requirements of which they become aware. Upon credible complaints of suspected violations, the Help at Home Privacy Officer and/or Security Officer, as appropriate, will investigate the allegation and will determine if the alleged wrongdoing is a violation of the Help at Home Privacy Policies or of the Legal Requirements. The Privacy Officer or Security Officer shall make recommendations for resolution to be reviewed and approved by Help at Home's legal counsel. No adverse action will be taken against any member of the Help at Home Workforce who, in good faith, reports a suspected violation because he or she reported such violation.
5. All new and existing members of the Help at Home Workforce will be trained as to the Help at Home Privacy Policies and the Legal Requirements.
6. The Help at Home Privacy Policies will be monitored on an ongoing basis to ensure compliance with the Legal Requirements. If the findings suggest noncompliance, the Privacy Officer and/or Security Officer shall develop recommended revisions to the Help at Home Privacy Policies to bring them into compliance with the Legal Requirements.

7. Help at Home shall conduct, no less than annually, audits to ensure compliance by Help at Home Workforce with the Help at Home Privacy Policies and the Legal Requirements. If the findings suggest noncompliance, the Privacy Officer and/or Security Officer shall develop a corrective action plan by which such conduct that was found to be noncompliant will be corrected.
8. Help at Home will have in place appropriate administrative, technical and physical safeguards to protect the privacy of PHI and to reasonably attempt to prevent any intentional or unintentional use or disclosure of PHI.
9. Help at Home's Privacy Officer and Security Officer will act to mitigate the harmful effects of any use or disclosure of PHI that is in violation of the Help at Home Privacy Policies or the Legal Requirements.

## **PP-02: HIPAA Privacy Definitions**

### **Purpose:**

The purpose is to provide Help at Home Workforce with the HIPAA Privacy Definitions for terms that may appear in the HIPAA Privacy Policies.

### **Definitions:**

#### **Affiliated Covered Entity:**

Legally separate Covered Entities that are affiliated may be designated as a single Covered Entity for purposes of HIPAA Privacy, if the separate entities are under common ownership or control. Help at Home as elected to be treated as an affiliated Covered Entity.

#### **Business Associate:**

Any entity that creates, receives, maintains, or transmits protected health information on behalf of a Covered Entity or while providing services to a Covered Entity. Entities that maintain, store or transmit protected health information on behalf of a Covered Entity are business associates, even if they do not actually view the protected health information, unless they are acting as a mere conduit [e.g., United States Postal Service or other courier delivering mail containing Protected Health Information (“PHI”)]. A Business Associate does not include Covered Entities that transmit or receive information to or from Help at Home for treatment, payment and health care operations purposes.

A person or entity, not a part of a Covered Entity’s workforce, that on behalf of the Covered Entity: 1) participates in, performs or assists in the performance of a function or activity involving the use or disclosure of PHI; or 2) provides services to or for the Covered Entity, where the provision of the service involves the disclosure of PHI. BA functions and activities include claims processing or administration, data analysis, utilization review, quality assurance, billing, benefit management, practice management, and repricing. BA services include legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, and financial services. A Business Associate includes an entity that “creates, receives, maintains, or transmits” protected health information on behalf of a Covered Entity. A Business Associate does not include Covered Entities that transmit or receive information to or from Help at Home for treatment, payment and health care operations purposes.

Examples of Business Associates are:

- Health Safety Organizations
- Health Information Organizations
- Vendors of Personal Health Records that require routine access to PHI
- Persons who facilitate data transmission
- Data storage company that has access to PHI (whether digital or hard copy), even if the entity does not view the information
- Subcontractors that create, receive, maintain, transmit or have access to PHI on behalf of the Covered Entity.

Examples of Persons and Organizations Who Are Not Considered Business Associates:

- Oversight agencies (OIG, CMS);
- A person or organization that acts merely as a conduit (a conduit transports information but does not access it, ex: United States Postal Service);
- Financial institutions;
- Health care providers; and

- An employee of a Covered Entity.

**Business Associate Agreement (BAA):** An agreement between a Covered Entity and a Business Associate setting forth limitations and restrictions on Business Associate’s use of Protected Health Information and which complies with the requirements of 45 C.F.R. § 164.504.

**Covered Entities (CEs):**

An entity that must comply with HIPAA. The term Covered Entity refers to health care providers, health plans, and health care clearing houses that perform a covered service and transmit data electronically, such as Help at Home, MCOs and AAAs.

**Designated Record Set:**

All sets of records that contain PHI and that are used to make decisions about individual participant/ individual. Help at Home’s Designated Records including the following:

1. The medical records and billing records about individuals maintained by or for a covered health care provider; and
2. Any other grouping of information created, maintained or disseminated by or on behalf of Help at Home for the purpose of making decisions about individuals.

For any information maintained in electronic form, the designated record set shall consist of the copy or paper form produced from such electronic system. Records created and/or maintained by Business Associates of Help at Home on behalf of Help at Home will be considered part of the Designated Record Set. Designated Record Sets do not include copies of records from other health care providers received by Help at Home for treatment or payment purposes.

**Disclosure (Disclose):**

Release, transfer, provide of access to, or divulge in any other manner of information outside of Help at Home.

**Electronic Media:**

Includes any electronic storage material as defined by The National Institute of Standards and Technology (“NIST”). Thus “intranets” come within the definition. PHI stored, whether intentionally or not, in a photocopier, facsimile, and other devices is subject to the Privacy and Security Rules. Exception: If the information exchanged by facsimile did *not* exist in electronic form *immediately* before transmission, that information is *not* electronic media.

**Group Health Plan:**

An employee welfare benefit plan defined in section 3(1) of ERISA, 29 U.S.C. 1002(1), including insured and self-insured plans to the extent that the plan provides medical coverage to employees or their dependents directly or through insurance, reimbursement or otherwise and that has 50 or more participants or is administered by an entity other than the employer that established and maintains the plan.

**Health Care Operations:**

1. Administrative, financial, legal, and quality improvement activities of Help at Home that are necessary to run its business and to support the core functions of treatment of participant/ individual and reimbursement for Help at Home’s services, including the following activities:
  - A. Conducting quality assessment and improvement activities;
  - B. Accreditation, certification, licensing, or credentialing activities ;
  - C. Case management;
  - D. Evaluating health plan performance;

- E. Participant/ Individual safety activities as defined in the Participant/ Individual Safety Quality Improvement Act (“PSQIA”);
  - F. Conducting training programs;
  - G. Conducting or arranging for medical review and legal services;
  - H. Prohibition on using or disclosing genetic information for underwriting purposes (“underwriting purposes” does not include determinations of medical appropriateness where an individual seeks a benefit under the plan, coverage, or policy);
  - I. Underwriting, premium rating, and other activities relating to the creation, renewal or replacement of a contract of health insurance or health benefits (In this context, “underwriting” refers to a group health plan, health insurance coverage, or Medicare supplemental policy);
  - I. Auditing functions, including fraud and abuse detection and compliance programs
  - J. Conducting or arranging for legal services;
  - K. Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the entity, including formulary development and administration, development or improvement of methods of payment or coverage policies;
  - L. Business management activities and general administrative functions, such as:
    - i. Management activities relating to implementation of and compliance with the requirements for Health Care Operations
    - ii. Customer Service, including the provisions of data analyses for policyholders, Plan Sponsors or other participants, provided that PHI is not disclosed to such policyholder, Plan Sponsor or participant
    - iii. Resolution of internal grievances (includes quality of care and internal employee complaints)
    - iv. Due diligence in connection with the sale or transfer of assets to a potential successor in interest, if the potential successor in interest is a Covered Entity or, following completion of the sale or transfer, will become a Covered Entity.
2. Activities that would not be considered Health Care Operations:
- A. Marketing of health and non-health items and services
  - B. Disclosure of PHI for sale, rent or barter
  - C. Use of PHI by a non-health related division of an entity
  - D. Disclosure to an employer for employment determinations

**Health Information:**

Any information, whether oral or recorded in any form or medium, that:

1. Is created or received by a health care provider, health plan, public health authority, employer, life insurer, school, university or health care clearinghouse.
2. Relates to the past, present or future physical or mental health or condition of a participant/ individual; the provision of health care to a participant/ individual; or past, present or future payment for the provision of health care to a participant/ individual.

“Health Information” includes genetic information.

**Health Oversight Agency:** An agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is

necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant. 45 C.F.R. § 154.501.

**Health Plan:**

An individual or group plan that provides or pays the cost of medical care, including church plans and government plans. (Any plan to which creditable coverage applies.)

**Help at Home Workforce:**

**The term includes all full- and part-time employees, trainees, interns, contractors, temporary workers and other persons whose conduct, in the performance of work for Help at Home, is under the direct control of Help at Home.**

**Individually Identifiable Health Information:**

Information that is a subset of health information, including demographic information, collected from a participant/ individual and that:

1. Is created by or received by a Covered Entity.
2. Relates to the past, present or future physical or mental health or condition of a participant/ individual, the provision of health care to a participant/ individual or past, present or future payment for the provision of health care to a participant/ individual:
  - A. Which identifies the participant/ individual.
  - B. With respect to which there is a reasonable basis to believe that the information can be used to identify the participant/ individual.

**Payment:**

1. All activities undertaken by Help at Home to obtain or provide reimbursement for the provision of health care including, but not limited to, determining eligibility, obtaining deductibles and copayments, billing, claims management, collection activities, medical necessity review and utilization review.
2. Help at Home may disclose to consumer reporting agencies any of the following PHI relating to collection of premiums or reimbursement: a participant/ individual's name, address, date of birth, social security number and payment history, account number, as well as the name and address of the participants/ individual's health care provider and/or health plan.

**Personal Representatives:**

See PP-10, Personal Representative Policy.

**Plan Sponsor:**

Plan Sponsor is defined in section 3(16) (B) of ERISA, 29 U.S.C. 1002(16) (B). The Plan Sponsor is the employer or employee organization in the case of an employer benefit plan established or maintained by an employer (includes church and government plans). The Plan Sponsor is responsible for setting up the plan, regulatory reports, retains the right to amend the plan and signs official documents of the plan. The Plan Sponsor is limited to assigned responsibilities.

**PHI or Protected Health Information:**

All individually identifiable health information transmitted or maintained by a Covered Entity, regardless of form.

Protected Health Information is defined in the Privacy Rule. Generally, PHI is information that relates to the past, present or future physical or mental health, or medical condition, the provision of health care to an individual or the past, present or future payment for provision of health care to an individual that identifies an individual or with respect to which there is a reasonable basis to believe that it can be used to

identify an individual. The HIPAA Privacy and Security Rules do not protect the individually identifiable health information of persons who have been deceased for more than 50 years.

**Privacy Rule:** The standards for privacy of individually identifiable health information adopted by the U.S. Department of Health and Human Services by regulation in 45 C.F.R. Parts 160 and 164.

**Psychotherapy Notes:**

Notes that are recorded (in any medium) by a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are separated from the rest of the Individual's health record. These are records that are kept as private records of a mental health professional. The information must be separated from the rest of the Individual's health record.

**Secretary:** The Secretary of the U.S. Department of Health and Human Services or his/her designee.

**Security Incident:** "Security Incident" shall mean the attempted or successful unauthorized use, disclosure or destruction of information or interference with system operations in an information system.

**Security Rule:** The standards for security of electronic individually identifiable health information adopted by the U.S. Department of Health and Human Services by regulation in 45 C.F.R. Parts 160 and 164.

**Subcontractor:**

A person who acts on behalf of a business associate, other than in the capacity of a member of the workforce of such business associate. The Covered Entity is not required to have a contract with the subcontractor. The business associate is required to obtain satisfactory assurances from the subcontractor in the form of a written contract or other arrangement that a subcontractor will appropriately safeguard PHI.

**Treatment:**

The provision, coordination or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a participant/ individual; or the referral of a participant/ individual for health care from one health care provider to another.

**Unsecured PHI:** Protected health information that is NOT secured through the use of one of the following technologies or methods that renders PHI unusable, unreadable, or indecipherable to unauthorized individuals, or as otherwise further defined or clarified by the Secretary:

**Encryption:** Electronic PHI has been encrypted as specified by the HIPAA Security Rule and the regulations related thereto, or in compliance with any guidance issued by the Department of Health and Human Services pursuant to the HITECH Act including, without limitation, the encryption standards set forth in NIST Special Publication.800-111.

**Destruction:** The media on which PHI is stored or recorded has been destroyed in one of the following ways:

- i. Paper, film or other hard copy media have been shredded or destroyed such that the PHI cannot be read or otherwise cannot be reconstructed.
- ii. Electronic media have been cleared, purged, or destroyed consistent with NIST Special Publication 800-88, Guidelines for Media Sanitation, such that PHI cannot be retrieved.

**Use:**

The employment, application, utilization, examination or analysis of individually identifiable health information within an entity that maintains the information.

## **PP-03: Identifying PHI Policy**

### **Purpose:**

This policy sets forth the criteria for determining when information held by Help at Home should be treated as PHI.

### **Policy:**

Help at Home will treat as PHI any information that relates to a participant's/ individual's health condition, identifies participant/ individual, or for which there is reasonable basis to believe the information can be used to identify the participant/ individual, and limit the use and disclosure of such information.

### **Procedure:**

1. Help at Home will protect the use and disclosure of participant's/ individual's individually identifiable health information by treating certain identifiers as PHI. The identifiers pertain to the participant/ individual, as well as the participant's/ individual's family members, employers or household members and include but are not limited to:
  - A. Names;
  - B. Geographic designations smaller than a state, including street address, city, county, precinct, and zip code (except that the first three digits of the zip code may be used if the area has more than 20,000 residents);
  - C. All elements of dates (except for year) directly related to participant/ individual, including birth date, admission date, discharge date, date of death, and all ages over 89 and all elements of dates (including year) indicative of such age (unless aggregated into a single category of age 90 or older);
  - D. Telephone numbers;
  - E. Fax numbers;
  - F. Email addresses;
  - G. Social Security numbers;
  - H. Medical record numbers;
  - I. Health plan beneficiary numbers;
  - J. Account numbers;
  - K. Certificate/license numbers;
  - L. Vehicle identifiers, serial numbers, and license plate numbers;
  - M. Device identifiers and serial numbers;
  - N. Web Universal Resource Locators ("URLs") and Internet Protocol ("IP") addresses;
  - O. Biometric identifiers, such as fingerprints;
  - P. Full-face photographs and any comparable images;
  - Q. Any other unique identifying number, characteristic, or code.
2. If individually identifiable health information is "de-identified" (all identifiers described above are removed), it is no longer treated as PHI.
3. Help at Home may only use or disclose de-identified information for the purposes of research, public health or Health Care Operations or to a business associate who has submitted the appropriate documentation as required in Help at Home Business Associate Agreement.
4. All requests for de-identified information should be submitted to the Privacy Officer for review.
5. The HIPAA Privacy and Security Rules do not protect the individually identifiable health information of persons who have been deceased for more than 50 years. There are no restrictions on the uses or disclosure of such information.
6. All other information containing PHI will be used, released, transmitted and disclosed only in accordance with these policies and the Privacy Laws.

## PP-04: De-identification of PHI Policy

### Purpose:

The purpose of this policy is to accurately describe which identifiers must be removed from the health information so that the health information cannot be traced to a specific individual and Help at Home can use the de-identified health information without Individual authorization.

### Policy:

To de-identify data, Help at Home will follow either the Expert Determination or Safe Harbor method, depending on the data to be de-identified. Help at Home can use the de-identified health information without participant/ individual authorization.

### Definitions:

1. **Expert Determination.** A person with appropriate knowledge of and experience with generally accepted statistical and scientific principles and methods for rendering information not individually identifiable:
  - A. Applying such principles and methods, determines that the risk is very small that the information could be used, alone or in combination with other reasonably available information, by an anticipated recipient to identify an individual who is a subject of the information, and
  - B. Documents the methods and results of the analysis that justify such determination.
2. **Safe Harbor.**
  - A. Remove all of the identifiers set forth in PP-03 and Section 2 of the below procedure (A-R) and of relatives, employers, or household members of the participant/ individual, and
  - B. have no actual knowledge that the information could be used alone or in combination with other information to identify the participant/ individual who is a subject of the information.
3. **Expert.** From an enforcement perspective, OCR would review the relevant professional experience and academic or other training of the expert used by the Covered Entity, as well as actual experience of the expert using health information de-identification methodologies.

