



**Community Memorial Health System**

*Where Excellence Begins with Caring*

*Community Memorial Health System  
Code of Conduct  
2016*

## **The Purpose of Our Code of Conduct**

Our Code of Conduct provides guidance to all CMHS employees and assists us in carrying out our daily activities within appropriate ethical and legal standards. These obligations apply to our relationships with patients, affiliated physicians, third-party payers, subcontractors, independent contractors, vendors, consultants, and one another. The Code is a critical component of our overall Compliance Program. We have developed the Code to ensure we meet our ethical standards and comply with applicable laws and regulations.

The Code is intended to be comprehensive and easily understood. In some instances, the Code deals fully with the subject covered. In many cases, however, the subject discussed has so much complexity that additional guidance is necessary for those directly involved with the particular area to have sufficient direction, and thus we direct employees to the Departmental Policies and Procedures specific to work in that department.

The standards set forth in the Code are mandatory and must be followed.

## TABLE OF CONTENTS

<b>Mission and Vision Statement</b> .....	5
<b>Our Fundamental Commitment to Stakeholders</b> .....	6
<b>Quality of Care and Patient Safety</b> .....	7
<b>Patient Information</b> .....	7
<b>Patient Rights</b> .....	9
<b>Accreditation and Surveys</b> .....	10
<b>Business and Financial Information</b> .....	10
<b>Accuracy, Retention, and Disposal of Documents and Records</b> .....	10
<b>False Claims Act Compliance</b> .....	11
<b>Code of Ethics for Senior Financial Officers</b> .....	12
<b>Coding and Billing for Services</b> .....	12
<b>Confidential Information</b> .....	13
<b>Controlled Substances</b> .....	14
<b>Copyrights</b> .....	14
<b>Cost Reports</b> .....	14
<b>Diversity and Equal Employment Opportunity</b> .....	15
<b>Electronic Media and Security Requirements</b> .....	15
<b>Emergency Treatment</b> .....	16
<b>Financial Reporting and Records</b> .....	16
<b>Foreign Corrupt Practices Act</b> .....	17
<b>Gathering Information about Competitors</b> .....	17
<b>Gifts (Giving and Receiving)</b> .....	18
<b>Harassment and Workplace Violence</b> .....	18
<b>Health and Safety</b> .....	18
<b>HIPAA Privacy</b> .....	18
<b>Interactions with Physicians</b> .....	19
<b>Leadership Responsibilities</b> .....	19
<b>Legal and Regulatory Compliance</b> .....	20
<b>License and Certification Renewals</b> .....	21
<b>Marketing Practices</b> .....	21
<b>Personal Use of CMHS Resources</b> .....	22
<b>Physicians</b> .....	22
<b>Relationships among CMHS Employees</b> .....	22
<b>Relationships with Subcontractors and Suppliers</b> .....	22
<b>Research, Investigations, and Clinical Trials</b> .....	23
<b>Substance Abuse and Mental Acuity</b> .....	24
<b>Workplace Conduct and Employment Practices</b> .....	24
<b>Political Campaign Intervention and Excessive Lobbying Activity</b> .....	25
<b>Acknowledgment Process</b> .....	25

**Addendum A – Confidentiality Policy Agreement.....**  
**Addendum B – HIPAA Guidelines.....**



## Community Memorial Health System

*Where Excellence Begins with Caring*

### Mission and Vision Statement

- **Mission-** To Heal, Comfort and Promote Health for the Communities We Serve.
- **Values-** Integrity, Service, Excellence, Caring and Transparency.
- **Vision-** To be the regional integrated health system of choice for patients, physicians and employees. To be an indispensable community treasure.

*We are committed to the care and improvement of human life. In recognition of this commitment, we will strive to deliver high quality, cost-effective healthcare in the communities that we serve. In pursuit of our mission, we believe the following value statements are essential:*

*We recognize and affirm the unique and intrinsic worth of each individual.  
We treat all those we serve with compassion and kindness, utilizing all of the skills and resources available to us.  
We act with absolute honesty, integrity and fairness in the way we conduct our business and the way we live our lives.*

*We trust our employees as valuable members of our healthcare team and pledge to treat one another with loyalty, respect, and dignity.*

## Our Fundamental Commitment to Stakeholders\*

We affirm the following commitments to Community Memorial Health System (CMHS) stakeholders:

- *To our patients:* We are committed to providing the highest quality care that is sensitive, confidential, compassionate, promptly delivered, and cost-effective.
- *To our CMHS employees:* We are committed to a work setting which treats all employees with fairness, dignity, and respect, and affords them an opportunity to grow, to develop professionally, and to work in a team environment in which all ideas are considered.
- *To our affiliated physicians:* We are committed to providing a work environment which has excellent facilities, modern equipment, outstanding professional support, and treats all physicians fairly and equitably.
- *To the communities we serve:* We are committed to understanding the particular needs of the communities we serve and providing these communities quality, cost-effective healthcare. We realize as an organization that we have a responsibility to help those in need. We proudly support charitable contributions and events in the communities we serve in an effort to promote good will and further good causes.
- *To our third-party payers:* We are committed to dealing with our third-party payers in a way that demonstrates our commitment to contractual obligations and reflects our shared concern for quality healthcare and bringing efficiency and cost effectiveness to healthcare. We encourage our private third-party payers to adopt their own set of comparable ethical principles to explicitly recognize their obligations to patients as well as the need for fairness in dealing with providers.
- *To our regulators:* We are committed to an environment in which compliance with applicable laws, rules, regulations, and sound business practices is woven into the corporate culture. We accept the responsibility to diligently self-govern and monitor adherence to the requirements of law and to our Code of Conduct.
- *To our joint venture partners:* We are committed to fully performing our responsibilities to manage our jointly owned facilities in a manner that reflects the mission and values of each of our organizations.
- *To our suppliers:* We are committed to fair competition among prospective suppliers and the sense of responsibility required of a good customer. We encourage our suppliers to adopt their own set of comparable ethical principles.
- *To our volunteers:* The concept of voluntary assistance to the needs of patients and their families is an integral part of the fabric of healthcare, and our facilities. We are committed to ensuring that our volunteers feel a sense of meaningfulness from their volunteer work and receive recognition for their volunteer efforts.
- *To our Foundation:* We honor the purposes for which philanthropic funds have been assigned, and we recognize the significance and commitment of the contributors of the Foundation donors.

\*The term "stakeholder" refers to those groups of individuals to whom an institution sees itself as having obligations.

## **Quality of Care and Patient Safety**

Our mission is to provide compassionate, confidential high quality, cost-effective healthcare to all of our patients. We treat all patients with warmth, respect, and dignity and provide care that is both necessary and appropriate. CMHS has a comprehensive program to promote the quality objectives of the organization. Quality of care in each CMHS facility is constantly monitored using numerous metrics which are routinely measured on an on-going basis... In promoting a high quality of care, CMHS facilities are focused on the attentiveness and dedication of service to patients, the utilization of evolving technology to ensure quality and patient safety and to create an overall culture that makes patient safety paramount; a comprehensive and effective approach to handling the issues of credentialing and privileging of members of the medical staff, and the creation of effective peer review mechanisms within the medical staff. CMHS aspires to a standard of excellence for all caregivers within its facilities, including the entire facility team, which is committed to the delivery of patient-centered care and services.

There are numerous Standards, initiative, best practice protocols and guidelines that define and describe high quality of patient care. These include, for example, the Conditions of Participation of the Centers for Medicare and Medicaid Services (CMS), the standards and surveys of the Det Norske Veritas (DNV), the consensus measures of the National Quality Forum, and the performance improvement and patient safety initiatives of the Institute for Healthcare Improvement. CMHS is attentive to all of these standards and seeks to establish systems that reflect the best practices required or implied by these various standard-setting efforts.

