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	Approved by: Compliance Committee	Date: 02/02/2015	Date: 02/02/2015
Title of Policy: Confidentiality Related to PHI			

**PURPOSE:**

The purpose of this policy is to define Protected Health Information (PHI), which includes verbal, written, and electronic information, and provide guidelines for preserving confidentiality.

**POLICY:**

As required by state and HIPAA federal laws, Heritage Provider Network and its Affiliated Medical Groups will use reasonable care to assure confidentiality and privacy of personal information of patients, employees, and others, within the law, and protect against indiscriminate and unauthorized access to confidential medical or personal information.


**RESPONSIBILITY:**

Compliance Officer, Corporate Compliance Officer, all Employees and all Business Associates

**PROCEDURES:**

Confidentiality with Regard to Patients:


1. Patients' Right to Privacy
  - a. Patients have the right to refuse to talk with or see anyone.
  - b. Patients have the right to be interviewed and examined in surroundings designed to assure reasonable visual and auditory privacy.
  - c. Patients have the right to expect that any discussion or consultation involving their care will be conducted discreetly and that individuals not directly involved in their care will not be present without permission.
  - d. Patients have the right to have the medical record read only by individuals directly involved in their care and treatment or in the monitoring of its quality. Other persons can read a patient's medical record only if authorized in writing by the patient or the patients' legally authorized representative or if otherwise entitled to do so by law.
  - e. Patients have the right to expect that all communications and other records pertaining to their care, including the source of payment for treatment, will be treated as confidential.

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## 2. Responsibilities of Staff

- a. Except in the performance of job duties, staff shall not disclose, discuss or use personal information about a patient whether learned inadvertently or in the course of providing patient care. Staff shall not ask questions about or otherwise seek information concerning a patient’s personal matters that are not relevant to patient care. This policy is not intended to restrict the provision of health care services in any way and acknowledges that proper patient care may require detailed personal information about a patient on a wide range of topics.
- b. Staff will observe special care to ensure the privacy of other staff members receiving patient care at Heritage Provider Network and its Affiliated Medical Groups, and will not discuss or disclose any personal or medical information learned regarding the associate unless such disclosure/discussion is necessary for the provision of patient care, and then only on a “need to know” basis.
- c. Professional behavior will be observed at all times to ensure confidentiality.
  - (i.) Patient information will not be discussed in public areas, such as lobbies, hallways, elevators, or anywhere outside the facility. Any discussion or consultation involving a patient’s case will be conducted discreetly.
  - (ii.) Patient names or other identifying data will be omitted when using cases for clinical educational conferences or in-services. This requirement shall not apply to a teaching situation which is for the purpose of providing health care services and which involves only persons proving health care services or consultation in the provision of health care services to a patient.
- d. Heritage Provider Network and its Affiliated Medical Groups employees and staff will be required to review and sign a Confidentiality Statement and Agreement indicating they understand and agree to comply with Heritage Provider Network and its Affiliated Medical Groups’ Policies and Procedures regarding confidentiality. A copy will be retained in an appropriate file. The Confidentiality Statement and Agreement will be reviewed and signed upon hire and on an annual basis during HIPAA training.
- e. Patients have the right to expect that all communications and other records pertaining to their care, including the source of payment for treatment, will be treated as confidential.


## 3. Confidentiality of the Medical Record

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- a. Minimum Necessary Standard – Under HIPAA federal regulations, the minimum necessary standard applies to all information accessed about or for a patient and insures that the “minimum necessary” information be disclosed regarding a given patient’s issues, situation, condition, etc.
- b. The medical record, both physical and electronic, is the property of Heritage Provider Network and its Affiliated Medical Group and will be maintained to serve the patient, the health care providers, and Heritage Provider Network and its Affiliated Medical Groups in accordance with legal, accrediting, and regulatory agency requirements.
- c. Information contained in the medical record belongs to the patient and will be regarded confidential. Access will be restricted to authorized users. Medical records will be viewed by Heritage Provider Network and its Affiliated Medical Groups employees and medical staff only if involved in the patient’s treatment or monitoring of the quality of treatment, and by other persons only if authorized in writing by the patient or the patient’s legally authorized representative or if otherwise entitled to do so by law.
- d. Access to patient records by employees and medical staff will be limited to physicians, nurses, and other health care professionals with a legitimate right of access to the medical record (individuals directly involved with the care of the patient and with a legal responsibility for documenting the care provided).
- e. Heritage Provider Network and its Affiliated Medical Groups employees will question unauthorized persons requesting access to the medical record. Unauthorized personnel seeking access to the medical record will be referred to the Compliance Officer who will notify the appropriate department.

#### 4. Confidentiality of Information System


- a. Patient data accessible through the computer information system will be regarded confidential and will be available only to authorized users.
- b. Access codes will be considered confidential and will not be revealed or shared.
- c. Users will minimize incidental exposure to protected health information and will “log off” or turn off their computer monitors, thereby blanking the screen when not performing computer function.

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- d. When any authorized associate is no longer required to have access to patient data, the computer access code assigned to that associate will be removed from the system by Management Information Systems.