### Procedure(s):

1. To satisfy the Expert Determination guidance, Help at Home ensures that
  - A. Statistical or scientific principles can be applied to the data to render it unidentifiable, and
  - B. There is a very small risk that the recipient could identify the CE's Individuals
2. Help at Home may use de-identified information without Individual authorization if Help at Home ensures that it has removed the following 18 types of identifiers from the data and there is no residual information that can reasonably identify the Individuals
  - A. Names (name of participant/ individual, relatives, employer or household member);
  - B. Address, including street address, city, county, zip code (first three digits may be used if it represents more than 20,000 people);
  - C. All date elements related to a participant/ individual:
    - a. For birth dates, the year element can be kept except for any age indicator for participant/ individual over age 89 - for participant/ individual over 89 the age may be aggregated into a 90+ category;
    - b. For treatment, payment and other dates, the year may be reported, such as 2016 instead of January 2, 2016;
  - D. Telephone numbers;

- E. Fax numbers;
  - F. Email addresses;
  - G. Social Security number;
  - H. Medical record number;
  - I. Health plan beneficiary number;
  - J. Account numbers (including group number);
  - K. Certificate/license numbers;
  - L. Vehicle identifiers (serial number, license plate, etc.);
  - M. Device identifiers and serial numbers;
  - N. URLs (Web Universal Resource Locators);
  - O. IP (Internet Protocol) address;
  - P. Biometric identifiers (fingerprints, voice print, etc.);
  - Q. Full face photographic or comparable image; and
  - R. Any other unique identifying number, characteristic or code.
3. In using the Safe Harbor method, use the following guidelines:
- A. An identifier listed in the Safe Harbor standard must be removed regardless of its location in the Individual's record if it is recognizable as an identifier. This includes data in billing records, databases, and text fields (such as discharge summaries), for examples.
  - B. The year may be reported as a de-identified dates, such as 2016 instead of January 2, 2016.
  - C. Ages that are explicitly stated, or implied, as over 89 years old must be recorded as 90 or above.
  - D. Dates associated with test measures, such as a laboratory report, are directly related to a specific individual and relate to the provision of health care. Such dates are protected health information and cannot be reported under Safe Harbor.
  - E. Examples of "any other unique identifying number, characteristic or code":
    - i. Identifying number: clinical trial number
    - ii. Identifying characteristic: anything that distinguishes an individual and allows for identification. For example, a unique identifying characteristic could be the occupation of an Individual, if it was listed in a record as "current President of State University."
    - iii. Identifying code: a code that could be derived from barcodes
  - F. Only names of the individuals associated with the corresponding health information (i.e., the subjects of the records) and of their relatives, employers, and household members must be suppressed.
  - G. Names of CE's health care providers or workforce members do not need to be removed from the de-identified set.
4. Refer to the following policies for specific uses and disclosures of de-identified data:
- A. Use and disclosure of PHI for Treatment, Payment, Research and Health Care Operations Policy; and
  - B. Identifying PHI Policy.

## PP-05: Designation of Record Sets

### Purpose:

The purpose is to designate what is considered a record set of Help at Home for purposes of accessing and amending PHI.

### Policy:

The Access of PHI Policy and Amending PHI Policy permits participant/ individual to request access to their PHI, to receive copies of it, and to request certain information be amended. This applies only to information stored in a designated record set.

**Designated Record Sets are sets of records that contain PHI and that are used to make decisions about the medical care and related billings for participant/ individual.**

*Designated Record Sets **DO NOT** include another agencies information or documents (e.g. assessment or redetermination paperwork). Requests for information related to or provided by another agency that originated from the such agency should **NOT** be provided by Help at Home. The participant/ individual should be directed to the agency that originally provided the information.*

The following are Help at Home's Designated Record Sets:

1. A group of records maintained by or for Help at Home that is:
  - a. The medical records and billing records about participant/ individual maintained by or for Help at Home; or
  - b. Used, in whole or in part, by or for Help at Home to make medical decisions about participant/ individual.
2. For purposes of this paragraph, the term record means any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for a Covered Entity such as Help at Home.

**Examples of information that may be contained in a Designated Record Set for participant/ individual receiving services from Help at Home include:**

- Generated forms or documents related to the participant's/ individual's health or healthcare-related services Help at Home is providing
- Documentation received from a CE or referring agency containing PHI and used by Help at Home to make decisions related to the care and services needed by the participant/ individual

**Note: The Designated Record Set will differ depending on location and service. If there are any questions or issues related to a participant's/ individual's Designated Record Set, please contact the Privacy Officer.**

## **PP-06: Minimum Necessary**

### **Purpose:**

This policy establishes the general rule regarding the minimum necessary limitation on the Use or Disclosure of PHI as set forth by the HIPAA Privacy Rule (45 C.F.R. § 164.502(b), 164.514(d)).

### **Policy:**

1. Help at Home Workforce may not use, request, or disclose to others, any PHI that is more than the minimum necessary to accomplish the purpose of the use, request, or disclosure. This includes business information.
2. Help at Home shall limit disclosures to the extent practicable to the limited data set, as defined in 45 C.F.R. section 164.514(e)(2), or if needed by the receiving entity, to the minimum necessary to accomplish the intended purpose of the use, Disclosure, or request.
3. Help at Home Workforce who use or access PHI for reasons not related to their jobs or who disclose PHI to any party for reasons not related to their jobs, which is in violation of this policy or any other privacy policy, shall be subject to disciplinary procedures including, but not limited to, dismissal.
4. Help at Home may rely on a request from another entity for PHI as representing the minimum necessary for the stated purpose, if such reliance is reasonable under the circumstances, and if:
  - A. The request is from a public official, and: (i) the disclosure to the public official is otherwise permitted under Help at Home's policies and the Privacy Laws and (ii) the public official represents to Help at Home in writing that the information requested is the minimum necessary for the stated purpose(s).
  - B. The information is requested by another Covered Entity for treatment, billing or other purposes permitted under the Privacy Laws.
  - C. The information is requested by a professional who is a business associate of Help at Home.

### **Exceptions:**

1. Help at Home is not limited in the amount of PHI that it may disclose to a provider of health care for the purpose of medical treatment, but should take reasonable steps to only disclose the information needed by the provider.
2. When federal or state law requires a disclosure of PHI, the minimum necessary information is that which is required to comply with such law. Requests for PHI made by the federal government in the course of a complaint investigation or compliance review and undertaken under Federal Privacy Rule are deemed to meet the minimum necessary rule.
3. The minimum necessary rule does not apply when disclosing a participant's/ individual's PHI to the participant/ individual themselves or to the participant's/ individual's personal representative.
4. All information that is requested within an authorization may be disclosed in accordance with that authorization. This policy does not limit such disclosures.

## **PP-07: Safeguarding PHI**

### **Purpose:**

The Privacy Rule permits certain incidental uses and disclosures of PHI to occur when the Covered Entity has in place reasonable safeguards and minimum necessary policies and procedures to protect an individual's privacy.

This policy establishes guidelines to help safeguard PHI from being seen, heard or disclosed to those who are not authorized to see or hear it.

### **Policy:**

Help at Home Workforce must reasonably safeguard PHI to limit incidental uses or disclosures. An incidental use or disclosure is a secondary use or disclosure that cannot reasonably be prevented, is limited in nature, and occurs as a result of an otherwise permitted use or disclosure. For example: a conversation that is overheard despite attempts by the speakers to avoid being heard.

### **Definitions:**

Incidental use or disclosure: Secondary use or disclosure that cannot reasonably be prevented, is limited in nature, and occurs as a result of another use or disclosure that is permitted by the Privacy Rule. For example: a conversation that is overheard despite attempts by the speakers to avoid being heard.

Reasonable Safeguards: A Covered Entity must have in place appropriate administrative, physical, and technical safeguards that protect against uses and disclosures not permitted by the Privacy Rule, as well as that limit incidental uses or disclosures. Reasonable safeguards will vary from Covered Entity to Covered Entity depending on factors, such as the size of the Covered Entity and the nature of its business.

### **Guidelines to Safeguard PHI:**

#### **Paper documents contained within Help at Home offices:**

1. Documents containing PHI must not be left unattended during business hours in plain sight.
2. Documents containing PHI must be kept in self-contained work areas that are locked after business hours.
3. If a work area is not self-contained and locked after business hours, management will take reasonable steps to provide lockable file cabinets or storage bins, lockable desk drawers, or other means to secure PHI during periods when the area is left unattended.

#### **Conversations:**

1. Conversations concerning participant's/ individual's services or other PHI must be conducted in a way that reduces the likelihood of being overheard by others. Example: Avoid discussing a participant/ individual with a coworker or other authorized individual in a public area (elevators, restaurants, etc.)
2. When discussing participant/ individual information in person with a participant/ individual or a participant's/ individual's Personal Representative, do so in a location that reduces the likelihood of being overheard by others. Example: Do not hold a conversation with a participant/ individual regarding his or her PHI in the lobby of the building.

If a conversation with the participant's/ individual's Personal Representative and/or family members must take place in a waiting room or other public area, speak quietly. **Copying documents that contain PHI:**

1. When copying documents that contain PHI for purposes of disclosing to an external party, copy only the information that is necessary to accomplish the task. This may require part of a page to be masked.

**Scanning documents that contain PHI:**

1. When scanning documents that contain PHI to email internally, the documents redacted to the extent practical and emailed from a Help at Home email address directly to the intended recipient and cannot be stored in a network folder or other location accessible to others. The subject line must indicate that the email contains PHI and an appropriate disclaimer as set forth in PP-09 (Facsimile and Email Transmission of PHI).

**Disposal of paper documents that contain PHI:**

1. When disposing of paper documents that contain PHI, the documents must be immediately shredded or disposed in a locked security container or other storage where it cannot be easily recovered. Documents placed in the locked security containers will be shredded by a contracted vendor. Paper documents containing PHI must never be thrown away in regular trashcans or insecure recycle bins.

**Remote Office or Field Work:**

1. Help at Home Workforce may not take documents that contain PHI out of the facility unless authorized to do so by management. Help at Home Workforce who transport documents that contain PHI (e.g. time sheets, directions to participant/ individual location or a plan of care) must do so in a locked container or other secure manner.
2. Help at Home Workforce authorized to work from a remote office must assure that the remote office complies with all applicable policies and procedures regarding the security and privacy of PHI, including these guidelines.
3. Loss or theft of any documents or participant/ individual files must be reported to your supervisor and the Privacy Officer immediately.

**Workstation access and use:**

1. Refer to Help at Home's Security policies on workstation use and workstation security.
2. Workstation access and use guidelines apply to all devices that can store or transmit PHI.

**Smartphones and Tablets (i.e. BlackBerrys, iPhones, Droids, iPads or other such devices):**

1. Help at Home privacy and security policies apply to PHI stored on smartphones and tablets.
2. Users of smartphones and tablets are responsible for assuring that the PHI on their devices is kept secure and private. This includes password protecting the device and locking the device when not in use.
3. Loss or theft of a device must be reported to the Information Security Officer or Privacy Officer immediately.

**Printers and Fax/Scanner Devices:**

1. Printers must be located in secure areas, where only Help at Home Workforce can access documents.
2. Help at Home Workforce must pick up printed documents that contain PHI from the printers by the end of each day.

**Building Security:**

1. Refer to the building security policies and procedures for Help at Home policy on employee, visitor and vendor access to the building.

## **PP-08: Safeguarding Transmission of PHI to External Vendors or Entities**

### **Purpose:**

The purpose is to ensure that PHI transmitted outside of Help at Home to organizations under contract with Help at Home is protected and limited to that information needed for providing clinical and administrative services. This policy is intended to act as a guide to transmitting data efficiently while maintaining confidentiality of PHI.

### **Policy:**

Help at Home provides protection on the use and disclosure of PHI transmitted to entities outside of the organization as set forth by the HIPAA Privacy Rule. This includes electronic transmission of PHI to external vendors or entities. Individual circumstances dictate the need for specific policies. Refer to the following Help at Home policies and procedures for additional information:

1. **PRIVACY: PP-06: Minimum Necessary Policy** summary: “Help at Home Workforce may not use, request, or disclose to others, any PHI that is more than the minimum necessary to accomplish the purpose of the use, request, or disclosure. This includes business information.”
2. **PRIVACY: PP-17: Use and Disclosure of PHI for Treatment, Payment and Health Care Operations Policy** summary: “Help at Home and its Workforce may use and disclose PHI for treatment, payment, and Health Care Operations (“TPO”), and when participant/ individual authorization is required to do so.”
3. **SECURITY: SP-29: Business Associate Agreement and Other Arrangements Policy** summary: PHI may be disclosed to a Business Associate if there is a written agreement with between Help at Home and the Business Associate.
4. **PRIVACY: PP-16: Use and Disclosure of PHI Requiring Participant/ Individual Authorization Policy** summary: “This policy sets forth the circumstances in which Help at Home and its Workforce must obtain valid participant/ individual authorization for a use and disclosure of the participant’s/ individual’s PHI. This policy sets the requirements for a valid authorization.”
5. **PRIVACY: PP-14: Routine and Recurring Disclosures of PHI Policy** summary: “Help at Home limits routine and recurring disclosures of PHI to the minimum necessary amount of information that is reasonably necessary to accomplish the purpose of the request or disclosure.”

## **PP-09: Facsimile and Email Transmission of PHI**

### **Purpose:**

The purpose is to ensure that Help at Home Workforce safeguard PHI when transmitting PHI by facsimile or via electronic mail (e-mail).

### **Policy:**

It is the policy of Help at Home to protect the privacy and confidentiality of PHI transmitted by facsimile (fax) or e-mail and hold Help at Home Workforce responsible for following the proper procedure when PHI is sent via facsimile to participant/ individual and external vendors. Facsimile and e-mail transmissions should include the Help at Home approved fax cover sheet and/or confidentiality statement. Help at Home Workforce must include at a minimum on the fax cover sheet the name and fax number to whom the fax is going to and the name and phone number of the person sending the fax.

### **Procedures:**

#### **Outgoing Faxes:**

1. The fax cover sheet containing a confidentiality statement approved by the Privacy Officer must be used. The cover sheet must also contain directions for the recipient if he/she receives a misdirected fax.
2. Frequently dialed fax numbers should be programmed into the fax server and checked frequently to assure accuracy.
3. If the number dialed is not pre-programmed into the fax server, it should be double- checked for accuracy prior to sending the fax.
4. All outgoing faxes being sent by the mailroom shall be sent as soon as reasonably possible.

#### **Incoming Faxes:**

Any fax received in error should be reported to the sender and disposed of as directed by the sender.

#### **Misdirected Faxes:**

1. If a fax transmission containing PHI is not received by the intended recipient because of a misdial, check the internal logging system of the fax server to obtain the misdial number.
2. If possible, a phone call should be made to the recipient of the misdirected fax requesting that the entire content of the misdirected fax be destroyed. If the recipient cannot be reached by phone, a fax should be sent to the recipient requesting that the entire fax transmission be destroyed.
3. The recipient should be asked to verify that all copies of the misdirected message in the possession of the recipient are destroyed or returned to Help at Home.
4. Any instance of transmitting PHI to the wrong destination number must be tracked pursuant to PP-15, Accounting of Disclosures Policy.

#### **Outgoing Emails:**

The following confidentiality statement shall be included on all e-mails containing PHI:

“This e-mail contains confidential health information that is legally privileged. The authorized recipient of this information is prohibited from disclosing this information to any other party unless required to do so by law or regulation and is required to destroy the information after its stated need has been fulfilled. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or action taken in reliance on the contents of these documents is strictly prohibited. If you have received this information in error, please notify the sender immediately and delete the e-mail and accompanying file attachment.”