This commitment to quality of care and patient safety is an obligation of every CMHS employee. Accordingly, it is a fundamental principle of being part of CMHS that each person dedicates himself or herself to achieving the goals described here. In addition, in any circumstance where a CMHS employee has a question about whether the quality or patient safety commitments set forth herein are being fully met, that individual is obligated to raise this concern through appropriate channels until it is satisfactorily addressed and resolved. Such channels include those established at the facility, and if necessary, beyond the facility, including the CMHS Hot Line. In addition to the facility and CMHS channels, CMHS employees are provided resources and guidance as to how to solicit intervention or review by external quality partners including the DNV and the California Department of Public Health, College of American Pathologists, and the American Association of Blood Banks.

## **Patient Information**

We collect information about the patient's medical condition, history, medication, and family illnesses to provide quality care. We realize the sensitive nature of this information and are committed to maintaining its confidentiality. Consistent with the Health Insurance Portability and Accountability Act of 1996 (hereinafter referred to as HIPAA), we do not use, disclose or discuss patient-specific information with others unless it is necessary to serve the patient or required by law.

CMHS employees must never use or disclose confidential information that violates the privacy rights of our patients. In accordance with our appropriate access and privacy policies and procedures, which reflect HIPAA requirements, no CMHS employee, affiliated physician, or other healthcare partner has a right to any patient information other than that necessary to perform his or her job.

Subject only to emergency exceptions, patients can expect their privacy will be protected and patient-specific information will be released only to persons authorized by law or by the patient's written authorization for treatment, the right to informed decision-making, and a patient's rights related to his or her health information maintained by the facility. Such statements conform to all applicable State and Federal laws, including but not limited to HIPAA).

We seek to involve patients in all aspects of their care, including giving consent for treatment and making healthcare decisions, which may include managing pain effectively, foregoing or withdrawing treatment, and, as appropriate, care at the end of life.

## **Mission, philosophy, values, and capabilities**

In the promotion and protection of each patient's rights, each patient and his or her representatives are accorded appropriate confidentiality, privacy, security, advocacy and protective services, opportunity for resolution of complaints, and pastoral care or spiritual care. Patients have the right to an environment that preserves dignity and contributes to positive self-image. Patients are treated in a manner that preserves their dignity, autonomy, self-esteem, civil rights, and involvement in their own care. CMHS facilities maintain processes to support patient rights in a collaborative manner which involves the facility leaders and others. These structures are based on policies and procedures, which make up the framework addressing both patient care and organizational ethics issues. These structures include informing each patient or, when appropriate, the patient's representative of the patient's rights in advance of furnishing or discontinuing care. Patients receive information about the person(s) responsible for their care, treatment and services. Patients and, when appropriate, their families are informed about the outcomes of care, treatment and services that have been provided, including unanticipated outcomes. Patients are also involved as clinically appropriate in resolving dilemmas about care decisions. Facilities maintain processes for prompt resolution of patient grievances which include informing patients who to contact regarding grievances and informing patients regarding the grievance resolution. The hospital addresses the resolution of complaints from patients and their families. Patients have the right to refuse care, treatment, and services in accordance with the law and regulations. CMHS facilities maintain an ongoing, proactive patient safety effort for the identification of risk to patient safety and the prevention, reporting and reduction of healthcare errors. CMHS employees receive training about patient rights in order to clearly understand their role in supporting them. We strive to provide health education, health promotion, and illness-prevention programs as part of our efforts to improve the quality of life of our patients and our communities.

## Patient Rights

We make no distinction in the availability of services, the admission, transfer or discharge of patients, or in the care we provide based on age, gender, disability, race, sexual preference, color, religion, or national origin. We recognize and respect the diverse backgrounds and cultures of our patients and make every effort to equip our caregivers with the knowledge and resources to respect each patient's cultural heritage and needs. We are mindful that the populations in those communities we serve are becoming even more diverse. Accordingly, we are structuring more formal programs to ensure that CMHS employees are equipped to meet these articulated commitments for multi-cultural competency in patient care. The hospital respects the patient's right to and need for effective communication.

Each patient is provided with a written statement of patient rights and a notice of privacy practices. These statements include the rights of a patient to make decisions regarding medical care, the right to refuse or accept treatment, the right to informed decision-making, and a patient's rights related to his or her health information maintained by the facility. Such statements conform to all applicable State and Federal laws, including but not limited to HIPAA. We seek to involve patients in all aspects of their care, including giving consent for treatment and making healthcare decisions, which may include managing pain effectively, foregoing or withdrawing treatment, and, as appropriate, care at the end of life. The hospital addresses the wishes of the patient relating to end of life decisions. As applicable, each patient or patient representative is provided with a clear explanation of care including, but not limited to, diagnosis, treatment plan, right to refuse or accept care, care decision dilemmas, advance directive options, estimates of treatment costs, organ donation and procurement, and an explanation of the risks, benefits, and alternatives associated with available treatment options.

Patients have the right to request transfers to other facilities. In such cases, the patient is given an explanation of the benefits, risks, and alternatives of the transfer. Patients are provided information regarding their right to make advance directives regarding treatment decisions, financial considerations and the designation of surrogate healthcare decision-makers. Patient advance directives or resuscitative measures are honored within the limits of the law and our organization's mission, philosophy, values, and capabilities. In the promotion and protection of each patient's rights, each patient and his or her representatives are accorded appropriate confidentiality, privacy, security, advocacy and protective services, opportunity for resolution of complaints, and pastoral care or spiritual care. Patients have the right to an environment that preserves dignity and contributes to positive self-image. Patients are treated in a manner that preserves their dignity, autonomy, self-esteem, civil rights, and involvement in their own care. CMHS facilities maintain processes to support patient rights in a collaborative manner which involves the facility leaders and others. These structures are based on policies and procedures, which make up the framework addressing both patient care and organizational ethics issues. These structures include informing each patient or, when appropriate, the patient's representative of the patient's rights in advance of furnishing or discontinuing care. Patients receive information about the person(s) responsible for their care, treatment and services. Patients and, when appropriate, their families are informed about the outcomes of care, treatment and services that have been provided, including unanticipated outcomes. Patients are also involved as clinically appropriate in resolving dilemmas about care decisions. Facilities maintain processes for prompt resolution of

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Additionally, CMHS abides by California minor consent laws, as well as child abuse reporting responsibilities.

## **Accreditation and Surveys**

In preparation for, during and after surveys, CMHS employees deal with all accrediting bodies in a direct, open and honest manner. No action should ever be taken in relationships with accrediting bodies that would mislead the survey teams, either directly or indirectly. The scope of matters related to accreditation of various bodies is extremely significant and broader than the scope of this Code of Conduct and therefore not included here. The purpose of our Code of Conduct is to provide general guidance on subjects of wide interest within the organization. Accrediting bodies may address issues of both wide and somewhat more focused interest.

Periodically, government agencies and other entities conduct surveys in our facilities. We respond with openness and accurate information. In preparation for or during a survey or inspection, CMHS employees must never conceal, destroy, or alter any documents; lie; or make misleading statements to the agency representative. Employees also must never attempt to cause another colleague to fail to provide accurate information or obstruct, mislead, or delay the communication of information or records relating to a possible violation of law.