5. Release of Patient Information

- a. Direct media requests regarding patient information will be referred to the Groups' Compliance Officer. No disclosure will be made unless it concerns public policy and will comply with state and federal laws and regulations. No information will be released without the consent of the patient as stated in the HIPAA policy.
- b. An inquiry by a third party payer representative regarding a patient may be answered by the appropriate representative of Heritage Provider Network and its Affiliated Medical Groups' Clinical Resources, Quality Management, Risk Management, Member Services, Business Office Departments, Administration staff, or by medical staff involved in the patient's care. Health care information may be disclosed to such representatives without the patient's authorization. Such information may be disclosed only to the extent necessary to facilitate patient care or reimbursement by the third party payer.
- c. Legal requests such as subpoenas or court orders will be immediately directed to the Compliance Officer and will be handled according to the Release of Medical Information policy.
- d. Unless a patient has instructed otherwise, immediate family members will be given the name of the hospital where the patient is located. Before releasing further information, the facility will obtain a release from the patient, normally using an Authorization for Release of Information Form which shall contain the following information:
  - (i.) The release shall be in writing on the 'Authorization to Use or Disclose Health Information.'
  - (ii.) It shall be dated and signed by the patient or the patient's legally authorized representative.
- e. If an adult patient is comatose, incapacitated, or otherwise mentally or physically incapable of communication, the patient's health care information may be disclosed as necessary to an adult person from the following list, in order of priority, if the person qualifies as a surrogate decision maker under the Patient Self Determination Act (PSDA).
  - (i.) the patient's spouse;


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- (ii.) an adult child of the patient who has the waiver and consent of all of the qualified adult children of the patient to act as the sole decision-maker;
- (iii.) a majority of the patient’s reasonably available adult children;
- (iv.) the patient’s parents; or
- (v.) the individual clearly identified to act for the patient by the patient before the patient became incapacitated, the patient’s nearest living relative, or a member of the clergy.

Under the PSDA, a surrogate decision-maker must:

- (i.) have the ability to understand and appreciate the nature and consequences of a decision regarding medical treatment and the ability to reach an informed decision;
  - (ii.) be available after a reasonably diligent inquiry; and
  - (iii.) be willing to consent to medical treatment on behalf of the patient.
- f. A child patient’s health care information may be disclosed to a parent of the child, unless a court order indicates otherwise, and to any other person entitled to such information under a court order. Requests for healthcare documents are referred to HIM. However, information may not be released to parents if treatment can be legally consented to by the child.
- g. No information shall be disclosed regarding a patient receiving treatment or services relating to substance abuse, or a patient receiving mental or emotional health care services, unless the patient has given written consent in accordance with policy above, normally on an Authorization for Release of Information form. The patient shall be asked whether he or she wishes to consent to the release of his or her information. If no consent is given, the patient’s status as a patient shall not be acknowledged to anyone.
- h. Any patient may request that no information be released. Complying with the patient’s request means that the patient’s status will not be acknowledged to anyone.


**Confidentiality of Employee Information**

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1. Requests for any employee information, including addresses or telephone numbers, will be referred to the Human Resources Department where they will be handled in accordance with authorized Policies and Procedures.
2. An employee shall not reveal or discuss health care information or other confidential information relating to another employee or employee's family member without the employee's consent.
  - a. For purposes of this policy, other confidential information means information relating to a person's private affairs that would, if revealed, outrage or cause mental suffering, shame, or humiliation to an ordinary person.
  - b. This policy is not intended to restrict an employee's right to speak as an individual upon legitimate matters of public concern.
  - c. This policy is not intended to apply to information revealed or discussed in the performance of job duties or in the context of an employee performance review or counseling proceeding, a court proceeding, or other similar context.
3. Heritage Provider Network and its Affiliated Medical Groups employees and their family members who receive services as patients of Heritage Provider Network and its Affiliated Medical Groups facilities have the right to privacy and confidentiality as outlined in this policy.
4. Personnel records are maintained in the Human Resources Department in accordance with HR policy regarding employee records.

Violation of Confidentiality Standards and Guidelines for Employees:

1. Violation of the standards and guidelines of this policy by employees is a serious offense and constitute cause for corrective action up to and including termination from employment in accordance with HR policy regarding Corrective Action. In addition, other monetary and other legal actions may be applied for privacy/confidentiality violations under HIPAA regulations

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2. Violation by Medical Staff members will result in notification to the Medical Director and appropriate Medical Staff Committee.
3. Violations by Affiliated Students will be reported to Administration and the appropriate official of the school or institution.
4. Violations by Volunteers will be reported to the Director of Marketing and Administration and will result in dismissal from the Volunteer Program.

REFERENCE:

California Health and Safety Code, Sections 11812 and 11977 (Disclosure of Drug and Substance Abuse Records).  
California Health and Safety Code, Section 199 (Confidentiality of HIV Test Results).  
California and Federal Right to Privacy Statutes.  
Health Insurance Portability and Accountability Act (HIPAA) – 1996