**Misdirected Emails:**

1. In the event of a misdirected e-mail with a body which contains PHI or a file attachment that was NOT password protected that contains PHI, notify your supervisor and the Privacy Officer immediately!
2. Contact the individual that received the email in error immediately and request that the email be deleted from their inbox and from their deleted items file and to send you an email to confirm they have completely deleted the message.
3. Misdirected e-mails containing PHI in the body or attachments with PHI which are not password protected are considered accidental disclosures and must be accounted for in accordance with PP-15, Accounting of Disclosures Policy.

## PP-10: Personal Representative

### Purpose:

The purpose is to define a Personal Representative for Help at Home purposes.

### Definitions:

1. An emancipated minor means a person who has not yet attained the age of majority (age 18), who is totally self-supporting or married. A parent emancipates his or her minor child when he or she surrenders control and authority over the child and gives the child the right to the child's earnings. Help at Home would need to receive legal documentation before considering a dependent child to be emancipated.
2. *In loco parentis* means in the place of parents and describes a person who, in the absence of a child's parent or guardian, and without formal legal approval (not court appointed), temporarily assumes a parent's obligations with respect to the child (e.g. a foster parent).

### Policy:

1. Help at Home must treat an individual as a Personal Representative, if under applicable law:
  - A. A person has authority to act on behalf of a participant/ individual who is an adult or an emancipated minor in making decisions related to health care.
  - B. An executor, administrator or other person has authority to act on behalf of a deceased participant/ individual or of the participant's/ individual's estate.
  - C. A parent, guardian or other person acting in loco parentis, has authority to act on behalf of a participant/ individual who is an un-emancipated minor in making decisions related to health care (this includes appointed representatives under a qualified medical child support order ("QMCSO")).
2. In applying Help at Home policies and procedures relating to the use and disclosure of PHI, a Personal Representative will be treated the same as the participant/ individual to whom the PHI pertains. This includes the right to inspect and copy PHI, request an amendment of that PHI, request an accounting of disclosures of PHI and authorize its disclosure to another.

### Exceptions:

1. For convenience, parents, guardians, or other persons acting *in loco parentis* are referred to collectively as "parent" and the word is underlined to emphasize that this is intended to be read as a collective term that includes guardians and others acting *in loco parentis*. When a request for PHI is from a parent, guardian or other person acting in loco parentis of an un-emancipated minor, the following exceptions apply:
  - A. If the minor may lawfully receive a given health care service without the consent of a parent (regardless of whether someone else has given consent or not), a parent of that minor will not be treated as a Personal Representative for purposes of PHI related to a health care service, unless the minor has requested that the parent be treated as a Personal Representative. This applies to the following situations:
    - i. State law allows a minor to consent to receive the service. In these instances, the minor may be in control of his or her medical information.
    - ii. A minor does consent to the service and state law does not require other consent.
    - iii. A court or other persons authorized by law (other than a parent) consents to the service on the minor's behalf.
  - B. A parent consents to an agreement of confidentiality between a covered health care provider and the minor with respect to such health care service.

2. Help at Home may elect not to treat a person as the Personal Representative of a participant/ individual if it has a reasonable belief that:
  - A. The participant/ individual has been or may be subjected to domestic violence, abuse or neglect by such person.
  - B. Treating such person as the Personal Representative could endanger the participant/ individual.
  - C. In the exercise of professional judgment, Help at Home decides that it is not in the best interest of the participant/ individual to treat the person as the participant's/ individual's Personal Representative.

**Personal Representatives:**

1. Personal Representatives are allowed to inquire about a participant's/ individual's account on the participant's/ individual's behalf.
2. The following representatives are allowed to make changes to a participant's/ individual's record:
  - A. Natural parents (custodial and non-custodial) who are on the plan.
  - B. Appointed representative under a QMCSO.
  - C. Any individual acting under a lawful health care power of attorney.
  - D. The legal guardian of a participant/ individual.
3. The following individuals are not allowed to make changes to the participant's/ individual's record:

An individual who is authorized to inquire about the participant's/ individual's account on the participant's/ individual's behalf, unless participant/ individual has authorized individual to do so. Documentation will be in participant/ individual memos/notes.
4. If there are any questions or concerns about a Personal Representative, immediately contact your supervisor and/or the Privacy Officer.

## **PP-11: Verification of the Identity and Authority of a Party Requesting Disclosure of PHI**

### **Purpose:**

When a member of Help at Home Workforce discloses Protected Health Information (“PHI”), the member must verify the individual requesting the information is authorized to receive it as set forth by the HIPAA Privacy Act (45 C.F.R. § 164.514(h)).

### **Policy:**

**Members of the Help at Home Workforce who authorize the disclosure of PHI shall take reasonable steps to:**

1. Verify the identity of the person to whom the PHI is disclosed.
2. Verify the person’s authority to receive the PHI.

### **Procedure:**

#### **1. Reasonable steps include the following, depending on the circumstance:**

- A. If the employee knows the identity and authority of the recipient of the PHI first hand, no further verification is necessary.
- B. Any legal documentation that is required by Help at Home policy, prior to disclosure of PHI, must be obtained before the PHI is disclosed.
- C. PHI may be disclosed in accordance with Help at Home policies regarding disclosures to law enforcement officials, prison officials or disaster relief agencies when the identity and authority of the recipient of the information may reasonably be inferred from the circumstances.
- D. PHI may be disclosed as required by a subpoena or other legal document if the document meets the provisions of existing policy in this area.
- E. Help at Home Workforce may rely on any of the following to verify the identity of a public official who requests that PHI be disclosed without the participant’s/ individual’s authorization:
  - i. An identification badge
  - ii. Official credentials
  - iii. Other proof of government status
  - iv. Written request on the appropriate agency letterhead along with official identification
- F. Written evidence is required, that a participant/ individual, with identification is acting under government authority (such as a contract or purchase order that verifies that a private citizen is acting as an agent of a government agency in requesting the PHI) along with identification.
- G. If reasonable under the circumstances, Help at Home Workforce may rely on the following to establish the authority of a public official to receive PHI requested without the participant’s/ individual’s authorization:
  - i. A written statement of legal authority to request the information
  - ii. An oral statement of legal authority (if a written statement is impractical under the circumstances)
  - iii. A legal process issued by a grand jury or a judicial or administrative tribunal

**IN THE EVENT THERE ARE ANY CONCERNS ABOUT A PERSON'S IDENTITY,  
IMMEDIATELY CONTACT YOUR SUPERVISOR AND/OR THE PRIVACY OFFICER.**

## PP-12: Participants/Individuals Access to PHI

### Purpose:

Participants/ individuals have a right to inspect or to receive a copy of their PHI in Help at Home's maintained in a Designated Record Set. Some exceptions apply, as defined further in this policy.

### Policy:

1. Help at Home provides participant/ individual access to and copies of their own PHI contained in a Designated Record Set. This includes correspondence files or system notes that contain decision making information on a participant/ individual (i.e. participant/ individual or claims notes, case or appeals files). Help at Home Workforce authorized to release information to a participant/ individual may process the requests for access to PHI. The information will be provided in a form requested by the participant/ individual unless it cannot be easily produced. In this case, it will be provided in a readable hard copy within 30 days of the request. Upon a request by the participant/ individual, Help at Home will provide a summary of the information. The participant/ individual may also be permitted to examine his or her health records during regular business hours.
2. If participant/ individual requests an electronic copy of PHI that is maintained electronically in one or more Designated Record Sets, Help at Home must provide the person with access to the electronic information in the electronic form and format requested by the participant/ individual, if it is readily producible, or, if not, in a readable electronic form and format as agreed to by Help at Home and the participant/ individual.
  - A. In such cases, to the extent possible, Help at Home is expected to provide the participant/ individual with a machine readable copy of the participants/ individual's PHI.
  - B. Machine readable data means digital information stored in a standard format enabling the information to be processed and analyzed by computer.
  - C. For example, this would include providing the participant/ individual with an electronic copy of the protected health information in the format of MS Word or Excel, text, HTML, or text-based PDF, among other formats.
  - D. If the participant/ individual declines to accept any of the electronic formats that are readily producible by Help at Home, Help at Home must provide a hard copy as an option to fulfill the access request.
  - E. Help at Home is not required to scan paper documents to provide electronic copies of records maintained in hard copy.
  - F. Help at Home is permitted to send participant/ individual an electronic version of their record only through a secure email system. At no time are records to be sent in unencrypted emails.
3. If requested by a participant/ individual, Help at Home must transmit the copy of PHI directly to another person designated by the participant/ individual.
  - A. The individual's request be in writing, signed by the individual, and clearly identify the designated person and where to send the copy of PHI.
  - B. Electronic documents can qualify as written documents for purposes of meeting the requirements, as well as electronic signatures to satisfy any requirements for a signature, to the extent the signature is valid under applicable law.
4. In certain circumstances, Help at Home may deny a participant/ individual or participant's/ individual's Personal Representative access to PHI, as provided for in this policy. If an employee believes that access should be denied based on this policy, the employee will forward the request to the Privacy Officer for review and response to the participant/ individual.

**Denial of Access: Reasons for which there is not a right of review:**

Help at Home may deny access to information if:

1. The requested participant/ individual information is not part of a Designated Record Set.
2. The requested information was compiled for use in a criminal, civil or administrative proceeding or action (i.e., information protected by attorney work-product privilege).
3. The requested participant/ individual information is not maintained by Help at Home
4. A Personal Representative is the one requesting the information on behalf of the participant/ individual, and the information requested contains sensitive information.
  - A. This does not apply to Personal Representatives who have power of attorney or are authorized to receive the information pursuant to a HIPAA authorization.

In these instances, the decision to deny access is final and the participant/ individual will not be granted the opportunity to request a review of the decision.

**Denial of Access: Reasons for which there is a right of review:**

1. Help at Home may also deny access to certain information, when a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the participant/ individual or another person. The participant/ individual will be notified of the opportunity to request a review of the denial.
2. When the reason for denial of access is subject to review, the Privacy Officer will forward the denial to a licensed health care professional designated by Help at Home to act as a reviewer and who has not participated in the original decision to deny access.

**Fees:**

There is a charge for copies of health records and for the preparation of any explanations or summaries.

Generally, costs will be identified as followed:

1. Reasonable, cost-based fees may be charged for providing health records to Individuals (or their Personal Representatives), that includes only the cost of.
  - a. labor for copying PHI, whether in paper or electronic form;
  - b. supplies for creating the paper copy or electronic media, if the individual requests records be provided on electronic portable media;
  - c. postage, if the individual requests that the health records be mailed or that portable media containing an electronic copy be sent through mail or courier; and
  - d. preparing a summary of the records, if agreed to by the individual
2. A participant/ individual or Personal Representative may not be charged a fee for searching for or retrieving records.
3. An individual may not be denied a copy of his/her records because he/she has not paid for the services he/she has received.
4. Health records must be produced to the Individual no later than thirty (30) days after receipt of the request.

**Procedures:****REQUESTS****Authorized Employee**

1. Receives a request from a participant/ individual or a participant's/ individual's Personal Representative to gain access to his or her participant/ individual information.
2. Performs verification process.
  - A. If the individual does not have the authority to make the request, notify the individual as such.

- B. If the individual has the authority to make a request, ensure the information is allowable to be released. Refer to the Statement of the Policy section.
3. Believes that access should be denied based on this policy, forward the request to the Privacy Officer for review and response to the member.

**Privacy Officer**

1. Receives request.
2. Verifies access to information should be denied.
3. Determine that the participant/ individual does not have the right to request a review of the denial.
  - A. Sends denial letter.
4. Determines access to the requested information is reasonably likely to endanger the life or physical safety of a participant/ individual or another person:
  - A. Forward the determination of denial and all corresponding paperwork to a Medical Management Case Manager, who will make the final determination within five days whether to deny access and notify the Privacy Officer.
  - B. If the Medical Management Case Manager concurs with the Privacy Officer's determination, then Privacy Officer will send denial letter.

**REVIEW OF DENIALS**

**All Employees**

All requests for a review of a denial of access to PHI must be forwarded to the Privacy Officer for processing.

**Privacy Officer**

1. Receives request.
2. Verifies participant/ individual has the right to request a review of the denial.
3. Forwards the request to Help at Home's Risk Management Department to perform the review within ten (10) days. The Help at Home Risk Management Department does not participate in the original decision to deny access to the information in question.
4. Sends the appropriate review decision letter to the participant/ individual.
5. If the decision was overturned, include the information requested with the letter.

**NOTE:** Documentation of the request, Help at Home's response, review of denial, if any, and the decision, must be documented at the participant/ individual level in the appropriate system.

## PP-13: Requests to Amend Records

### Purpose:

The purpose of this policy is to describe the process for a participant/ individual to amend their record.

### Policy:

Participants/ individuals are entitled to request Help at Home to amend PHI in their Designated Record Set. This policy describes Help at Home's process to:

1. Determine whether a participant/ individual request for amendment will be granted or denied.
2. Implement a grant for such a request.
3. Deny such a request.

### Procedure:

#### Receipt of Request for Amendment

1. Written request: A participant/ individual must submit a request to amend PHI in his or her Designated Record Set in writing.
2. Log in requests: Upon receipt of a written request to amend, log in the request. Log in a reminder that a response must be made within sixty (60) days after receipt of the request.
3. Open request file: Upon receipt of a written request to amend, begin a file for the participant/ individual request. All correspondence with the participant/ individual will be kept in this file until the request is resolved.
4. Identification: Upon receipt of a written request, obtain identification of the requestor.

#### Requestors Who Identify Themselves as Participant/ Individual Representatives

1. When the requestor is not the participant/ individual, the representative may make the request in the following circumstances:
  - A. The requestor is an adult participant's/ individual's guardian: Obtain a copy of the court order appointing the requestor as guardian, or a written and notarized statement that a court appointed the requestor as the participant's/ individual's guardian and that the appointment still is valid.
  - B. If a guardian has not been appointed, and the requestor is the participant's/ individual's agent under a health care power of attorney or mental health care power of attorney, then obtain the signed, valid medical power of attorney naming the requestor as the participant's/ individual's agent and confirm with the participant's/ individual's physician that the participant/ individual is unable to make his or her own health care decisions.
  - C. If a guardian has not been appointed and the participant/ individual does not have a health care or mental health power of attorney, the requestor is the participant's/ individual's health care decision maker under state law. Confirm that the requestor is a person in the following list, and that a person at a higher level of priority is not immediately available:
    - i. The spouse, unless the participant/ individual and spouse are legally separated.
    - ii. An adult child.
    - iii. A parent.
    - iv. If the participant/ individual is unmarried, but has a domestic partner, and no other person has assumed any financial responsibility for the participant/ individual.
    - v. An adult brother or sister.
    - vi. A close friend of the participant/ individual. This must be an adult who has exhibited special care and concern for the participant/ individual. An individual who is familiar with the participant's/ individual's health care news/desires and is willing and able to

become involved in the participant's/ individual's health care and to act in the participant's/ individual's best interests.

**NOTE:** Always confirm with the participant's/ individual's physician that the participant/ individual is unable to make his or her own decisions or confirm that the participant/ individual has been declared legally incompetent.

2. The requestor is a minor participants/ individual's parent or guardian.
  - A. Review the records to determine whether the participant/ individual has been considered emancipated or is otherwise competent to give informed consent. If so, require written consent from the participant/ individual before providing parent or guardian access to records.
  - B. Before copying or otherwise providing access to records to the requestor, review the records to determine whether the participant/ individual received reproductive health services. If so, contact the Privacy Officer, before granting access to or copying records.
  - C. Obtain identification verifying that the requestor is the parent or guardian.
  - D. The requestor is a person entitled to see the records of a deceased participant/ individual.