## **Business and Financial Information**

### **Accuracy, Retention, and Disposal of Documents and Records**

Each CMHS employee is responsible for the integrity and accuracy of our organization's documents and records, not only to comply with regulatory and legal requirements but also to ensure records are available to support our business practices and actions. No one may alter or falsify information on any record or document. Records must never be destroyed in an effort to deny governmental authorities that which may be relevant to a government investigation.

Medical and business documents and records are retained in accordance with the law and our record retention policy, which includes comprehensive retention schedules. Medical and business documents include paper documents such as letters and memos, computer-based information such as e-mail or computer files on disk or tape, and any other medium that contains information about the organization or its business activities. It is important to retain and destroy records only according to our policy.

CMHS employees must not tamper with records. No one may remove or destroy records prior to the specified date without first obtaining permission as outlined in CMHS' records management policy.

Finally, under no circumstances may a CMHS employee use patient, employee or any other individual's or entity's information to personally benefit (e.g., perpetrate identity theft).

## **False Claims Act Compliance**

CMHS works to ensure that our patient bills and the claims we submit to any payer, including Medicare and Medicaid ("Medi-Cal"), commercial insurance or our patients, are accurate. It's the right thing to do, and Federal and State laws require it.

The Federal False Claims Act (31 USC 3729-33) prohibits any person or organization from "knowingly" submitting a false claim to the Federal government for payment. "Knowing" can include deliberate or reckless ignorance of facts that make the claim false.

Examples of possible false claims include someone knowingly billing Medicare for services that were not provided, or for services that were not ordered by a physician, or billing for services that are more expensive than the services which were actually provided.

A person who knows a false claim was filed for payment may file a lawsuit in Federal court on behalf of the Federal government and, in some cases, receive a reward for bringing original information about a violation to the government's attention. Penalties for violating the Federal False Claims Act can be up to three times the value of the false claim, plus from \$5,500 to \$11,000 in fines, per claim. California also has a false claims act that allows a similar lawsuit in state court if a false claim is filed with the state for payment, such as under Medi-Cal.

The False Claims Act protects anyone who files a whistleblower lawsuit from being fired, demoted, threatened or harassed by their employer for filing the suit. If a court finds that the employer retaliated against the employee for filing such a suit, then the court can order the employer to re-hire the employee and to pay the employee twice the amount of back pay that is owed, plus interest and attorney's fees.

Our Corporate Compliance program contains policies that help to detect and prevent fraud, waste and abuse and supports compliance with the False Claims Act by:

- Monitoring and auditing to prevent or detect errors in coding or billing.
- Educating our employees that they are required to report any concern about a possible false claim at a CMHS facility to their supervisor, or the Compliance Officer, or by calling CMHS Compliance Hotline at **888-261-1773**
- Investigating all reported concerns and correcting any billing errors discovered.
- Protecting our employees from adverse action when they do the right thing and report any genuine concern.

## **Code of Ethics for Senior Financial Officers and the Chief Executive Officer**

The CEO and all Senior Financial Officers are bound by all provisions of this Code of Conduct and particularly those provisions relating to ethical conduct, conflicts of interest, compliance with law, and internal reporting of violations of the Code. The CEO and all Senior Financial Officers also have responsibility for full, fair, accurate, timely and understandable disclosure in the periodic reports and submissions filed by CMHS with the IRS as well as other Federal and State agencies.

The Audit and Compliance Committee of the Board of Trustees shall determine appropriate actions to be taken in the event of violations of the Code by the CEO and CMHS' Senior Financial Officers, which shall be reviewed and ratified by the full Board of Trustees. Such actions shall be reasonably designed to deter wrongdoing and to promote accountability for adherence to the Code.

In determining what action is appropriate in a particular case, the Audit and Compliance Committee shall take into account all relevant information, including the nature and severity of the violation, whether the violation was a single occurrence or repeated occurrences, whether the violation appears to have been intentional or inadvertent, whether the individual in question had been advised prior to the violation as to the proper course of action and whether or not the individual in question had committed other violations in the past.

The Compliance Committee of the Hospitals must report periodically any actions taken pursuant to this Code of Conduct to the Audit and Compliance Committee of the Board of Trustees.

Any waiver of or amendments to the Code of Ethics for Senior Financial Officers and the CEO must be approved by the Audit and Compliance Committee of the Board of Trustees.

## **Coding and Billing for Services**

CMHS has implemented policies, procedures and systems to facilitate accurate billing to government payers, commercial insurance payers, and patients. These policies, procedures, and systems conform to pertinent Federal and State laws and regulations. We prohibit any employee or agent of CMHS from knowingly presenting or causing to be presented claims for payment or approval which are false, fictitious, or fraudulent.

In support of accurate billing, medical records must provide reliable documentation of the services we render. It is important that all individuals who contribute to medical records provide accurate information and do not destroy any information considered part of the official medical record.

Accurate and timely patient care documentation also depends on the diligence and attention of physicians who treat patients in our facilities. We expect those physicians, as stipulated in the Medical Staff Bylaws, to provide CMHS with complete and accurate

information in a timely manner.

Any subcontractors engaged to perform billing or coding services are expected to have the necessary skills, quality control processes, systems, and appropriate procedures to ensure all billings for government and commercial insurance programs are accurate and complete. CMHS requires such entities to have their own ethics and compliance programs and code of conduct or to adopt the CMHS Code as their own. In addition, third-party billing entities, contractors, and preferred vendors under contract consideration must be approved consistent with the corporate policy on this subject.

## **Confidential Information**

The term “confidential information” refers to proprietary information about our organization’s strategies and operations, as well as patient information and third party information.

Improper use or disclosure of confidential information could violate legal and ethical obligations. CMHS employees may use confidential information only to perform their job responsibilities and shall not share such information with others unless the individuals and/or entities have a legitimate need to know the information in order to perform their specific job duties or carry out a contractual business relationship, provided disclosure is not prohibited by law or regulation.

Confidential information covers virtually anything related to CMHS operations that is not publicly known, such as personnel data maintained by the organization; patient lists and clinical information; patient financial information; passwords; pricing and cost data; information pertaining to acquisitions, divestitures, affiliations and mergers; financial data; details regarding Federal, State, and local tax examinations of the organization or its joint venture partners; research data; strategic plans; marketing strategies and techniques; supplier and contractor information; and proprietary computer software.

In order to maintain the confidentiality and integrity of patient and confidential information, such information should be sent through the Internet only in accordance with information security policies and standards, which require, among other things, that the individual and/or entity be validated and the information be encrypted.

Use of due care and due diligence is required to maintain the confidentiality, availability and integrity of information assets that CMHS owns or of which it is the custodian. Because so much of our clinical and business information is generated and contained within our computer systems, it is essential that each CMHS employee protect his/her computer systems, laptops, flash drives and other removable media securely and the information contained in them by not sharing passwords and by reviewing and adhering to our information security policies and guidance.

If an individual’s employment or contractual relationship with CMHS ends for any reason, the individual is still bound to maintain the confidentiality of information viewed, received or used during the employment or contractual business relationship with CMHS. This provision does not restrict the right of an employee to disclose, if he or she wishes, information about his or her own compensation, benefits, or terms and conditions of

employment. Copies of confidential information in an employee's or contractor's possession shall be left with CMHS at the end of the employment or contractual relationship.

***\*Please note that the full text of CMHS Confidentiality Agreement is attached as Addendum "A"***

## **Controlled Substances**

Some of our employees routinely have access to prescription drugs, controlled substances, and other medical supplies. Many of these substances are governed and monitored by specific regulatory organizations and must be administered by physician order only. Prescription and controlled medications and supplies must be handled properly and only by authorized individuals to minimize risks to us and to patients. If one becomes aware of inadequate security of drugs or controlled substances or the diversion of drugs from the organization, the incident must be reported immediately.