#### **Time Frames for Responding to Requests for Amendment**

1. Help at Home will notify the requestor of its decision on a request for amendment of all or part of the designated record set within sixty (60) days of the request.
2. The 60-day time limit (referred to in #1 above) will be extended to ninety (90) days if a response cannot be made in sixty (60) days. If an extension is needed, notify the participant/ individual in writing before the end of the initial sixty (60) day time frame.
3. Help at Home Workforce members processing the request will log the dates of all requests and responses.

#### **Determining Whether to Grant or Deny Request for Amendment**

1. The request to amend will be granted unless:
  - A. Help at Home did not create the information, unless the participant/ individual provides a reasonable basis to believe that the originator of the information is no longer available to act on the requested amendment;
  - B. The requested information is not part of the Designated Record Set;
  - C. A request for inspection would be denied under Policy: Access to Protected Health Information, regarding policy on participant/ individual request for access to and copying;
  - D. The record is accurate and complete; or
  - E. If the requestor identifies him or herself as a participant/ individual representative, the authorization of the requestor to amend the records cannot be verified to the satisfaction of the Privacy Officer.
2. The record will be considered "accurate and complete" for purposes of 1D above when: after consultation with the affected Help at Home staff member, Help at Home concludes that it is more likely than not, that the facts or omissions alleged in the request for amendment did not occur, or were unknown to the Help at Home staff members involved in the case, or were not appropriate for recording in the medical record based on Help at Home's policies.
3. Requests to amend, by their nature, question the integrity of the medical record. Careful review is needed before determining whether to grant the request. Upon receipt of a request to amend, any member of the Help at Home Workforce will immediately notify the Privacy Officer:
  - A. If the request is for amendment of medical staff or allied health professional documentation in the record, in consultation with the Compliance Officer, the Privacy Officer or designee will notify the affected professional if available.

- B. If the request is for amendment of nursing or other hospital staff documentation in the record, in consultation with the Compliance Officer, the Privacy Officer or designee will notify the affected staff member if available.
- C. The Privacy Officer or designee will review the record with the affected medical or Help at Home staff member and determine whether the request for amendment is subject to any of the factors set forth in #1 above. If the request is not subject to any of the factors in #1 above, the Privacy Officer or designee will follow the process in “Grant of Request to Amend” section, #5 below. If the request is subject to any of the factors in #1 above, the Privacy Officer or designee will follow the process in “Denial of Request for Amendment” section below.

### **Grant of Request to Amend**

1. Upon granting a request to amend the entry, the author will make the amendment by following the Amendment to Health Record policy. DO NOT under any circumstances obliterate line through or otherwise deface the medical record or any entry in it.
2. The Privacy Officer or designee will notify the participant/ individual that the request for amendment has been granted. The notice will include a request that the participant/ individual supply the identity of persons or organizations who have received the PHI needing amendment. The participant/ individual will be asked for permission to share the amendment with the people or organizations that received the information, which are identified either by the participant/ individual or Help at Home.
3. In consultation with Administration, the Privacy Officer or designee will identify all persons or organizations to which Help at Home sent the PHI and may rely on it to the participant’s/ individual’s detriment.
4. Upon receipt of the participant’s/ individual’s permission, Help at Home will make reasonable efforts to notify those persons and entities to which the participant/ individual has granted permission to share the amendment under paragraph 5(3) of the amendment.
5. Document the decision to amend the participant’s/ individual’s permission to notify third parties, and Help at Home’s attempts to notify third parties, in the correspondence section of the medical record.

### **Denial of Request for Amendment**

1. The Privacy Officer or designee will notify the participant/ individual in writing of a denial of the request for amendment. The notice will include:
  - A. The basis for the denial in accordance with “Determining Whether to Grant or Deny Request for Amendment” section above;
  - B. A statement that the participant/ individual may file a statement of disagreement with Help at Home, how to file the statement, and limitations on the length of the statement of disagreement;
  - C. A statement that if the participant/ individual does not want to file a written disagreement, the participant/ individual can ask Help at Home to provide the participant’s/ individual’s request and Help at Home’s denial with future disclosures of the records or alternatively, that the hospital will enclose the participant’s/ individual’s request and Help at Home’s denial, with future disclosures of the records;
  - D. A description of how the participant/ individual may submit a complaint to Help at Home and to the U.S. Department of Health and Human Services.
2. Statement of Disagreement/Statement of Rebuttal.
  - A. A participant/ individual whose request for amendment of the medical record has been denied may file a written statement of disagreement after receiving a denial notice. Statements of disagreement will not exceed one 8 ½ x 11 inch typed, single-spaced page in length.
  - B. Upon receipt of a statement of disagreement, the Privacy Officer or designee will:
    - i. Communicate as needed with Help at Home Workforce involved in the case;

- ii. Determine whether Help at Home should file a statement of rebuttal;
  - iii. Draft a statement of rebuttal as needed;
  - iv. Direct that the participant/ individual receive written notice and a copy of the statement of rebuttal.
- C. A statement of rebuttal will include the basis for disagreement with the requestor's position.

**Inclusion in Future Disclosures of PHI**

1. If the requestor submits a statement of disagreement, the Privacy Officer or designee will include or provide a link to the request to amend, Help at Home's denial, the participant's/ individual's statement of disagreement, and, Help at Home's rebuttal (if any), and include those in future disclosures of the record.
2. If the requestor does not submit a statement of disagreement, but requests Help at Home to include the request to amend and Help at Home's denial with future disclosures, the Privacy Officer or designee will include or provide a link to the request to amend and Help at Home's denial, and include these in future disclosures of the record.

**Amendments by Other Covered Entities**

1. Upon receipt of a notice from another entity that it has amended a participant's/ individual's PHI, the Privacy Officer or designee will review the participant's/ individual's record to determine whether the records amended by the other entity are in fact Help at Home's records.
2. If the records are Help at Home's records, the Privacy Officer or designee will:
  - A. Notify the participant/ individual that the records purportedly amended are Help at Home's records, and that Help at Home will review the matter to determine whether or not to grant a request for amendment;
  - B. Follow the procedures set forth in the sections above.
3. If the records are not Help at Home's records and Help at Home has copies of the records, the Privacy Officer or designee will make the amendment by the methods set forth above in the "Grant of Request to Amend" section.
4. the Privacy Officer or designee will maintain documentation of amendments by other entities in the correspondence section of the medical record for a period of at least six (6) years.

## **PP-14: Routine and Recurring Disclosures of PHI**

### **Purpose:**

The purpose is to establish disclosures of (“PHI”) that are routine and recurring.

### **Policy:**

1. Help at Home limits routine and recurring disclosures of PHI to the minimum necessary amount of information that is reasonably necessary to accomplish the purpose of the request or disclosure, in compliance with applicable federal and state laws, and regulations.
2. Some examples of routine and recurring disclosures are:
  - A. To health care providers for claims payment and billing purposes; and
  - B. To a Business Associate under contract to provide specified services.
3. Routine and recurring types of PHI disclosure may only occur per the Uses and disclosures of PHI Policy. Information disclosed in aggregate form that cannot identify an individual participant/ individual is not considered PHI and is not subject to the HIPAA Privacy policies and procedures.

### **Reports containing PHI:**

1. The Privacy Officer must review all new and revised non-routine and recurring reports that contain PHI being disclosed to an external party prior to the disclosure.
2. All reports must have the following text placed in the footer of the document or stamped on the document:

*“This document contains information from Help at Home that may be confidential and/or privileged. Any unauthorized dissemination, distribution or copying of this document is strictly prohibited.”*

## PP-15: Accounting of Disclosures

### Purpose:

Participants/ individuals have the right to receive an accounting of disclosures of their PHI as set forth by the Legal Requirements.

**Policy:** Help at Home will document and make available information required to provide an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

### Policy:

1. All Help at Home Workforce members who either (i) makes an authorized disclosure of PHI that Help at Home is required to document or (ii) is made aware of an accidental disclosure that has been made, will complete the form for recording Accounting of Disclosures, attach the supporting documentation to the form and forward the information to the Privacy Officer. The Privacy Officer shall review all completed forms and ensure Help at Home maintains an appropriate Accounting of Disclosures.
2. A participant/ individual has the right to receive an accounting of disclosures of PHI made by Help at Home in the six (6) years prior to the date on which the accounting is requested.
3. The following are disclosures, which Help at Home is required to track on the participant's/ individual's record:
  - A. When required by law or for law enforcement purposes.
  - B. When requested by a government authority regarding information about victims of abuse, neglect or domestic violence.
  - C. Health oversight activities.
  - D. Judicial and administrative proceedings (ex: court orders, subpoenas, discovery requests).
  - E. To comply with workers' compensation investigations.
  - F. To avert a serious threat to health or safety.
4. For multiple disclosures to the same recipient for a single purpose, a summary of accounting addressing the series of disclosures is acceptable, rather than detailing an account of each disclosure.
5. Help at Home is also required to track all accidental disclosures. Some examples of common accidental disclosures are:
  - A. PHI faxed to wrong location.
  - B. Document containing PHI mailed to wrong person (i.e. EOB, letter).
  - C. Paid wrong provider (claims remit containing PHI sent to wrong provider).
6. The participant/ individual must request, in writing, the accounting of disclosures, specifying the time period to which the accounting applies, which may not be for a period of more than six (6) years, and be reviewed and approved by the Privacy Officer.
7. Help at Home must provide the accounting to the participant/ individual, in writing, within 30 days of the date the request for the accounting was received. The contents of the accounting should include the following:
  - A. The date of the disclosure.
  - B. The name of the entity or persons who received the PHI and if known, the addresses of such persons.
  - C. A brief description of the PHI disclosed.
  - D. A brief statement of the purposes of the disclosure.
  - E. Any relevant documentation, such as a written request from a government or law enforcement agency.
8. Help at Home is not required to track the following disclosures:

- A. As set forth in PP-17, Use and Disclosure of PHI for Treatment, Payment and Health Care Operations Policy:
- B. To carry out treatment, payment or health care operations.
- C. Disclosures to participant/ individual about themselves.
- D. Disclosures to a Personal Representative.
- E. Disclosures to persons involved in the participant's/ individual's treatment or care provided there is verbal authorization documentation.
- F. For national security or intelligence purposes.
- G. To correctional institutions or law enforcement officials having lawful custody of an inmate.
- H. Incidental disclosures permitted under applicable federal or state law. *For purposes of this policy an incidental disclosure is a secondary disclosure that cannot reasonably be prevented and that occurs as a result of an otherwise permitted use or disclosure. Example: a conversation that is overheard despite attempts by the speakers to avoid being heard.*
- I. Disclosures that occurred prior to the compliance date (April 14, 2003).

**Procedure:**

**RECORDING DISCLOSURES**

**Authorized Employee**

- 1. Discloses PHI that Help at Home is required to document or is made aware of an accidental disclosure that has been made.
- 2. Complete the form for recording Accounting of Disclosures.
- 3. Attach the supporting documentation to the form.
- 4. Forward completed form and supporting documentation to the Privacy Officer.

**Privacy Officer**

- 1. Receives completed form for Accounting of Disclosures and supporting documentation.
- 2. Reviews for appropriate Accounting of Disclosure.
- 3. Records the disclosure in the privacy files.

**ACCOUNTING OF DISCLOSURE REQUEST FROM THE MEMBER**

**Authorized Employee**

- 1. Receives a request from participant/ individual or the participant's/ individual's Personal Representative for Accounting of disclosures.
- 2. Sends the Accounting of Disclosures form to the participant/ individual or participant's/ individual's Personal Representative to complete, sign and return to the Privacy Officer.

**Privacy Officer**

- 1. Receives a completed Accounting of Disclosures form from a participant/ individual.
- 2. Reviews the request to determine which disclosures are reportable.
- 3. Records the request in the privacy files.
- 4. If the request for an accounting of disclosures is granted:
  - A. Works with the appropriate staff to obtain documents of the specified information.
  - B. Sends documents to the participant/ individual within thirty (30) days.
- 5. If the request cannot be granted within thirty (30) days, sends letter to the participant/ individual. The letter must state the reason for the delay and the date on which the accounting will be provided to the participant/ individual.
- 6. If the request for an accounting of disclosures is denied based on the exceptions in the policy section, send a denial letter.
- 7. Documents the denial or the accounting in the privacy files.
- 8. Files a copy of the written accounting and request in the privacy files.

## **PP-16: Use and Disclosure of PHI Requiring Participant/ Individual Authorization**

### **Purpose:**

There are a number of situations in which members of Help at Home Workforce must obtain the participant's/ individual's authorization prior to using or disclosing PHI.

### **Policy:**

This policy sets forth the circumstances in which Help at Home and its Workforce must obtain valid participant/ individual authorization for a use and disclosure of the participant's/ individual's PHI. This policy sets the requirements for a valid authorization.

### **Procedure:**

1. Help at Home Workforce will obtain participant/ individual authorization to use or disclose the participant's/ individual's PHI in the following circumstances:
  - A. When Help at Home policy does not expressly allow disclosure of the PHI without participant/ individual authorization.
  - B. The disclosure is for certain mental health records.
  - C. The disclosure is of communicable disease information—including HIV or AIDS-related information.
  - D. The disclosure is for marketing purposes.
2. If participant/ individual authorization is required for disclosure of participant/ individual PHI, Help at Home Workforce must obtain participant/ individual authorization on the Release of Information Form that contains the following items:
  - A. A specific and meaningful description of the PHI to be used or disclosed;
  - B. The name of the person, class of persons, or organization making the disclosure of PHI, *e.g.*, Help at Home;
  - C. The name or other identification of the person, class of persons, or organization to whom Help at Home is making the disclosure (or Help at Home, if the disclosure is for an internal purpose);
  - D. A description of the purpose of the use or disclosure of PHI. If the participant/ individual has requested the disclosure, indicate "at the request of the participant/ individual."
  - E. An expiration date or an expiration event of the authorization that relates to the purpose of the use or disclosure;
  - F. A statement that the participant/ individual has a right to revoke the authorization, and a reference to Notice of Privacy Practices for details on that right;
  - G. A statement that Help at Home cannot condition treatment on whether the participant/ individual signs the authorization. (However, if Help at Home is allowed to condition treatment on obtaining authorization, as explained in paragraph 6 below, the authorization form must include a statement of the consequences to the participant/ individual for refusing to sign the authorization);
  - H. The potential that the participant's/ individual's PHI may be re-disclosed by the recipient and no longer be protected by the Federal Privacy regulations;
  - I. The participant's/ individual's (or Personal Representative's) signature and the date of signature;
  - J. If the authorization is executed by a Personal Representative, a description of that person's authority to act for the participant/ individual; and
  - K. If the authorization is for the purpose of using PHI for marketing and Help at Home will receive either direct or indirect payment, tell the participant/ individual in the authorization form.

3. If Help at Home receives an authorization form from a source outside Help at Home, Help at Home Workforce will ensure that the outside authorization form meets the requirements set forth in paragraph 2 above.
4. Help at Home Workforce may not combine authorizations for different purposes. The only exception is that, if the authorization is for use and disclosure of PHI for treatment involved in a research study, Help at Home Workforce may combine the informed consent to participate in the study with the authorization to use and disclose the PHI for that study.
5. Help at Home Workforce will not require a participant/ individual to provide an authorization, and will not condition treatment on obtaining authorization, except in the following circumstances:
  - A. The participant/ individual is participating in research, and the authorization is sought in connection with that research.
  - B. The participant/ individual has requested Help at Home Workforce to conduct an examination or provide other treatment, in order to disclose that information to a third party. For instance, if a participant/ individual asks Help at Home to conduct an employment physical for the purpose of giving that information to the participant's/ individual's employer, Help at Home Workforce may refuse to do the examination unless the participant/ individual signs an appropriate authorization form.
6. Help at Home Workforce will not use or disclose PHI if the participant's/ individual's authorization is invalid. An authorization is invalid if:
  - A. The authorization has expired because the expiration date has passed or the expiration event has passed;
  - B. The authorization form lacks a required element or has not been filled out completely;
  - C. Help at Home is aware that the participant/ individual has revoked the authorization;
  - D. Help at Home knows that the form contains false information; or
  - E. The authorization is combined with another authorization—except for research purposes.
7. If they become aware of information that would render a participant's/ individual's authorization invalid, Help at Home Workforce will report that information to the Privacy Officer. This includes information that a participant/ individual has revoked his or her authorization, has expressed the desire to revoke his or her authorization, or that an authorization form contains false information.
8. A participant/ individual may revoke his or her authorization at any time by submitting a written request to Help at Home Workforce. Help at Home Workforce who receive a participant's/ individual's verbal request to revoke an authorization will refer the participant/ individual to the Privacy Officer. Help at Home Workforce who receive a participant's/ individual's written revocation of authorization will send a copy of the revocation to the Privacy Officer.
9. Upon revocation of participant/ individual authorization, Help at Home Workforce will stop using or disclosing participant's/ individual's PHI for the purposes covered by that authorization. However, if there is an important reason to continue to use or disclose that PHI (for example, the participant's/ individual's PHI must be used for quality assurance purposes or Help at Home must submit that PHI to obtain payment for the participant's/ individual's care), Help at Home Workforce should contact the Privacy Officer for further guidance.
10. Help at Home Workforce will give the participant/ individual a copy of the authorization signed by the participant/ individual.
11. Help at Home will retain copies of all participant/ individual authorizations for six (6) years. All participant/ individual authorizations will be kept in the medical record.

## **PP-17: Use and Disclosure of PHI for Treatment, Payment and Health Care Operations**

### **Purpose:**

This policy sets forth the circumstances in which Help at Home and its Workforce may use and disclose PHI for Treatment, Payment, and Health Care Operations (“TPO”), and when participant/ individual authorization is required to do so.

### **Policy:**

Help at Home will outline the circumstances in which the Workforce members may use and disclose PHI for TPO, and when participant/ individual authorization is required to do so.

### **Procedure:**

#### **Help at Home’s Use of PHI:**

1. If Help at Home Workforce are authorized to have access to a participant’s/ individual’s PHI; they may use that PHI within Help at Home for purposes that meet the definition of TPO.
2. Help at Home Workforce use of PHI for purposes that do not meet the definition of TPO are addressed by other policies dealing with those specific uses or disclosures.
3. Help at Home Workforce must follow Help at Home’s policy on verifying the identity and authority of the recipient.
4. Help at Home Workforce will use only a limited data set or the minimum amount of PHI necessary for the intended purpose.

#### **Disclosure of PHI outside Help at Home for Treatment, Payment and Health Care Operations:**

1. Activities to Assist Help at Home
  - A. Help at Home Workforce may disclose PHI to a third party to assist in Help at Home’s activities that meet the definition of TPO. Before disclosing PHI to the third party to assist Help at Home, Help at Home Workforce will determine that Help at Home has a business associate agreement in place with the third party if one is required by Help at Home policy and/or by the Legal Requirements.
2. To Other Health Care Providers
  - A. Help at Home Workforce may disclose PHI to another health care provider to support the participant’s/ individual’s treatment.
    - i. Where possible and practical, an authorization signed by the participant/ individual or the participant’s/ individual’s Personal Representative should be requested. However, when it is not possible or practical to obtain an authorization to release the medical record, Help at Home Workforce shall provide the minimum PHI necessary to accommodate the request. In some cases, the minimum necessary information may include the entire medical record.
  - B. Help at Home Workforce may disclose PHI to another health care provider to support the other provider’s payment, to the extent that the PHI pertains to the provided treatment. The other health care provider must submit a written request for the participant’s/ individual’s records. This written request may take any form, including email. Help at Home Workforce will retain this written request in the participant’s/ individual’s record.
  - C. Help at Home Workforce may disclose PHI to another health care provider to support the Health Care Operations of the other provider if the following criteria are met:
    - i. The other provider has a present or past relationship with the participant/ individual;
    - ii. The information sought pertains to the treatment the other provider gave to the participant/ individual;

- iii. Help at Home Workforce confirm that the provider is a “Covered Entity” under HIPAA and is required to comply with the HIPAA Privacy Standards.
  - iv. The disclosure is limited to the types of Health Care Operations listed in paragraphs A-L in the definition of “Health Care Operations” in PP-02, HIPAA Privacy Definitions.
  - v. The other health care provider submits a written request for the participant’s/ individual’s records. This written request may take any form, including email. Help at Home Workforce will retain this written request in the participant’s/ individual’s record.
3. To Health Plans
    - A. Help at Home Workforce may disclose PHI to a health plan in the following circumstances:
      - i. The disclosure is to obtain payment for treatment; or
      - ii. The disclosure is for the Health Care Operations of the payer listed in paragraphs A-J above in the definition of “Health Care Operations,” plus fraud and abuse detection and compliance programs.
  4. Verifying Identity and Authority of Recipient
    - A. Help at Home Workforce will verify the identity and authority of the recipient of the PHI.
  5. Disclosing the Minimum Necessary Amount of PHI
    - A. Help at Home Workforce will disclose only a limited data set, as defined in 45 C.F.R. section 164.514(e)(2), or, if needed by the entity, the minimum amount of PHI necessary to accomplish the intended purpose of the disclosure.

**Disclosure of Special Types of Medical Records:**

1. Disclosure of communicable disease information (including HIV/AIDS information), mental health records, genetic testing information and drug and alcohol abuse records are more sensitive and are not governed by this policy.

## **PP-18: Use and Disclosure of PHI for Health Oversight Activities**

### **Purpose:**

This policy describes when Help at Home Workforce may disclose a participant's/ individual's protected health information for the purposes of health oversight activities.

### **Policy:**

(1) Help at Home may disclose PHI in response to certain legal requests without obtaining authorization from the participant/ individual.

(2) Help at Home shall ensure that all disclosures of PHI requested for health oversight purposes comply with established procedures designed to protect and limit the amount of information disclosed.

### **Procedure:**

1. Help at Home may disclose PHI to a health oversight agency for oversight activities authorized by law, including audits, civil, criminal, or administrative investigations, inspections, licensure or disciplinary actions or other activities necessary for appropriate oversight of:
  - A. The health care system;
  - B. Government programs for which health information is necessary to determine eligibility for benefits;
  - C. Entities subject to government regulatory programs for which health information is necessary to determine compliance with program standards, or
  - D. Entities subject to civil rights laws for which health information is necessary to determine compliance with those laws.
2. In cases where a participant/ individual is the subject of the investigation or other activity, Help at Home will not disclose PHI without authorization of the participant/ individual who is the subject of the information unless the investigation, or other activity, arises out of and is directly related to:
  - A. The receipt of health care;
  - B. A claim for public benefits related to health; or
  - C. Qualification for, or receipt of, public benefits or services when the participant's/ individual's health is integral to the claim for public benefits or services.
3. Help at Home may disclose PHI for public health purposes, without authorization, to a person or entity subject to FDA jurisdiction. The request must be related to the quality, safety or effectiveness of an FDA-regulated product or activity for which that person has responsibility. Examples of these disclosures are:
  - A. Collecting or reporting adverse events (or similar reports with respect to food or dietary supplements), product defects or problems (including problems with the use or labeling of a product), or biological product deviations;
  - B. Tracking FDA-regulated products;
  - C. Enabling product recalls, repairs, or replacement (including locating and notifying individuals who have received products that have been recalled, withdrawn, or have other problems); or
  - D. Conducting post-marketing surveillance.
4. Help at Home must limit its disclosure of PHI to the minimum necessary to meet the requirements of the law pursuant to which the request is made.
5. If a health oversight activity or investigation is conducted in conjunction with an oversight activity or investigation relating to a claim for public benefits unrelated to health, Help at Home will consider the joint activity or investigation to be a health oversight activity.

6. Help at Home Workforce who receive a request for PHI for health oversight purposes should forward the request to the Privacy Officer.
7. The Privacy Officer will: (1) verify the identity of the requestor; (2) ensure that the request for records complies with applicable regulations; and (3) notify the originator of the request if the subpoena or request for records does not comply with applicable regulations.
8. Help at Home Workforce must appropriately document the request and delivery of the PHI, including the name/identity of the requestor, the participant/ individual whose PHI was disclosed, the Help at Home Workforce who made the disclosure, the nature of the information disclosed and the date of the disclosure. This documentation should be made in the participant's/ individual's medical record.

## **PP-19: Disclosures of PHI to Law Enforcement Officials**

### **Purpose:**

This policy sets forth requirements Help at Home Workforce will meet before disclosing a participant's/ individual's PHI to law enforcement officials.

### **Policy:**

Help at Home may disclose PHI in response to certain legal requests without obtaining any form of permission from the participant/ individual.

Help at Home shall ensure that all disclosures of PHI requested for law enforcement purposes comply with established procedures designed to protect and limit the amount of information disclosed.

### **Definitions**

1. "Law enforcement purposes" means those purposes set forth in 45 C.F.R. § 164.512(f), as the same may be amended from time to time.
2. "Law enforcement Officer" means an officer or employee of any state or federal agency who is empowered to investigate or conduct an Officer inquiry into a potential violation or law or to prosecute or otherwise conduct a criminal, civil or administrative proceeding arising from an alleged violation of law.

### **Procedure:**

1. Help at Home Workforce members who receive a request for PHI for law enforcement purposes will refer the request to the Privacy Officer and Help at Home's legal counsel. Once the Privacy Officer and legal counsel have determined that a use or disclosure is lawful and appropriate under these Help at Home Privacy Policies, Help at Home Workforce members should verify the identity and authority of the individuals requesting the PHI.
2. Once the identity and authority of the requestor has been verified, authorized Help at Home Workforce members may access the PHI and make the disclosure.
3. Help at Home Workforce members must appropriately document the request and delivery of the PHI, including the name/identity of the requestor, the Individual whose PHI was Disclosed, the Help at Home Workforce members who made the disclosure, the nature of the information Disclosed and the date of the disclosure.

## **PP-20: Disclosures of PHI Relating to Judicial and Administrative Proceedings**

### **Purpose:**

This policy sets forth the rules for Help at Home Workforce to disclose PHI in connection with judicial and administrative proceedings.

### **Policy:**

1. Help at Home may disclose PHI in response to certain legal requests without obtaining authorization from the participant/ individual.
2. Help at Home shall ensure that all disclosures of PHI requested in litigation or administrative proceedings comply with established procedures designed to protect and limit the amount of information disclosed.

### **Definitions:**

#### **Qualified Protective Order**

1. Qualified Protective Order means either: an order of a court or administrative tribunal or a stipulation of the parties to the underlying proceeding, which:
  - A. Prohibits the parties to the underlying proceeding from using or disclosing PHI for any purpose other than the litigation or proceeding for which such information was requested; and
  - B. Requires that, at the conclusion of the litigation, the PHI is either destroyed or returned to Help at Home.
2. Reasonable efforts to secure a Qualified Protective Order means Help at Home receives a written statement and accompanying documentation (such as a copy of the order or stipulation) demonstrating that:
  - A. The parties to the underlying dispute have agreed to a Qualified Protective Order and have presented it to the court or administrative tribunal; or
  - B. The requesting party has requested a Qualified Protective Order from the court or administrative tribunal.
3. Reasonable efforts to notify the participant/ individual whose PHI is being sought means that Help at Home receives a written statement and accompanying documentation (such as a copy of the notice used) demonstrating that:
  - A. The requesting party has made a good faith effort to provide a written notice of the request to the persons whose PHI is being requested, including sufficient information regarding the underlying litigation or proceeding to permit the persons to raise objections before the court or administrative tribunal; and
  - B. The time for the persons whose information is being requested to raise objections has elapsed and no objections were filed, or the objections have been resolved such that the disclosure is permitted.

If the requesting party provides satisfactory assurance through the notification process, it is not the responsibility of Help at Home to respond to any objections from participant/ individual who receive the notice or to explain the procedures by which to object, unless otherwise required by law.

**Procedure: ALWAYS CONTACT THE PRIVACY OFFICER IMMEDIATELY**

1. Help at Home may disclose PHI in response to a court or tribunal order. If Help at Home makes a disclosure for this purpose, it may only disclose that PHI which is expressly authorized by the order.
2. In the absence of a court order, Help at Home may disclose PHI in response to a subpoena, discovery request, or other lawful process. If Help at Home makes a disclosure for this purpose, it must receive “satisfactory assurance” that the requesting party has made reasonable efforts either to:
  - A. Secure a qualified protective order or
  - B. Notify the participant/ individual(s) whose PHI is being sought.
3. If Help at Home does not receive the required satisfactory assurance, it may not disclose the PHI, except that if Help at Home chooses, it may make its own efforts to respond and provide notice to the individual, or seek a Qualified Protective Order.
4. In responding to the request, Help at Home must disclose only the minimum amount of information necessary to comply with its terms.
5. The Privacy Officer will contact the Compliance Officer if there is a concern regarding a request for PHI for law enforcement purposes
6. Once the Privacy Officer or Compliance Officer has determined that a use or disclosure is lawful and appropriate under this Policy and Procedure, Help at Home Workforce should verify the identity and authority of the individuals requesting the PHI.
7. Once the identity and authority of the requestor has been verified, authorized Help at Home Workforce may access the participant’s/ individual’s PHI and make the disclosure.
8. Documentation: Help at Home Workforce must appropriately document the request and delivery of the PHI, including the name/identity of the requestor, the participant/ individual whose PHI was disclosed, the Help at Home Workforce who made the disclosure, the nature of the information disclosed and the date of the disclosure. This documentation should be made in the participants/individuals’ medical record.

## **PP-21: Use or Disclosure of PHI for Marketing Purposes**

### **Purpose:**

This policy describes the reasons for which participant/ individual can be contacted, and PHI is used or disclosed, for marketing purposes that is conducted by or on behalf of Help at Home.

### **Definitions:**

#### **Marketing:**

1. To make a communication about a product or service that encourages recipients of the communication to purchase or use the product or service.
2. An arrangement between Help at Home and another entity whereby Help at Home discloses PHI to the other entity, in exchange for direct or indirect remuneration, for the other entity or its affiliate to make a communication about its own product or service that encourages recipients of the communication to purchase or use that product or service.

Marketing does NOT include the following communications to a participant/ individual:

1. To describe a health-related product or service (or payment for such product or service) that is provided by, or included in a plan of benefits of Help at Home, including communications about:
  - A. Help at Home's participation in a health care provider network or health plan network;
  - B. Replacement of, or enhancements to, a health plan;
  - C. Health related products or services available only to a health plan enrolled that add value to, but are not part of, a plan of benefits.
2. For treatment of the participant/ individual.
3. For case management or care coordination for the participant/ individual, or to direct or recommend alternative treatments, therapies, health care providers, or settings of care to the participant/ individual.

#### **Financial Remuneration:**

Direct or indirect payment from or on behalf of a third party whose product or service is being described. "Financial remuneration" does not include instances where a charitable organization funds a Covered Entity's mailing to participant/ individual about new state of the art screening equipment.

#### **Policy:**

Help at Home Workforce does NOT use or disclose a participant's/ individual's PHI for marketing purposes.

## **PP-22: Use or Disclosure of PHI for Fundraising Purposes**

### **Purpose:**

This policy describes the reasons for which Help at Home may provide fundraising communications and the scenarios in which a participant's/ individual's PHI is used or disclosed for fundraising purposes.

### **Policy:**

Help at Home does NOT use PHI for any fundraising communications.

## **PP-23: Use or Disclosure for Sale of PHI**

### **Purpose:**

This policy describes the reasons for which participant/ individual can be contacted, and PHI is used or disclosed for sale, conducted by or on behalf of Help at Home.

### **Definitions:**

**Sale of PHI:** A disclosure of protected health information by a Covered Entity or business associate, if applicable, where the Covered Entity or business associate directly or indirectly receives remuneration from or on behalf of the recipient of the protected health information in exchange for the protected health information. (Section 164.502(a) (5) (ii) (B) (1))

### **Policy:**

Help at Home does NOT sell any PHI.