## **Copyrights**

CMHS employees may only copy and/or use copyrighted materials pursuant to the organization's policy on such matters.

## **Cost Reports**

We are required by Federal and State laws and regulations to submit certain reports of our operating costs and statistics. We comply with Federal and State laws, regulations, and guidelines relating to all cost reports. These laws, regulations, and guidelines define what costs are allowable and outline the appropriate methodologies for billing claims and the cost of services provided to program beneficiaries.

Several CMHS policies address cost report compliance and articulate our commitment to: maintain and distribute a Finance Manual to Finance Department personnel that includes corporate and departmental policies and procedures; provide effective and timely education and training programs for Finance Department personnel regarding Federal and State laws, regulations and guidelines, and corporate policies; maintain a standardized work paper package to provide consistency in the preparation, organization, presentation, and review of cost reports; apply a uniform cost report review process; identify and exclude non-allowable costs; adhere to documentation standards; and use transmittal letters to report protested items and make other appropriate disclosures.

CMHS also submits our cost report process to internal and external audits and maintains a substantial review process. All issues related to the preparation, submission and settlement of cost reports must be performed by or coordinated with our Finance Department.

## **Diversity and Equal Employment Opportunity**

CMHS actively promotes diversity in its workforce at all levels of the organization. We are committed to providing an inclusive work environment where everyone is treated with fairness, dignity, and respect.

We will make ourselves accountable to one another for the manner in which we treat one another and for the manner in which people around us are treated. We are committed to recruit and retain a diverse staff reflective of the patients and communities we serve.

We regard laws, regulations and policies relating to diversity as a minimum standard.

We strive to create and maintain a setting in which we celebrate cultural and other differences and consider them strengths of the organization.

CMHS is an equal opportunity workforce and no one shall discriminate against any individual with regard to race, color, religion, gender, national origin, age, disability, sexual orientation, or veteran status with respect to any offer, or term or condition, of employment. We make reasonable accommodations to the known physical and mental limitations of qualified individuals with disabilities.

## **Electronic Media and Security Requirements**

All communications systems, including but not limited to computers, electronic mail, fax, Intranet, Internet access, telephones, and voice mail, are the property of the organization and are to be used primarily for business purposes in accordance with electronic communications policies and standards.

Limited reasonable personal use of CMHS communications systems is permitted; however, users should assume these communications are not private.

Users of computer and telephonic systems should presume no expectation of privacy in anything they create, store, send, or receive on the computer and telephonic systems, and CMHS reserves the right to monitor and/or access communications usage and content consistent with CMHS policies and procedures.

Employees may not use internal communication channels or access to the Internet at work to post, store, transmit, download, or distribute any threatening materials; knowingly, recklessly, or maliciously false materials; obscene materials; or anything constituting or encouraging a criminal offense, giving rise to civil liability, or otherwise violating any laws. Also, these channels of communication may not be used to send chain letters, personal broadcast messages, or copyrighted documents that are not authorized for reproduction.

Employees who abuse our communications systems or use them excessively for non-business purposes may lose these privileges and be subject to disciplinary action. Employees shall comply with CMHS security policies governing use of information systems. Only assigned user IDs and "SecureID" cards shall be used. Passwords, tokens and SecureID cards shall never be shared or disclosed. Employees shall never

use tools or techniques to break or exploit CMHS information security measures, or those used by other companies or individuals. CMHS information systems shall not be used to access inappropriate or prohibited websites.

## **Emergency Treatment**

We adhere to the provisions of the Emergency Medical Treatment and Active Labor Act (“EMTALA”) in providing an emergency medical screening examination and necessary stabilization to all patients, regardless of ability to pay. Provided we have the capacity and capability, anyone with an emergency medical condition is treated. In an emergency situation or if the patient is in labor, we will not delay the medical screening and necessary stabilizing treatment in order to seek financial and demographic information. We do not admit, discharge, or transfer patients with emergency medical conditions simply based on their ability or inability to pay or any other discriminatory factor.

Patients with emergency medical conditions are only transferred to another facility at the patient’s request or if the patient’s medical needs cannot be met at the CMHS facility (e.g., we do not have the capacity or capability) and appropriate care is knowingly available at another facility. Patients are only transferred in strict compliance with State and Federal EMTALA regulatory and statutory requirements.

## **Financial Reporting and Records**

We have established and maintain a high standard of accuracy and completeness in documenting, maintaining, and reporting financial information. This information serves as a basis for managing our business and is important in meeting our obligations to patients, employees, stakeholders, suppliers, and others. It is also necessary for compliance with tax and financial reporting requirements.

All financial information must reflect actual transactions and conform to generally-accepted accounting principles. All funds or assets must be properly recorded in the books and records of CMHS.

CMHS maintains a system of internal controls to provide reasonable assurances that all transactions are executed in accordance with management’s authorization and are recorded in a proper manner so as to maintain accountability of the organization’s assets. We diligently seek to comply with all applicable auditing, accounting and financial disclosure laws.

Senior financial officers receive training and guidance regarding auditing, accounting and financial disclosure relevant to their job responsibilities. They are also provided the opportunity to discuss issues of concern with the Board of Trustees’ Audit/Compliance Committee. Anyone having concerns regarding questionable accounting or auditing matters should report such matters to the Board of Trustees’ Audit/Compliance Committee by calling the CMHS Hotline (1-888-261-1773).

## **Foreign Corrupt Practices Act**

The United States Foreign Corrupt Practices Act (FCPA) requires us to exercise care in our dealings with foreign government officials, employees, or representatives, and members of their families. The FCPA prohibits providing anything of value to any of these individuals for the purpose of obtaining or retaining business. Under the FCPA, CMHS is responsible for the actions of its agents and representatives. Before offering anything of value to foreign government officials, employees or representatives or a member of their family, a CMHS employee must obtain advice from the Corporate Ethics and Compliance/Legal Department.

## **Gathering Information about Competitors**

It is not unusual to obtain public information about other organizations, including our competitors, through legal and ethical means such as public documents, public presentations, journal and magazine articles, and other published and spoken information. However, employees should avoid seeking or receiving information about a competitor through other non-public means if they know or have reason to believe the information is proprietary or confidential. For example, an employee should not seek proprietary or confidential information when doing so would require anyone to violate a contractual agreement, such as a confidentiality agreement with a prior employer.

## **Gifts (Giving and Receiving)**

We never accept bribes or other illegal gifts. Only vendors who already do business with us can offer gifts, and then only a gift with a total value of \$50 or less in any one year. Vendor-sponsored trips may be permitted if travel costs are not paid by the vendor and CMHS Administration gives advance approval. Gifts may not affect our business decisions.

While we are evaluating a product or arranging a contract, team members involved in the deal may not have any social contact with or accept any gifts from a vendor. Employees may not use CMHS contacts to obtain services from a vendor (such as repairs or landscaping) for their own benefit.

If a potential or current business associate, including a potential referral source, extends an invitation to attend a social event in order to further develop a business relationship, a CMHS employee may accept such invitations, provided: (1) the cost associated with such an event is reasonable and appropriate, which, as a general rule, means the cost will not exceed \$100 per person; (2) no expense is incurred for any travel costs (other than in a vehicle owned privately or by the host entity) or overnight lodging; and (3) such events are infrequent. The limitations of this section do not apply to business meetings at which food (including meals) may be provided. Prior to accepting invitations to training and educational opportunities that include travel and overnight accommodations at reduced or no cost to an employee or CMHS, consult our policies and seek appropriate approvals.