## **PP-24: Use and Disclosure of Mental Health Information**

### **Purpose:**

The purpose of this policy is to describe the appropriate use and disclosure of mental health information.

### **Policy:**

This policy sets forth the circumstances in which Help at Home and its Workforce may use and disclose PHI related to mental health care.

### **Procedure:**

#### **Use and Disclosure of Psychotherapy Notes**

1. Help at Home does NOT receive or use Psychotherapy Notes.

#### **Use and Disclosure of Information Obtained During Court-ordered or Voluntary Evaluation, Examination and Treatment of a Person With a Serious Mental Illness**

1. All records and other information obtained in the course of evaluation, examination, or treatment of a person subject to the mental health evaluation and treatment provisions are confidential. Help at Home Workforce will disclose these records only as listed in the paragraphs below.
  - A. Help at Home Workforce may disclose this information to physicians and other providers of health, mental health, or social and welfare services involved in caring for, treating, or rehabilitating the participant/ individual.
  - B. Help at Home Workforce may disclose this information to persons to whom the participant/ individual has given written authorization to receive the information. Help at Home Workforce will use the Help at Home Release of Information form, or a form that meets the authorization requirements set forth in Help at Home policy on authorization.
  - C. Help at Home Workforce may disclose this information to the participant's/ individual's legal representative, such as a court-appointed guardian, or to the participant's/ individual's agent appointed under the participant's/ individual's health care directive.
  - D. Help at Home Workforce will have a signed authorization to disclose this information to the participant's/ individual's attorney.
  - E. Help at Home Workforce will disclose this information to a person when ordered by a court to do so.
  - F. Help at Home Workforce may disclose this information to the State Department of Corrections, if the participant/ individual is a prisoner with the State Department of Corrections and if a corrections official represents in writing to Help at Home Workforce that the information is necessary for:
    - i. the provision of health care to the participant/ individual;
    - ii. the health and safety of the participant/ individual or other inmates;
    - iii. the health and safety of officers or employees;
    - iv. the health and safety of people transporting inmates;
    - v. law enforcement on the premises; or
    - vi. the administration and maintenance of the "safety, security, and good order of the correctional institution."
  - G. If the corrections official cannot make this representation in writing because of the immediate need for such information, Help at Home Workforce will seek such representation verbally and will document the representation in the participant's/ individual's medical record.
2. Help at Home Workforce may disclose limited information to governmental or law enforcement agencies when necessary to secure the return of a participant/ individual who is on an unauthorized leave of absence from any agency where the participant/ individual was undergoing

evaluation and treatment. Help at Home Workforce will limit the information provided to name, address, date and place of birth, social security number, ABO blood type and Rh factor, type of injury, date and time of treatment, date and time of death (if applicable), and a description of distinguishing physical characteristics (such as height, weight, gender, race, hair and eye color, presence or absence of facial hair, scars and tattoos). If governmental or law enforcement officials need additional health information, Help at Home Workforce will consult with the Privacy Officer and/or Compliance Officer before disclosing any additional information.

3. Help at Home Workforce may disclose this information to family members actively participating in the participant's/ individual's care, treatment or supervision, but only if a physician or other professional interviews the participant/ individual and determines that the release of information is in the best interest of the participant/ individual. If the physician or professional documents in the record that release is in the best interest of the participant/ individual, Help at Home Workforce will release only information relating to the person's diagnosis, prognosis, need for hospitalization, anticipated length of stay, discharge plan, medication, medication side effects and short-term and long-term treatment goals.
4. Help at Home Workforce may release information to a state agency that licenses health professionals and that require records in the course of investigating complaints or negligence or incompetence, such as the Board of Medical Examiners, except that pursuant to 45 C.F.R. 164.512(d) (2), Help at Home will not release information where the participant/ individual for whom records are requested is the subject of the investigation.
5. Help at Home Workforce may release information to the State Department of Education or school district of residence of a participant/ individual between the age of three and twenty-two years, where the agency represents that the information is necessary to provide educational services to persons with disabilities. The information provided will be limited to evaluation and treatment information that affects the educational programming and placement decisions for the participant/ individual, and will be made only with the authorization of the participant/ individual or the participant's/ individual's representative.
6. Help at Home Workforce will release this information to a governmental agency or a competent professional as necessary to comply with state statutes concerning sexually violent persons.
7. Help at Home Workforce will release this information to human rights committees, only with the authorization of the participant/ individual or the participant's/ individual's representative.
8. Help at Home Workforce will not make any use or disclosure other than that listed in this policy, without first consulting with the Privacy Officer.

#### **Verification of Identity and Authority**

1. Help at Home Workforce will verify the identity and authority of the recipient of the PHI.

#### **Disclosing the Minimum Necessary Amount of PHI**

1. Help at Home Workforce will disclose only the minimum amount of PHI necessary for the purpose.

## PP-25: Uses and Disclosures of Protected Health Information Concerning Decedents

### Purpose:

The purpose is to protect the privacy rights of the Help at Home participant/ individual who are deceased and to provide procedures and guidance for the use and disclosure of a deceased individual's PHI.

### Policy:

Help at Home shall protect the PHI of deceased individuals and subject this PHI to the same standards regarding use and disclosure as apply to the PHI of living Individuals, for as long as the Help at Home maintains the PHI.

### Procedure:

**General Protection of Decedent PHI:** Except for uses and disclosures for research purposes, Help at Home must protect the deceased individual's PHI in the same manner and to the same extent as required for a living person's PHI. This protection exists for a period of fifty (50) years following the date of death.

### Permitted disclosures of decedent's PHI

1. **Coroners and Medical Examiners.** Help at Home staff may disclose decedent's PHI to coroners and medical examiners for purpose of identifying the deceased person, determining the cause of death, or other duties as authorized by law. If the Help at Home also performs duties of coroner or medical examiner, Help at Home may use the decedent's PHI for these purposes. No prior consents or authorizations are required. Note that psychotherapy notes may be released without authorization to a coroner or medical examiner.
2. **Funeral Directors.** Help at Home Workforce may disclose decedent's PHI to funeral directors, consistent with applicable law, as necessary, so that the funeral directors may carry out their duties with respect to decedent. If it is necessary to carry out their duties, Help at Home staff may disclose the decedent's PHI prior to, and in reasonable anticipation of, the individual's death.
3. **Cadaveric organ, eye or tissue donation.** Help at Home staff may use or disclose decedent's PHI to organ procurement organizations or other entities engaged in the procurement, banking, or transplantation of cadaveric organs, eyes, or tissue for the purpose of facilitation the donation and transplantation.
4. **Decedent's personal representatives.** Help at Home staff may release decedent's PHI to decedent's personal representative. Help at Home will treat an executor, administrator, or other person who has authority under applicable law, to act on behalf of a deceased individual or on behalf of the deceased individual's estate, as the deceased Individual's Personal Representative for the purpose of using and disclosing PHI related to the nature and purpose of the personal representation. See PP-10, Personal Representative Policy.
5. **Family members and other.** Help at Home may disclose a decedent's information to family members and others who were involved in the care or payment for care of the decedent prior to death, unless doing so is inconsistent with any prior expressed preference of the individual that is known to Help at Home. This could include disclosures to spouses, parents, children, domestic partners, other relatives, or friends of a decedent.
  - a. These disclosures are permitted and not required, and thus, a Covered Entity that questions the relationship of the person to the decedent or otherwise believes, based on the circumstances, that disclosure of the decedent's PHI would not be appropriate, is not required to make the disclosure.

### Verification and release of information:

1. All permitted disclosures of decedent's PHI will be subject to procedures outlined in PP-09, Verification of the Identity and Authority of a Participant/ Individual Requesting Disclosure of PHI Policy.
2. Help at Home must maintain records of disclosures made for these purposes. The disclosures are subject to the policies and procedures in PP-15, Accounting of Disclosures Policy.

## **PP-26: Disclosures of PHI Relating to Communicable Diseases**

### **Purpose:**

This policy describes when Help at Home Workforce may disclose a participant's/ individual's PHI relating to a communicable disease. Help at Home Workforce may be exposed to certain communicable diseases in providing services to participant/ individual and therefore Help at Home may need to disclose such PHI to the pertinent member of the Help at Home Workforce for their protection and/or related to a Workers' Comp claim as set forth in this policy.

### **Policy:**

#### **Special Confidentiality Treatment**

1. Help at Home Workforce will maintain the confidentiality of communicable disease-related information (including AIDS and HIV-related information) and will disclose that information only in compliance with this policy.
2. Help at Home policies on the use and disclosure of PHI do not apply to communicable disease-related information unless otherwise noted.

#### **Disclosure of Communicable Disease-Related Information (Including HIV-Related Information) without Participant/ Individual Authorization**

1. If a person or entity is not listed below, Help at Home Workforce will obtain participant/ individual authorization under the **Disclosures to Persons Exposed to Communicable Diseases** paragraph before disclosing the information.
  - A. Participants/ individuals or participant's/ individual's Legal Representative
    - i. Help at Home Workforce may disclose communicable disease-related PHI to the participant/ individual or the participant's/ individual's representative.
  - B. Other Health Care Providers
    - i. Help at Home Workforce may disclose communicable disease-related PHI to another health care facility or provider if the disclosure is necessary to provide appropriate care to the participant/ individual or the participant's/ individual's child. Before sending the PHI, Help at Home Workforce will confirm with the receiving facility or provider that their employees or agents receiving the PHI have authorized access to medical records for purposes such as provision of health care, records maintenance or billing.
  - C. Organ Procurement for Medical Education, Therapy or Transplantation
    - i. Help at Home Workforce may disclose communicable disease-related PHI to a health care provider or facility for procurement, processing, distributing or using a human body or body parts for use in medical education, therapy, or transplantation.
  - D. Quality Review and Oversight
    - i. Help at Home Workforce may use or disclose confidential communicable disease-related PHI to organizations, committees or individuals engaged by Help at Home to review professional practices at Help at Home (such as peer review, utilization review, medical necessity committees, JCAHO, other oversight, or accreditation agencies).
    - ii. The disclosure must be limited to that information necessary for the authorized review, and may not include information "directly" identifying the participant/ individual, such as name, social security number, phone number or address.
  - E. Government Officials

- i. Help at Home Workforce will disclose communicable disease-related information to local, county, state, and federal health officers when required by federal or state law to do so.
  - ii. Help at Home Workforce will follow Help at Home policies and procedures concerning communicable disease reporting obligations.
  - iii. Help at Home Workforce may disclose communicable disease-related information to federal or state officials who oversee Help at Home, such as the Arizona Department of Health Services and the Federal Centers for Medicare and Medicaid Services. Communicable disease-related PHI released for this purpose may not include the participant's/ individual's name.
- F. Court or Administrative Order or Search Warrant
  - i. Help at Home Workforce may release confidential communicable disease-related PHI to a person designated in a valid court or administrative order or search warrant.
  - ii. The court or agency may issue the order or search warrant only if:
    - a) there is a compelling need for the information in a court or administrative proceeding;
    - b) a person is in clear and imminent danger of exposure;
    - c) there is a clear and imminent danger to public health;
    - d) the person requesting the information is lawfully entitled to the information;
    - or
    - e) there exists either a clear and imminent danger to a person or to public health or there is a compelling need to disclose the information.
  - iii. If there is any doubt or question regarding the sufficiency of the legal order seeking disclosure, Help at Home Workforce should obtain advice from Help at Home legal counsel, the Compliance Officer or Privacy Officer before making the disclosure.
- G. Workers' Compensation Claims.
  - i. If communicable disease-related PHI is pertinent to a workers' compensation claim, Help at Home Workforce may disclose requested PHI to the Industrial Commission or parties to an Industrial Commission claim.
- H. Cause of Death.
  - i. Help at Home Workforce may list communicable disease-related illnesses on a death certificate or autopsy report to document the cause of death.

**Disclosure of Communicable Disease-Related Information (Including HIV-Related Information) with Participant/ Individual Authorization**

1. If a disclosure is not permitted under the **Disclosure of Communicable Disease-Related Information (Including HIV-Related Information) without Participant/ Individual Authorization** paragraph above without the participant's/ individual's authorization, Help at Home Workforce will obtain participant/ individual authorization before disclosing communicable disease-related PHI.
  - A. The authorization will meet the requirements of the Help at Home authorization policy.
  - B. If Help at Home Workforce seek to disclose HIV/AIDS-related information, the authorization form must specifically indicate its purpose to authorize disclosure of HIV-related information.
2. When Help at Home Workforce make any disclosure of communicable disease-related PHI with participant/ individual authorization, Help at Home Workforce will prepare a written statement that will accompany the production of the PHI warning that the information is confidential and protected by state law that prohibits further disclosure without specific written authorization by the participant/ individual.

### **Disclosures to Persons Exposed to Communicable Diseases**

1. Except as provided below, Help at Home Workforce will not communicate directly with a person who has been exposed to a communicable disease by a participant/ individual. Rather, Help at Home Workforce will report the exposure to the appropriate state department of health, following the Help at Home policies and procedures on communicable disease reporting obligations.
2. If a Help at Home knows or has reason to believe that a significant exposure has occurred between a participant/ individual and Help at Home Workforce (or other health care or public safety) employee, the physician may consult with the participant/ individual and ask the participant/ individual to release the information voluntarily.
3. If the participant/ individual refuses to release the information concerning the significant exposure, Help at Home may report directly to the exposed employee of the possibility of the communicable disease or HIV-related exposure in a manner that does not identify the participant/ individual.

### **Procedures:**

#### **Record and Accounting of Disclosures**

1. Help at Home Workforce making a disclosure of communicable disease-related PHI will keep a written record of all disclosures.
2. On request, Help at Home will give the participant/ individual or his or her Personal Representative access to the record of disclosures

#### **HIV-related testing**

1. Help at Home Workforce ordering an HIV-related test must obtain the participant's/ individual's explicit permission to do so through the use of the Help at Home written, informed consent for HIV testing.
2. Oral consent is required if the test is done anonymously.

#### **Verification of Identity and Authority of PHI Recipient**

1. Help at Home Workforce will verify the identity and authority of the recipient of the PHI.

#### **Disclosing the Minimum Necessary Amount of PHI**

1. Help at Home Workforce will disclose only the minimum amount of PHI necessary for the purpose. See PP-06, Minimum Necessary Policy.

## **PP-27: Revocation of an Authorization**

### **Purpose:**

The purpose is to ensure Help at Home Workforce abide by the requirements concerning revocation of a participant's/ individual's HIPAA authorization.

### **Policy:**

A participant/ individual has the right to revoke an authorization at any time, provided that the revocation is in writing, except to the extent that:

1. Help at Home has already taken action in regards to the authorization.
2. The authorization was obtained as a condition of obtaining insurance coverage.

### **Procedures:**

#### **Authorized Employee:**

1. Receives request from a participant/ individual or Personal Representative to revoke an authorization.
2. If the request is from someone other than the participant/ individual, verify that the individual has the authority to make the request.
3. If individual has the authority to make a request (Participant/ Individual or Personal Representative), forward request to Privacy Officer for processing.
4. If the individual does not have the authority to make the request:
  - A. Notify the individual of the request denial
  - B. Document the call

#### **Privacy Officer:**

1. Determine if authorization can be revoked.
2. If the authorization cannot be revoked as stated in the policy section above, send letter to the participant/ individual stating reason why.
3. If the authorization can be revoked:
  - A. Document the request
  - B. Notify the appropriate staff to update appropriate systems.

## **PP-28: Participant/ Individual Requests for Restriction of Uses and Disclosures for Treatment, Payment and Health Care Operations**

### **Purpose:**

The purpose of the policy is to describe the process for participant/ individual requests for restriction of uses and disclosures for Treatment, Payment and Health Care Operations (TPO).

### **Policy:**

A participant/ individual or participant's/ individual's representative has a right to ask Help at Home to place restrictions on the use and disclosure of the participant's/ individual's PHI, when the PHI is used for TPO. This policy provides a mechanism so that Help at Home responds to these requests and abides by any restriction agreement.

In the case that a participant/ individual requests that Help at Home restrict the disclosure of the participant's/ individual's PHI, Help at Home must comply with the requested restriction if:

1. The disclosure is for the purposes of carrying out payment or health care operations and is not otherwise required by law.
2. The PHI pertains solely to a health care item or service for which the individual, or person on behalf of the individual other than the health plan, has paid the Covered Entity in full.
3. In cases where an individual has exercised his or her right to restrict disclosure to a health plan under the above circumstances, Help at Home is also prohibited from making such disclosures to a business associate of the health plan, because Help at Home may only disclose PHI to a business associate of another Covered Entity if the disclosure would be permitted directly to the other Covered Entity.
  - A. These provisions do not permit Help at Home to require individuals who wish to restrict disclosures about only certain health care items or services to a health plan to restrict disclosures of PHI regarding all health care to the health plan.
  - B. These provisions do not require that Help at Home create separate medical records or otherwise segregate protected health information subject to a restricted health care item or service.

### **Procedure:**

#### **Receipt of Request for Restrictions**

1. Written request
  - A. A request for restriction on Help at Home's uses and disclosures of PHI must be in writing.
2. Log in request
  - A. Upon receipt of a written request for restrictions, log in the request. Log in a reminder to respond within ninety (90) days after receipt of the request (or whatever time period Help at Home chooses to impose).
3. Identification
  - A. Upon receipt of a written request, obtain identification of the requestor.

#### **Requestors Who Identify Themselves as Participant/ Individual Representatives**

When the requestor is not the participant/ individual, but identifies him or herself as representing the participant/ individual, consider the request for restrictions in the following circumstances:

1. The requestor is an adult participant's/ individual's guardian
  - A. Obtain a copy of the court order appointing the requestor as guardian, or a written and notarized statement that a court appointed the requestor as the participant's/ individual's guardian and that the appointment is still valid.

2. If a guardian has not been appointed, and the requestor is the participant's/ individual's agent under a health care power of attorney or mental health care power of attorney.
  - A. Obtain the signed, valid medical power of attorney naming the requestor as the participant's/ individual's agent; confirm with the participant's/ individual's physician that the participant/ individual is unable to make his or her own health care decisions.
3. If a guardian has not been appointed and the participant/ individual does not have a health care or mental health power of attorney, the requestor is the participant's/ individual's health care decision maker under state law. Confirm that the requestor is a person in the following list, and that a person at a higher level of priority is not immediately available:
  - A. The spouse, unless the participant/ individual and spouse are legally separated.
  - B. An adult child.
  - C. A parent.
  - D. If the participant/ individual is unmarried, but has a domestic partner—if no other person has assumed any financial responsibility for the participant/ individual.
  - E. An adult brother or sister.
  - F. A close friend of the participant/ individual. This must be an adult who has exhibited special care and concern for the participant/ individual, an individual who is familiar with the participant's/ individual's health care news/desires and who is willing and able to become involved in the participant's/ individual's health care and to act in the participant's/ individual's best interests.

**NOTE:** Always confirm with the participant's/ individual's physician that the participant/ individual is unable to make his or her own decisions.

4. The requestor is a minor participants'/ individuals' parent or guardian.
  - A. Review the records to determine whether the participant/ individual has been considered emancipated or is otherwise competent to give informed consent. If so, require written consent from the participant/ individual before providing parent or guardian access to records.
  - B. Before copying or otherwise providing access to records to the requestor, review the records to determine whether the participant/ individual received reproductive health services. If so, contact the Privacy Officer, if necessary, before granting access to or copying records.
  - C. Obtain identification verifying that the requestor is the parent or guardian.
5. The requestor is a person entitled to see the records of a deceased participant/ individual. See PP-25, Uses and Disclosures of Protected Health Information Concerning Decedents.

#### **Time Frames for Responding to Requests for Restrictions**

1. Help at Home will notify the requestor of its decision on a request for restriction as soon as practicable and, as a guideline only, should attempt to do so within ninety (90) days of the request.
2. The Privacy Officer or designee processing a request for restrictions will log these dates.

#### **Determining Whether to Agree to or Deny Request for Restrictions**

Help at Home Workforce will consider the request for restrictions, taking into account the following factors:

1. The ability of Help at Home to comply with the request;
2. The resources and time that would need to be devoted to complying with the request; and
3. Any reasons given by the requestor for the request, with particular weight given to reasons of participant/ individual safety.

#### **Agreement to Request for Restrictions**

1. May deny, grant, or grant in part a request for restriction.

2. Upon agreeing to a request for restrictions, the Privacy Officer or designee will notify the requestor in writing of the agreement. The notice will contain a statement specifying the restriction to which Help at Home agrees. The notice will explain to the requestor that the agreement will not be effective in an emergency.
3. The Privacy Officer or designee will assure that the medical or billing record is flagged as having a restriction.

#### **Denial of the Request for Restrictions**

1. The Privacy Officer will approve all denials of the request for restriction before a notice is sent to the requestor.
2. The Privacy Officer or designee will notify the requestor in writing of a denial of the request for restrictions.

#### **Compliance with Restriction Agreements: Exceptions**

1. Help at Home Workforce will not be required to comply with an agreement to restrict uses and disclosures in the following emergency circumstances:
  - A. Help at Home Workforce may use restricted PHI in order to provide emergency care to the participant/ individual.
  - B. Help at Home Workforce may disclose restricted PHI to another provider so that it may provide emergency care to the participant/ individual.
  - C. If Help at Home discloses PHI to another provider for emergency care, hospital personnel must request that the other provider not further use or disclose the PHI. This request will be made in writing on the transfer form.
2. A restriction agreement does not prevent:
  - A. Help at Home from granting a participant/ individual access to or copying his or her PHI;
  - B. Help at Home Workforce from internally using PHI in for its own TPO purposes; or
  - C. Help at Home from making disclosures permitted without participant/ individual authorization for public purposes in accordance with Help at Home policies.

#### **Termination of Restriction Agreements**

1. If the participant/ individual or the participant's/ individual's representative asks Help at Home to terminate the restriction, Help at Home will do so. The request for or agreement to terminate the restriction must either be in writing or a documented oral agreement.
2. If Help at Home wishes to terminate a restriction, it will ask the participant/ individual or the participant's/ individual's representative to agree to the termination. If the participant/ individual or participant's/ individual's representative agrees to terminate the restriction, no restriction remains for use and disclosure of any PHI. If the participant/ individual or participant's/ individual's representative does not agree to terminate the restriction, the restriction will continue to apply to PHI created or received before Help at Home terminates the restriction.
3. If Help at Home terminates the restriction without agreement of the participant/ individual or participant's/ individual's representative, it shall notify the participant/ individual or participant's/ individual's representative. The Privacy Officer or designee will flag the participant's/ individual's medical or billing record.
4. Help at Home may not unilaterally terminate a required restriction to a health plan.

## **PP-29: Participant/ Individual Requests for Confidential Communications**

### **Purpose:**

The purpose of this policy is to describe participant/ individual requests for confidential communications.

### **Policy:**

Participants/ individuals have a right to ask Help at Home to communicate with them about Protected Health Information (“PHI”) at alternative addresses or by alternative means (“confidential communications”). Help at Home will accommodate reasonable participant/ individual requests. This policy provides a mechanism for handling participant/ individual requests for these confidential communications.

### **Procedure:**

#### **Receipt of Request for Confidential Communications**

1. Written request
  - A. A participant’s/ individual’s request for communications of PHI at an alternative address or by alternative means must be in writing.
2. Log in request
  - A. Upon receipt of a written request, log in the request [in the provider’s calendaring system].
  - B. Log in a reminder to respond within ninety (90) days after receipt of the request.
3. Identification
  - A. Upon receipt of a written request, obtain identification of the requestor.

#### **Requestors Who Identify Themselves as Participant/ Individual Representatives**

1. When the requestor is not the participant/ individual, but identifies him or herself as representing the participant/ individual, consider the request in the following circumstances:
  - A. The requestor is an adult participant’s/ individual’s guardian.
    - i. Obtain a copy of the court order appointing the requestor as guardian, or a written and notarized statement that a court appointed the requestor as the participant’s/ individual’s guardian and that the appointment still is valid.
  - B. If a guardian has not been appointed, and the requestor is the participant’s/ individual’s agent under a health care power of attorney or mental health care power of attorney.
    - i. Obtain the signed, valid medical power of attorney naming the requestor as the participant’s/ individual’s agent and confirm with the participant’s/ individual’s physician that the participant/ individual is unable to make his or her own health care decisions.
  - C. If a guardian has not been appointed and the participant/ individual does not have a health care or mental health power of attorney, the requestor is the participant’s/ individual’s health care decision-maker under state law. Confirm that the requestor is a person in the following list and that a person at a higher level of priority is not immediately available:
    - i. The spouse, unless the participant/ individual and spouse are legally separated.
    - ii. An adult child.
    - iii. A parent.
    - iv. If the participant/ individual is unmarried, but has a domestic partner—if no other person has assumed any financial responsibility for the participant/ individual.
    - v. An adult brother or sister.
    - vi. A close friend of the participant/ individual. This must be an adult who has exhibited special care and concern for the participant/ individual. One who is familiar with the participant’s/ individual’s health care news/desires and who is willing and able to

become involved in the participant's/ individual's health care and to act in the participant's/ individual's best interests.

**NOTE:** Always confirm with the participant's/ individual's physician that the participant/ individual is unable to make his or her own decisions or confirm that the participant/ individual has been declared legally incompetent.

- D. The requestor is a minor participant's/ individual's parent or guardian.
  - i. Review the records to determine whether the participant/ individual has been considered emancipated or is otherwise competent to give informed consent. If so, require written consent from the participant/ individual before providing parent or guardian access to records.
  - ii. Before copying or otherwise providing access to records to the requestor, review the records to determine whether the participant/ individual received reproductive health services. If so, contact the Privacy Officer, if necessary, before granting access to or copying records.
  - iii. Obtain identification verifying that the requestor is the parent or guardian.
- E. The requestor is a person entitled to see the records of a deceased participant/ individual.

#### **Time Frames for Responding to Requests for Confidential Communications**

1. Help at Home will notify the requestor of its decision on a request for confidential communications as soon as practicable and, as a guideline only, should attempt to do so within ninety (90) days of the request.
2. The Privacy Officer or designee processing a request for confidential communications will log these dates in the hospital's calendaring system.

#### **Determining Whether to Agree to or Deny Request for Confidential Communications**

1. Help at Home Workforce will grant a request for confidential communications so long as the request is reasonable. Personnel will take into account the following factors:
  - A. The ability of Help at Home to comply with the request.
  - B. The resources and time that would need to be devoted to compliance with the request.
  - C. Whether the participant/ individual has provided an alternative address or other acceptable alternative means of communication.
  - D. Whether the participant/ individual has made acceptable arrangements for billing.
2. Help at Home Workforce will not ask the participant/ individual why the participant/ individual is asking for more confidential communications.
3. All denials for requests for confidential communications should be approved by the Privacy Officer or Compliance Officer.

## **PP-30: Confidentiality Agreement for Workforce Member**

### **Purpose:**

The purpose is to require each member of the Help at Home Workforce to follow confidentiality requirements and to sign the Help at Home Acknowledgement of Confidentiality form.

### **Policy:**

#### **Confidential Participant/ Individual Information**

1. Help at Home Workforce members will keep all information concerning Help at Home participant/ individual confidential. They will access, use, and disclose a participant's/ individual's PHI only for TPO purposes—unless required by law or otherwise permitted by Help at Home HIPAA policies.
2. Help at Home respects participant's/ individual's, employees', and physicians' rights to privacy and confidentiality. Help at Home Workforce members will be sensitive to the privacy needs of Help at Home participant/ individual, and will conduct communications involving participant/ individual care and PHI in compliance with the procedures set forth in this policy.
3. Advances in technology are making it easier to use and disclose participant/ individual information. Help at Home Workforce members must ensure that any transmission of participant/ individual information, including photographs or images of participant/ individual, participant's/ individual's families, or participant/ individual documents, comply with existing policies concerning the appropriate use and disclosure of PHI.

#### **Workforce Confidentiality Agreement**

All Help at Home Workforce members will sign, and Help at Home will maintain the signed Help at Home Acknowledgement of Confidentiality form.

#### **Workforce Orientation**

Orientation of all new members of the Help at Home Workforce will include instruction concerning this confidentiality policy, the Help at Home policies concerning use and disclosure of participant/ individual PHI and participant/ individual rights, and the required confidentiality agreement.

### **Procedure:**

#### **General Confidentiality**

1. During the course of employment, certain Help at Home Workforce members will have access to confidential employee, payroll, physician, and other business data. Help at Home Workforce members with access to such information are responsible for keeping such information confidential and secure.
2. Any Help at Home Workforce member who intentionally breaches the security or confidentiality of participant/ individual, employee, physician, or payroll information, or who seeks confidential information for personal curiosity, photocopying, discussing, or in any way disseminating such information inside or outside of the hospital will be liable for disciplinary action up to and including termination.

#### **Email Communications**

1. Anyone communicating by email must be cognizant that email messages can be forwarded or read by other than the intended recipient and should edit the content of their email messages appropriately. All email should comply with the standards set forth in Help at Home policy on email.
2. Information that is confidential and privileged based upon applicable federal and state law.

### **Medical Record Confidentiality**

1. The medical record is the property of the respective Help at Home facility and shall be maintained to serve the participant/ individual, health providers, and the facilities in accordance with legal, accrediting, and regulatory requirements.
2. The information contained in the medical record belongs to the participant/ individual and the participant/ individual is entitled to have this information protected. All participant/ individual information shall be regarded as confidential and made available only to those authorized by the participant/ individual or his/her legal representative unless otherwise permitted by Help at Home policies and procedures on HIPAA.
3. Each Help at Home site shall have a department/individual that is responsible for medical records.
4. Original medical records may not be removed from the premises of any Help at Home facility except in accordance with a court order.
5. The participant's/ individual's medical record may be read only by Help at Home Workforce members who are directly involved in payment, treatment or health care operations concerning the participant/ individual. Access to such records must be limited to the minimum necessary to accomplish the intended purpose. Inappropriate access to any participant/ individual record is grounds for immediate termination.

### **Destruction of Copied or Printed Confidential Information**

Any copies or print-outs of medical records will be controlled by the person making or printing the copy and destroyed in the above-mentioned manner. All copied documents containing participants/ individual's information or documents printed will be placed in the locked Confidential Bin to be shredded.

### **Acknowledgement of Confidentiality Form**

The Acknowledgement of Confidentiality form is available by contacting the Privacy Officer or Compliance Officer and must be reviewed and completed by each member of the Help at Home Workforce. Other resource locations may be made available later.

### **Employees**

All employees will sign a confidentiality form prior to employment as part of new employee packet. The signed confidentiality form will be maintained in the employee personnel file.

Help at Home Information Technology will require evidence prior to distributing user names and passwords that employees who require access to the Help at Home network have signed and returned the Acknowledgement of Confidentiality form.

### **Temporary Employees**

Any temporary employee who has access to confidential Help at Home information or PHI will need to sign the Acknowledgement of Confidentiality. Department managers who utilize temporary employees will download the Acknowledgement of Confidentiality form and ask the employee to sign the form. Once the form is signed, the form is to be sent interoffice to the Information Technology Department to activate the user account and for filing.

### **Non-Help at Home Personnel on Help at Home Property**

1. Non-Help at Home personnel who are working on Help at Home property and who have access to confidential Help at Home information or PHI will sign the Acknowledgement of Confidentiality form. Once the form is signed, the form is to be sent interoffice to the Privacy Officer for filing.

2. This does not apply to individuals who are covered under a Business Associate Agreement between Help at Home and a contractor unless the individuals require access to the Help at Home network to perform their duties. All individuals who require access to the Help at Home network will sign the Acknowledgement of Confidentiality form. Once the form is signed, the form is to be sent interoffice to the Information Technology (“IT”) Department for activation of the user account and for filing.