CMHS employees may accept gifts with a total value of \$50 or less in any one year from any individual or organization who has a business relationship with CMHS. Perishable or consumable gifts given to a department or group are not subject to any specific

limitation. CMHS employees may accept gift certificates, but may never accept cash or financial instruments (e.g., checks, stocks). Finally, under no circumstances may a CMHS employee solicit a gift.

For 2016, Physicians may not accept gifts in excesses of \$392.00 per calendar year, including gifts in kind from any source.

## **Harassment and Workplace Violence**

Each CMHS employee has the right to work in an environment free of harassment and disruptive behavior. We do not tolerate harassment by anyone based on the diverse characteristics or cultural backgrounds of those who work with us. Degrading or humiliating jokes, slurs, intimidation, or other harassing conduct is not acceptable in our workplace.

Sexual harassment is prohibited. This prohibition includes unwelcome sexual advances or requests for sexual favors in conjunction with employment decisions. Moreover, verbal or physical conduct of a sexual nature that interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment has no place at CMHS.

Harassment also includes incidents of workplace violence. Workplace violence includes robbery and other commercial crimes, stalking, violence directed at the employer, terrorism, and hate crimes committed by current or former employees. Employees who observe or experience any form of harassment or violence should report the incident to their supervisor, the Human Resources Department, a member of management, the Compliance Officer, or the CMHS Hotline.

## **Health and Safety**

All CMHS facilities comply with all government regulations and rules, CMHS policies, and required facility practices that promote the protection of workplace health and safety. Our policies have been developed to protect our employees from potential workplace hazards.

Employees must become familiar with and understand how these policies apply to their specific job responsibilities and seek advice from their supervisor or the Safety Officer whenever they have a question or concern. It is important that each employee immediately advise his or her supervisor or the Safety Officer of any serious workplace injury or any situation presenting a danger of injury so timely corrective action may be taken to resolve the issue.

## **The Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule**

Community Memorial Health System is committed to protecting the privacy of our patients' personal health information. Part of that commitment is complying with the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), which requires us to take additional measures to protect personal information and to

inform our members about those measures. We have a zero tolerance for unauthorized accessing of patient information and under California SB 541, have the obligation of reporting these incidents to the California Department of Health Services, as well as to the Federal government.

## **Interactions with Physicians**

Federal and State laws and regulations govern the relationship between hospitals and physicians who may refer patients to the facilities. The applicable Federal laws include the Anti-Kickback Law and the Stark Law. It is important that those colleagues who interact with physicians, particularly regarding making payments to physicians for services rendered, providing space or services to physicians, recruiting physicians to the community, and arranging for physicians to serve in leadership positions in facilities, are aware of the requirements of the laws, regulations, and policies that address relationships between facilities and physicians.

If relationships with physicians are properly structured, but not diligently administered, failure to administer the arrangements as agreed may result in violations of the law. Any arrangement with a physician must be structured to ensure compliance with legal requirements, our policies and procedures, and with any operational guidance that has been issued. Most arrangements must be in writing and approved by the Compliance/Legal Department. Failure to meet all requirements of these laws and regulations can result in serious consequences for a facility.

Keeping in mind that it is essential to be familiar with the laws, regulations, and policies that govern our interactions with physicians, two overarching principles govern our interactions with physicians:

*We do not pay for referrals.* We accept patient referrals and admissions based solely on the patient's medical needs and our ability to render the needed services. We do not pay or offer to pay anyone — employees, physicians, or other persons or entities — for referral of patients.

*We do not accept payments for referrals we make.* No CMHS employee or any other person acting on behalf of the organization is permitted to solicit or receive anything of value, directly or indirectly, in exchange for the referral of patients. Similarly, when making patient referrals, or when arranging to pay another healthcare provider, we do not take into account the volume or value of referrals that the provider has made (or may make) to us.

## **Leadership Responsibilities**

While all CMHS employees are obligated to follow our Code of Conduct, we expect our leaders to set the example, to be in every respect a model. We expect everyone in the organization with supervisory responsibility to exercise that responsibility in a manner that is kind, sensitive, thoughtful, and respectful.

We expect each director, manager, and supervisor to create an environment where all team members feel free to raise concerns and propose ideas. We also expect that they will ensure those on their team have sufficient information to comply with laws,

regulations, and policies, as well as the resources to resolve ethical dilemmas. They must help to create a culture within CMHS which promotes the highest standards of ethics and compliance. This culture must encourage everyone in the organization to share concerns when they arise.

We must never sacrifice ethical and compliant behavior in the pursuit of business objectives.

Specific guidance for leaders throughout the organization regarding their responsibilities under our Compliance Program is included in a supplement for leaders to this Code. Leaders at all levels of the organization should use that guidance to most effectively incorporate ethics and compliance into all aspects of our organization.

In addition, all leaders should be mindful that CMHS supports and utilizes various training mechanisms to ensure that our directors, managers, and supervisors have excellent managerial skills. These training tools are coordinated by the Human Resources Department. The foundational principles in such tools reflect the basic concepts of our Compliance Program.

The Compliance Program, together with our leadership training efforts, encourages what we refer to as “principled leadership.” Such leadership assumes that those in our organization will lead by example, will confront problems directly and candidly, will be inclusive in making decisions as to who should participate in the decision-making process, will try to give the maximum responsibility to those who work with them, and will emphasize effective team-building. In addition to these fundamental approaches to principled leadership, we expect those in our organization to understand and care about their employees at work. Though CMHS is a large organization, its work is accomplished each day, for the most part, in small team settings. This encourages all leaders to try to ensure that the talents of each member of the organization are utilized to the maximum extent possible and that we give careful attention to the professional development of all of those within CMHS.

## **Legal and Regulatory Compliance**

CMHS provides varied healthcare services. These services are provided pursuant to appropriate Federal, State, and local laws and regulations, and the conditions of participation for Federal healthcare programs. Such laws, regulations, and conditions of participation may include, but are not limited to, subjects such as certificates of need, licenses, permits, accreditation, access to treatment, consent to treatment, medical record-keeping, access to medical records and confidentiality, patients’ rights, clinical research, end-of-life care decision-making, medical staff membership and clinical privileges, corporate practice of medicine restrictions, and Medicare and Medicaid program requirements. The organization is subject to numerous other laws in addition to these healthcare laws, regulations, and the conditions of participation.

We have developed policies and procedures to address many legal and regulatory requirements. However, it is impractical to develop policies and procedures that encompass the full body of applicable law and regulation. Obviously, those laws and regulations not covered in organization policies and procedures must be followed. There is a range of expertise within the organization, including the Operations Officer and numerous functional experts (*i.e.*, Responsible Executives), who should be consulted for

advice concerning human resources, legal, regulatory, and the conditions of participation requirements.

Anyone aware of violations or suspected violations of laws, regulations, the conditions of participation, or CMHS policies and procedures must report them immediately to a supervisor or member of management, the Vice President of Human Resources, or the Corporate Compliance Officer.

## **License and Certification Renewals**

Employees, individuals retained as independent contractors, and privileged practitioners in positions which require professional licenses, certifications, or other credentials are responsible for maintaining the current status of their credentials and shall comply at all times with Federal and State requirements applicable to their respective disciplines.

To assure compliance, CSMH may require evidence of the individual having a current license or credential status.

CSMH does not allow any employee, independent contractor or privileged practitioner to work without valid, current licenses or credentials.