**Form(s):** Acknowledgement of Confidentiality

Acknowledgement of Confidentiality  
[FORM]

## **PP-31: Confidentiality of Health Information Related to Minors**

### **Purpose:**

The purpose is to ensure that Help at Home Workforce abide by the rules and regulations set forth by state law related to confidentiality of health information for minors.

### **Policy:**

1. Dependents over the age of eighteen (18) are in control of their own medical information and an authorization is required before a disclosure is made to the dependent's Personal Representative.
2. If a member of Help at Home Workforce suspects or knows about child abuse or neglect, they may disclose protected health information, if the report is made to a public health authority or other appropriate government authority that is authorized by law to receive such reports. In such cases, Help at Home is permitted, under the Privacy Rule, to report this information to that government authority without obtaining individual authorization. Examples:
  - A. The social services department of a local government might have legal authority to receive reports of child abuse or neglect.
  - B. The police department, when the police department is authorized by law to receive such reports.
3. Under state law, the general rule is that a minor child under the age of 18 requires parental consent to obtain health care. There are certain exceptions where a minor may receive medical care without parental consent. In these cases, the minor may then control the medical information. When responding to an inquiry from a Personal Representative regarding a service stated below, an authorization may be required prior to disclosing the information. These are general guidelines. Some situations may require different actions. If in question, contact your supervisor, manager, or call the Privacy Officer or Compliance Officer for guidance.
4. See the Help at Home chart summarizing applicable state laws for confidentiality of minors' PHI or ask your supervisor or the Privacy Officer for assistance.

## **PP-32: Management of Participant/ Individual Privacy Complaints**

### **Purpose:**

The purpose is to establish a complaint process through which Help at Home participant/ individual may resolve concerns about the privacy and confidentiality of their health information.

### **Policy:**

Help at Home will investigate and resolve complaints of violations of a participant's/ individual's privacy rights or complaints of violations of Help at Home policies and procedures regarding privacy and security of participant's/ individual's PHI.

### **Procedure:**

1. If a participant/ individual wishes to make a complaint about a violation of privacy rights or privacy and security of PHI, the participant/ individual must do so by contacting the Privacy Officer.
2. If a participant/ individual complains verbally to other Help at Home Workforce, Help at Home Workforce will provide the participant/ individual with the methods by which the participant/ individual can contact the Privacy Officer.
3. Upon receiving a complaint, the Privacy Officer will issue a tracking number by logging the complaint into the compliance issue tracking database, which will track all relevant information, such as: the complainant's contact information; the subject of the complaint; a summary of the complaint; details of the complaint; an action plan; the action taken, and; the response to the complainant and/or others.
4. The Privacy Officer will forward a copy of the complaint to the appropriate Help at Home Department manager/director within forty-eight (48) hours of receipt of the complaint. Appropriate departments include all departments in which the alleged privacy violation has taken place.
5. The Privacy Officer will investigate the alleged privacy violations and report his/her findings to the Compliance Officer within ten (10) days of receiving the complaint.
6. Upon receipt of the Privacy Officer's report, the Compliance Officer will consult with Risk Management and/or Human Resources, if necessary, to determine a resolution of the participant/ individual complaint.
7. Help at Home will respond to the participant/ individual within thirty (30) days of receipt of the complaint. This response will advise the participant/ individual of the resolution of his or her complaint.
8. The Compliance Officer will retain documentation related to complaints for a minimum of six (6) years. This documentation includes the complaint, documentation of the resolution of the complaint, and all correspondence with the participant/ individual and others relating to the complaint.
9. Help at Home Workforce will not prohibit any participant/ individual, group, or entity to waive the right to register complaints, nor will make the waiver of the right to complain a condition of treatment.

## **PP-33: Mitigation of Harm Resulting from Unauthorized Use or Disclosure of PHI**

### **Purpose:**

The purpose is to establish a procedure to mitigate, to the extent practicable, any harmful effect that results from an unauthorized use or disclosure of a participant's/ individual's PHI.

### **Policy:**

Help at Home will take positive action to minimize known harmful effects resulting from the unauthorized use or disclosure of PHI, and will alleviate known instances of harm where the use or disclosure is in violation of Help at Home Administrative Policies and Procedures or HIPAA Privacy Regulations.

### **Procedure:**

1. Upon receiving any information from any source that PHI may have been used or disclosed, intentionally or inadvertently, in a manner that does not comply with Help at Home Policies or the Privacy Laws, all members of the Help at Home Workforce will immediately take steps to stop or limit any further such uses or disclosures.
2. The Privacy Officer will investigate the report and determine whether the use or disclosure did not comply with Help at Home policies and procedures.
3. If the Privacy Officer determines that the use or disclosure violated Help at Home policy, the Privacy Officer will contact the person or persons responsible for the violation ("original source") and take all practicable measures to retrieve and cease any further use or disclosure of the information. Also, the Privacy Officer will determine from the original source all of the persons or entities receiving the PHI from the original source.
4. If the original source reports that other persons or entities received the PHI in a manner that did not comply with Help at Home policy, the Privacy Officer will contact those persons or entities and take all practicable measures to retrieve the information and cease further use or disclosure.
5. If the Privacy Officer determines that the original source is a Help at Home Workforce member, the Privacy Officer will report the matter to the original source's Supervisor and to Help at Home's Human Resources Department. The Supervisor and the Human Resources Department will consult with the Privacy Officer on appropriate sanctions to impose on the original source for violating Help at Home policy, up to and including termination.
6. If the Privacy Officer determines that the original source is a business associate of Help at Home, the Privacy Officer will report the matter to the Help at Home Assistant Controller, which will take appropriate action with regard to the business associate.

## **PP-34: Prohibition of Intimidating or Retaliatory Acts**

### **Purpose:**

The purpose is to provide guidance to Help at Home Workforce and participant/ individual regarding prohibition of intimidation or retaliatory acts.

### **Policy:**

Help at Home Workforce will not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against, a participant/ individual for the exercise by that individual, of any right under the HIPAA Privacy Regulations, or for participation by the participant/ individual in any process established by the Privacy Regulations.

### **Procedure:**

1. Consistent with Help at Home's intention to encourage regulatory compliance and improved participant/ individual care through an accessible and well-documented complaint process, Help at Home will have no tolerance for acts of intimidation, threats, coercion, discrimination, or other retaliatory behavior against persons attempting in good faith, and in a reasonable manner, to exercise their rights concerning the privacy of health information.
2. All Help at Home Workforce will be educated with respect to the prohibition against intimidating, threatening, coercive, discriminatory, or retaliatory action against persons exercising their rights or participating in any process concerning the privacy of health information.
3. Any reports of suspected intimidating, threatening, discriminatory or retaliatory acts taken toward participant/ individual or Help at Home Workforce should be reported to the Privacy Officer or Compliance Officer **immediately**.
4. The Privacy Officer will investigate fully any complaint or allegation of the intimidating, discriminatory, or retaliatory behavior. Upon completion of this investigation, if the Privacy Officer, together with Help at Home senior management finds that the intimidating, discriminatory, or retaliatory behavior did occur, he/she will take appropriate action against the responsible person, up to and including termination.
5. If a member of the Help at Home Workforce has filed a complaint with DHHS, testified, assisted, or participated in an investigation, or opposed any act or practice such member believes to be unlawful, the Compliance Officer, will consult with, if necessary, Human Resources, Risk Management, and/or legal counsel before reaching any final decisions concerning the employment of the involved personnel.

## **PP-35: Notice of Privacy Practices**

### **Purpose:**

The purpose is to ensure Help at Home abides by the requirements set forth by the HIPAA Privacy Rule (45 C.F.R. 164.520), state and federal laws regarding a Notice of Privacy Practices.

### **Policy:**

1. A Notice of Privacy Practices will be provided to:
  - A. New enrollees at the time of enrollment
  - B. Prospective enrollments in the marketing packets
  - C. Employer groups on an annual basis
2. The Notice of Privacy Practices must be written in plain language.
3. The Notice of Privacy Practices will be posted on Help at Home's company website.
4. The Privacy Officer will be responsible for reviewing and updating the Notice of Privacy Practices to reflect any changes in Law.

**Form(s):** Notice of Privacy Practices

## **PP-35A: Sample Notice of Privacy Practices**

### **Purpose:**

The Notice of Privacy Practices describes how medical information about a participant/ individual may be used and disclosed and how the participant/ individual can get access to this information.

### **Policy:**

1. We are committed to protecting the confidentiality of your medical information, and are required by law to do so. This notice describes how we may use your medical information within Help at Home and how we may disclose it to others outside Help at Home. This notice also describes the rights you have concerning your own medical information. Please review it carefully and let us know if you have questions. Please note that incarcerated participant/ individual do not have the right to notice under this section.
2. This Notice of Privacy Practices applies to all Help at Home facilities, and all Help at Home Workforce members. The Notice also applies to emergency service providers, medical transportation companies, medical equipment suppliers, and other health care providers not employed by Help at Home, unless these other health care providers give you their own Notice that describes how they will protect your medical information. Help at Home may share your medical information with these other health care providers for their treatment, payment, and health care operations. This arrangement is only for sharing information and not for any other purpose.

## **PP-36: Reporting PHI Privacy Breach (Security Incidents) & Form**

### **Purpose:**

The purpose is to establish a process for analyzing & reporting a breach of Protected Health Information (“PHI”) privacy or a PHI security incident to the affected organization.

### **Policy:**

Consistent with its mission, contractual obligations, and the requirements of HIPAA and the HITECH Act, Help at Home policy provides for safeguarding the privacy and security of PHI, and reporting to the affected organization any breach of PHI privacy or PHI security incident.

### **Procedures:**

#### **Employees/Authorized Individuals:**

1. Immediately report to your supervisor any suspected privacy breach or security incident as soon as it is detected or suspected.

#### **Supervisor:**

1. Report to Privacy & Security Officer any suspected privacy breach as soon as it is detected or reported by a member of the Workforce.
2. Report to Information Security Officer any suspected security incident as soon as it is detected or reported by a member of the Workforce.
3. Please complete the embedded Potential Privacy Incident & Risk Assessment Tool Form
4. Send to [compliance@helpathome.com](mailto:compliance@helpathome.com) & [security@helpathome.com](mailto:security@helpathome.com)
5. The Security team will track all such incidents in a format that can be reviewed annually and submitted to the OCR.

#### **Privacy and Information Security Officers:**

1. Receive from the business a completed Potential Privacy Incident & Risk Assessment Tool Form
2. Based on review of the completed form and, investigate and identify additional relevant facts to determine whether there is sufficient information to support a reasonable conclusion that a breach of privacy and/or a security incident has occurred.
  - External support or investigators or counsel may be retained as needed.
3. If it is concluded that a privacy breach and/or security incident has occurred, determine the steps necessary to mitigate, to the extent practicable, any potential harmful effect of the breach or incident.
4. The Privacy Officer will collaborate with the Security Officer and counsel to follow the below Reporting PHI Privacy Breach (Security Incidents) Decision Tree shown below.

#### **President, Privacy and Information Security Officers:**

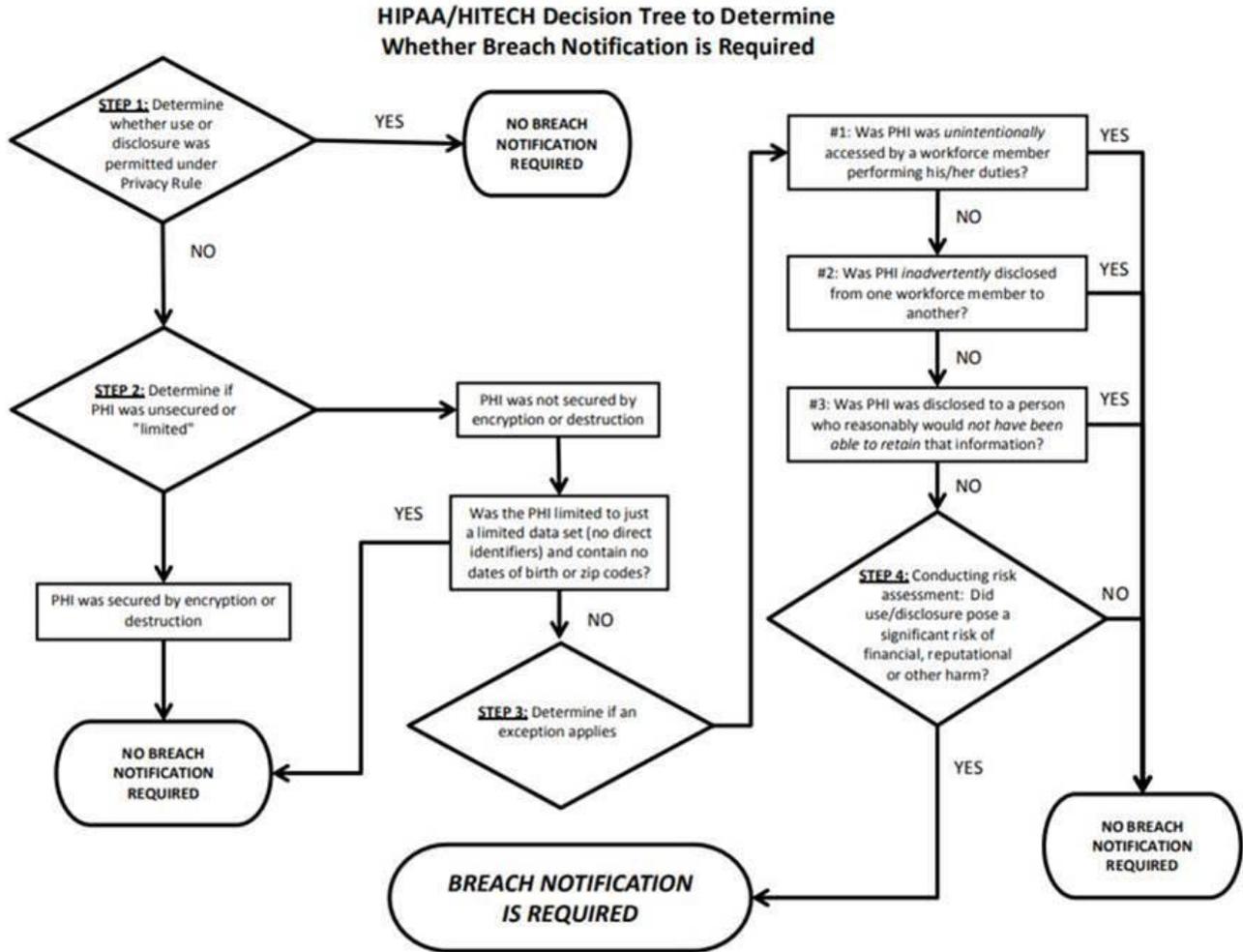
1. Pursuant to the Data Breach Notification (SP-66), report to the affected organization the nature and consequences of any material privacy breach or security incident.
2. The Information Security Officer, Privacy Officer, and legal counsel shall work together to determine state and federal laws that may be applicable to the incident, including but not limited to HIPAA, HITECH, and state breach notification regulations.
3. Recommend to the Compliance Committee possible operational improvements to prevent recurrence of any privacy breach or security incident.
4. Refer any intentional privacy breach or security incident to Human Resources for handling consistent with disciplinary policies.
5. Treat any intentional contractor privacy breach or security incident as a breach of contract matter.

6. The Information Security Officer, the Privacy Officer, or the legal counsel will notify the Marketing and Communications Department prior to any public notices.
7. Required notifications will be made in the most expedient time possible and without unreasonable delay, but in no event will exceed sixty (60) days unless law enforcement agencies request a delay as a part of their investigation process.

**Compliance Committee:**

1. Review reports of any privacy breaches and security incidents provided by the Compliance and Privacy and Information Security Officers.
2. Recommend to Help at Home senior management operational improvements to prevent recurrence of any privacy breach or security incident.

**PP-36: Reporting PHI Privacy Breach (Security Incidents) Decision Tree:**



Potential Privacy Incident Report Form:



Potential Privacy  
Incident Report Form