## **Marketing Practices**

### **Antitrust**

Antitrust laws are designed to create a level playing field in the marketplace and to promote fair competition. These laws could be violated by discussing CMHS business with a competitor, such as how our prices are set, disclosing the terms of supplier relationships, allocating markets among competitors, or agreeing with a competitor to refuse to deal with a supplier. Our competitors are other health systems and facilities in markets where we operate.

At trade association meetings, employees must be alert to potential situations where it may not be appropriate to participate in discussions regarding prohibited subjects with competitors. Prohibited subjects include any aspect of pricing, our services in the market, key costs such as labor costs, and marketing plans. If a competitor raises a prohibited subject, employees must end the conversation immediately. Employees must document their refusal to participate in the conversation by requesting their objection be reflected in the meeting minutes and notify hospital legal counsel of the incident.

*Loyalty means that we share a common ideal and that, regardless of minor differences, we strive for it, shoulder to shoulder, confident in one another's good faith, trust, constancy and affection.*

In general, employees must avoid discussing sensitive topics with competitors or suppliers, unless they are proceeding with the advice of CMHS counsel. Employees also must not provide any information in response to an oral or written inquiry concerning an antitrust matter without first consulting CMHS counsel.

## **Personal Use of CMHS Resources**

It is the responsibility of each CMHS employee to preserve our organization's assets including time, materials, supplies, equipment, and information. Organization assets are to be maintained for business-related purposes. As a general rule, the personal use of any CMHS asset without prior supervisory approval is prohibited. The occasional use of items, such as copying facilities or telephones, where the cost to CMHS is insignificant, is permissible. Any community or charitable use of organization resources must be approved in advance by one's supervisor. Any use of organization resources for personal financial gain unrelated to the organization's business is prohibited.

## **Physicians**

Healthcare facilities, like those owned and operated by CMHS, are collaboration between those who are part of CMHS and those who have been credentialed and privileged to practice in CMHS facilities. As in any collaboration, each party has important roles and responsibilities. As set forth in our Fundamental Commitment to Stakeholders, CMHS is committed to providing a work environment for physicians who practice in our facilities that is excellent in all respects. We know that members of our medical staffs historically have interacted with those who work in our hospitals in a respectful and supportive way. We appreciate this attitude and know that we can expect it to continue. We encourage members of our Medical Staffs to be familiar with this Code of Conduct. There are many portions of this Code of Conduct that pertain to ethical or legal obligations of physicians in hospitals, and this document is likely to be a helpful summary of those obligations for our medical staff members.

## **Relationships among CMHS Employees**

In the normal day-to-day functions of an organization like CMHS, there are issues that arise which relate to how people in the organization deal with one another. It is impossible to foresee all of these, and many do not require explicit treatment in a document like this. A few issues routinely arise, however. One involves gift giving among employees for certain occasions. While we wish to avoid any strict rules, no one should ever feel compelled to give a gift to anyone, and any gifts offered or received should be appropriate to the circumstances. A lavish gift to anyone in a supervisory role would clearly violate organization policy. Another situation, which routinely arises, is a fund-raising or similar effort undertaken by individual employees, in which no one should ever be compelled to participate. Similarly, when CMHS or a facility determines to support charitable organizations, such as the United Way, no employee should be compelled to contribute to the charitable organization, nor should there be any workplace consequences of such non-participation.

## **Relationships with Subcontractors and Suppliers**

We must manage our consulting, subcontractor, and supplier relationships in a fair and reasonable manner, free from conflicts of interest and consistent with all applicable laws

and good business practices. We promote competitive procurement to the maximum extent practicable. Our selection of consultants, subcontractors, suppliers, and vendors will be made on the basis of objective criteria including quality, technical excellence, price, and delivery, adherence to schedules, service, and maintenance of adequate sources of supply. Our purchasing decisions will be made on the supplier's ability to meet our needs, and not on personal relationships and friendships. We employ the highest ethical standards in business practices in source selection, negotiation, determination of contract awards, and the administration of all purchasing activities. We comply with contractual obligations not to disclose vendor confidential information unless permitted under the contract or otherwise authorized by the vendor.

## **Research, Investigations, and Clinical Trials**

We follow the highest ethical standards in full compliance with Federal and State laws and regulations in any research, investigations, and/or clinical trials conducted by our physicians and professional staff. We do not tolerate research misconduct, which includes activities such as making up or changing results, copying results from other studies without performing the clinical investigation or research, failing to identify and deal appropriately with investigator or institutional conflicts of interest, and proceeding without Institutional Review Board (IRB) approval. CMHS' first priority is always to protect the patients and human subjects and respect their rights during research, investigations, and clinical trials.

Physicians participating in research investigations and clinical trials are expected to fully inform their patients of the patients' rights and responsibilities of participating in the research or clinical trial.

All patients asked to participate in a clinical investigation or research project are given a full explanation of alternative services that might prove beneficial to them. They are also fully informed of potential discomforts and are given a full explanation of the risks, expected benefits, and alternatives. The patients are fully informed of the procedures to be followed, especially those that are experimental in nature.

Refusal of a patient to participate in a research study will not compromise his or her access to services.

Patient voluntary informed consent to participate in clinical investigations or research is documented and retained pursuant to CMHS policies.

Any CMHS facility or employee applying for or performing research of any type must follow all applicable research guidelines and maintain the highest standards of ethics and accuracy in any written or oral communications regarding the research project. As in all accounting and financial record-keeping, our policy is to submit only true, accurate, and complete costs related to research grants.

Any CMHS facility or employee engaging in human subject research must do so in conjunction with IRB approval and consistent with CMHS policies regarding human subject research and IRBs.

## Substance Abuse and Mental Acuity

To protect the interests of our employees and patients, we are committed to an alcohol and drug-free work environment. All employees must report for work free of the influence of alcohol and illegal drugs. Reporting to work under the influence of any illegal drug or alcohol, having an illegal drug in an employee's system, or using, possessing, or selling illegal drugs while on CMHS work time or property may result in immediate termination. We may use drug testing as a means of enforcing this policy.

It is also recognized individuals may be taking prescription or over-the-counter drugs, which could impair judgment or other skills required in job performance. Employees with questions about the effect of such medication on their performance or who observe an individual who appears to be impaired in the performance of his or her job must immediately consult with their supervisor.

## Workplace Conduct and Employment Practices

### Conflict of Interest

A conflict of interest may occur if a CMHS employee's outside activities, personal financial interests, or other personal interests influence or appear to influence his or her ability to make objective decisions in the course of the employee's job responsibilities. A conflict of interest may also exist if the demands of any outside activities hinder or distract an employee from the performance of his or her job or cause the individual to use CMHS resources for other than CMHS purposes. CMHS employees are obligated to ensure they remain free of conflicts of interest in the performance of their responsibilities at CMHS. If employees have any question about whether an outside activity or personal interest might constitute a conflict of interest, they must obtain the written approval of their supervisor before pursuing the activity or obtaining or retaining the interest. Clinical decisions will be made without regard to compensation or financial risk to CMHS leaders, managers, clinical staff, or licensed, independent practitioners.

## Political Campaign Intervention and Excessive Lobbying

The IRS states that charitable organizations that fall under Section 501(c)(3) of the Internal Revenue Code are ***“absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office.”*** This prohibition applies to all campaigns, including campaigns at the federal, state and local levels. Not complying with this prohibition may result in loss of tax-exempt status and the imposition of fines.

It is the policy of CMHS that participating or intervening in a campaign for elective public office either directly or indirectly while representing or in behalf of CMHS is strictly prohibited.

## Acknowledgment Process

Community Memorial Health System (CMHS) requires all employees to sign an acknowledgment confirming they have received the Code of Conduct, Confidentiality Agreement, and HIPAA Privacy and Security Agreement, understand these documents represent mandatory policies of CMHS and agree to abide by them. New employees are required to sign this acknowledgment as a condition of employment. Each CMHS employee is also required to participate in annual Code of Conduct training, and records of such training must be retained by each facility.

Adherence to and support of CMHS Code of Conduct and participation in related activities and training is considered in decisions regarding hiring, promotion, and compensation for all candidates and employees. New employees must receive Code of Conduct training within 30 days of employment.

**RETURN THIS PAGE ONLY TO HUMAN RESOURCES.**

**\*IT IS YOUR RESPONSIBILITY TO RETURN THE SIGNED DOCUMENT TO HR AND TO KEEP A COPY FOR YOUR RECORDS.**

### Acknowledgment Card

**I certify that I have received the CMHS Code of Conduct, HIPAA Guidelines, and Confidentiality Agreement, understand these documents represent mandatory policies of the organization, and I agree to abide by them.**

Signature	_____
Printed Name (as listed in personnel records)	_____
Department	_____
Facility	_____
Employee ID	_____
Date	_____

## **Addendum "A"**

### **Confidentiality Policy Agreement**

I understand that I have an obligation to protect the confidentiality of Community Memorial Health System patients, business and employees, as indicated below.

#### **DEFINITIONS:**

##### **1. Confidential patient or business information:**

- a. Information that I may see or hear that relates to:
  - i. Patients and/or family members (including employee-patients) – All information in the patient medical record or other patient records, financial information, and oral communication about patients.
  - ii. Volunteers, students, independent contractors, partners – Information such as social security numbers, personal or financial information, performance records.
  - iii. Business – Information such as financial records, reports, memos, contracts, CMHS computer programs and technology, or other information that is considered intellectual property.
  - iv. Vendors or other third parties – Information such as contract terms, computer programs and technology, or other information that is considered intellectual property.
  - v. Operations improvement, quality assurance, peer review – Information such as reports, presentations, or survey results.
  
- b. CMHS personnel should discuss with their supervisor, manager, director or Vice President any question about whether specific patient or business information is considered confidential and subject to this policy.

##### **2. Confidential Employee Information:**

Confidential Employee Information is information created or obtained in the context of an employment application and/or an ongoing employment relationship such as salaries and wages, social security numbers, personal or financial information, or performance records, which is obtained from a Confidential Source. (Confidential Sources are CMHS sources to which access is restricted, such as employment applications, personnel files, payroll records, data banks, benefit forms or applications, computerized employee records, or information obtained from confidential employee statements or interviews).

Confidential Employee Information does not include information which (i) is or becomes generally available to the public, other than as a result of a breach by CMHS personnel of their obligations under this Policy; (ii) is or becomes available to CMHS personnel on a non-confidential basis from a source other than CMHS; or (iii) is or becomes available because an employee voluntarily discloses such information about himself or herself to other employees or to other persons. ("Voluntary disclosure" for these purposes means disclosure freely made by an employee about himself or herself, where disclosure was not required by CMHS and was not otherwise made in order to obtain employment or any benefit of employment.)

**I AGREE THAT:**

1. I will only initiate access of the Confidential Patient, Business or Employee Information I need to do my job. I will not disclose, discuss, or otherwise release such Confidential Patient, Business or Employee Information to others unless it is required in the performance of my job.
2. I will not show, tell, copy, give, sell, review, change, eliminate or destroy any Confidential Patient, Business or Employee Information unless it is part of my job. If it is part of my job to do any of these tasks, I will follow the correct department procedure (such as shredding confidential papers before throwing them away).
3. I will not misuse or be careless with Confidential Patient, Business or Employee Information. I will take appropriate precautions to avoid being overheard when discussing such Information as needed to do my job. I will take appropriate precautions to avoid leaving documents containing such Information in areas where others could view them.
4. I will keep my computer password secret and I will not share it with anyone nor will I use anyone else's password to access any CMHS system without the express prior permission of my supervisor. Such permission will only be granted rarely and only when necessary to the performance of duties. In such cases, I understand it is my responsibility for changing my password as soon as possible. I understand that I am responsible for access or use of any information that is made using my password.
5. I will not use the CMHS e-mail system for any purpose other than that permitted in the CMHS e-mail policy.
6. I will not download nor transmit in any manner, Confidential Patient, Business or Employee Information unless my manager or director has given advance written approval and the downloading or transmitting is for the sole purpose of performing required work and is accomplished only in a manner consistent with CMHS security policies for electronic information. I understand that downloading or transmitting Confidential Patient, Business or Employee Information for any other purpose or any other circumstances is a serious violation of my obligation.
7. I will not share any Confidential Patient, Business or Employee Information even if I am no longer a CMHS employee. Should I fail to comply with this, I understand I am no longer eligible for rehire at CMHS , and may be subject to litigation or prosecution for doing so.
8. I know that my access to Confidential Patient, Business or Employee Information may be audited.
9. I will tell my supervisor if I think someone knows or is using my password.
10. I know that Confidential Patient, Business or Employee Information I learn on the job does not belong to me.
11. I know that CMHS may take away my access to Confidential Patient, Business or Employee Information and/or any CMHS computer system at any time.
12. I will protect the privacy of CMHS employees. I will not access the Confidential Employee Information of another employee from confidential sources, such as employment applications, personnel files, payroll records, data banks, benefit forms or applications, computerized employee records, or information obtained from confidential employee statements or interviews unless it is part of my job to do so. I will not report, disclose or disseminate Confidential Employee Information regarding other employees, which I obtained or which I reasonably knew was obtained from a confidential source, unless it is part of my job to do so. I recognize that when employees are patients, their Confidential Patient Information is protected just as it is with any other patient.
13. I will not make unauthorized copies of CMHS software.

14. I am responsible for my use or misuse of Confidential Patient, Business or Employee Information.
15. I am responsible for my failure to protect my password or other access to Confidential Patient, Business or Employee Information.
16. I will promptly return all Confidential Patient or Business or Employee Information in my possession upon CMHS' request or upon termination of my relationship with CMHS.

**I UNDERSTAND THAT:**

1. Failure to comply with the commitments and requirements in this acknowledgement may result in disciplinary action, up to and including termination on the first offense without prior progressive discipline, regardless of length of service with CMHS and/or record of performance.
2. Accessing Confidential Patient, Business or Employee Information without a need to know, whether or not any confidential information is gained through that unauthorized access or is further disclosed is a violation of this policy.
3. Failure to comply with the commitments and requirements of this acknowledgement may also result in civil or criminal legal penalties.
4. Nothing in this Acknowledgement prevents me from voluntarily disclosing information about myself and my wages, hours and working conditions to any other person or governmental agency. I further understand that nothing in this Acknowledgement prevents me from discussing information about the wages, hours and working conditions of any CMHS employee as long as that information was not obtained from a confidential source.

## **“Addendum B”**

### **HIPAA Guidelines and Information**

To improve the efficiency and effectiveness of the health care system, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, included Administrative Simplification provisions that required HHS to adopt national standards for electronic health care transactions and code sets, unique health identifiers, and security. At the same time, Congress recognized that advances in electronic technology could erode the privacy of health information. Consequently, Congress incorporated into HIPAA provisions that mandated the adoption of Federal privacy protections for individually identifiable health information.

- HHS published a final Privacy Rule in December 2000, which was later modified in August 2002. This Rule set national standards for the protection of individually identifiable health information by three types of covered entities: health plans, health care clearinghouses, and health care providers who conduct the standard health care transactions electronically. Compliance with the Privacy Rule was required as of April 14, 2003 (April 14, 2004, for small health plans).
- HHS published a final Security Rule in February 2003. This Rule sets national standards for protecting the confidentiality, integrity, and availability of electronic protected health information. Compliance with the Security Rule was required as of April 20, 2005 (April 20, 2006 for small health plans).
- The Enforcement Rule provides standards for the enforcement of all the Administrative Simplification Rules.
- HHS enacted a final Omnibus Rule that implements a number of provisions of the HITECH Act to strengthen the privacy and security protections for health information established under HIPAA, finalizing the Breach Notification Rule.

The final Privacy Rule:

- Gives patients more control over their health information.
- Sets boundaries on the use and release of health records.
- Establishes appropriate safeguards that healthcare providers and others must achieve to protect the privacy of health information.
- Holds violators accountable, with civil and criminal penalties that can be imposed, if they violate patients' privacy rights.
- Strikes a balance between individual privacy and community responsibility in cases of public health, law enforcement and national security.

The HIPAA Privacy Rule DOES NOT REPLACE any laws that grant individuals even greater privacy protections found in many states. Covered entities are free to retain or adopt more protective policies or practices, as they deem necessary. While most segments of the healthcare industry support the HIPAA objectives of enhanced patient privacy in the healthcare system, they caution that privacy protections must not interfere with a patient's access to or the quality of healthcare delivery.

#### **Incidental Uses and Disclosures**

Regarding Incidental Disclosures, the OCR Standards Document answers the following:

**“Q. Can health care providers engage in confidential conversations with other providers or with patients, even if there is a possibility that they could be overheard?”**

**Answer:** Yes. The HIPAA Privacy Rule is not intended to prohibit providers from talking to each other and to their patients. Provisions of this Rule requiring covered entities to implement reasonable safeguards that reflect their particular circumstances and exempting treatment disclosures from

Source: <http://www.hhs.gov/hipaa/for-professionals/index.html>

Updated by Compliance Department, 1/18/2016

certain requirements are intended to ensure that providers' primary consideration is the appropriate treatment of their patients. The Privacy Rule recognizes that oral communications often must occur freely and quickly in treatment settings. Thus, covered entities are free to engage in communications as required for quick, effective, and high quality health care. The Privacy Rule also recognizes that overheard communications in these settings may be unavoidable and allows for these incidental disclosures.

For example, the following practices are permissible under the Privacy Rule, if reasonable precautions are taken to minimize the chance of incidental disclosures to others who may be nearby:

- Health care staff may orally coordinate services at hospital nursing stations.
- Nurses or other health care professionals may discuss a patient's condition over the phone with the patient, a provider, or a family member.
- A health care professional may discuss lab test results with a patient or other provider in a joint treatment area.
- A physician may discuss a patients' condition or treatment regimen in the patient's semi-private room.
- Health care professionals may discuss a patient's condition during training rounds in an academic or training institution.
- A pharmacist may discuss a prescription with a patient over the pharmacy counter, or with a physician or the patient over the phone.

In these circumstances, reasonable precautions could include using lowered voices or talking apart from others when sharing protected health information. However, in an emergency situation, in a loud emergency room, or where a patient is hearing impaired, such precautions may not be practicable. Covered entities are free to engage in communications as required for quick, effective, and high quality health care.

**“Q. Are physicians and doctor's offices prohibited from maintaining patient medical charts at bedside or outside of exam rooms, or from engaging in other customary practices where the potential exists for patient information to be incidentally disclosed to others? “**

**Answer:** No. The HIPAA Privacy Rule does not prohibit covered entity from engaging in common and important health care practices; nor does it specify the specific measures that must be applied to protect an individual's privacy while engaging in these practices. Covered entities must implement reasonable safeguards to protect an individual's privacy. In addition, covered entities must reasonably restrict how much information is used and disclosed, where appropriate, as well as who within the entity has access to protected health information. Covered entities must evaluate what measures make sense in their environment and tailor their practices and safeguards to their particular circumstances.

For example, the Privacy Rule does not prohibit covered entities from engaging in the following practices, where reasonable precautions have been taken to protect an individual's privacy:

- Maintaining patient charts at bedside or outside of exam rooms, displaying patient names on the outside of patient charts, or displaying patient care signs (e.g., “high fall risk” or “diabetic diet”) at patient bedside or at the doors of hospital rooms.

**Possible safeguards may include:** reasonably limiting access to these areas, ensuring that the area is supervised, escorting non-employees in the area, or placing patient charts in their holders with identifying information facing the wall or otherwise covered, rather than having health information about the patient visible to anyone who walks by.

- Announcing patient names and other information over a facility's public announcement system.

**Possible safeguards may include:** limiting the information disclosed over the system, such as referring the patients to a reception desk where they can receive further instructions in a more confidential manner.

- Use of X-ray lightboards or in-patient logs, such as whiteboards, at a nursing station.

**Possible safeguards may include:** if the X-ray lightboard is in an area generally not accessible by the public, or if the nursing station whiteboard is not readily visible to the public, or any other safeguard which reasonably limits incidental disclosures to the general public.

The above examples of possible safeguards are not intended to be exclusive. Covered entities may engage in any practice that reasonably safeguards protected health information to limit incidental uses and disclosures.

**“Q. A clinic customarily places patient charts in the plastic box outside an exam room. It does not want the record left unattended with the patient, and physicians want the record close by for fast review right before they walk into the exam room. Will the HIPAA Privacy Rule allow the clinic to continue this practice?”**

**Answer:** Yes, the Privacy Rule permits this practice as long as the clinic takes reasonable and appropriate measures to protect the patient's privacy. The physician or other health care professionals use the patient charts for treatment purposes. Incidental disclosures to others that might occur as a result of the charts being left in the box are permitted, if the minimum necessary and reasonable safeguards requirements are met. As the purpose of leaving the chart in the box is to provide the physician with access to the medical information relevant to the examination, the minimum necessary requirement would be satisfied.

Examples of measures that could be reasonable and appropriate to safeguard the patient chart in such a situation would be limiting access to certain areas, ensuring that the area is supervised, escorting non-employees in the area, or placing the patient chart in the box with the front cover facing the wall rather than having protected health information about the patient visible to anyone who walks by. Each covered entity must evaluate what measures are reasonable and appropriate in its environment. Covered entities may tailor measures to their particular circumstances. See 45 CFR 164.530(c).

**“Q. May physician's offices use patient sign-in sheets or call out the names of their patients in their waiting rooms?”**

**Answer:** Yes. Covered entities, such as physician's offices, may use patient sign-in sheets or call out patient names in waiting rooms, so long as the information disclosed is appropriately limited. The HIPAA Privacy Rule explicitly permits the incidental disclosures that may result from this practice, for example, when other patients in a waiting room hear the identity of the person whose name is called, or see other patient names on a sign-in sheet. However, these incidental disclosures are permitted only when the covered entity has implemented reasonable safeguards and the minimum necessary standard, where appropriate. For example, the sign-in sheet may not display medical information that is not necessary for the purpose of signing in (e.g., the medical problem for which the patient is seeing the physician). See [45 CFR 164.502\(a\)\(1\)\(iii\)](#).

**“Q. Do the HIPAA Privacy Rule's provisions permitting certain incidental uses and disclosures apply only to treatment situations or discussions among health care providers?”**

**Answer:** No. The provisions apply universally to incidental uses and disclosures that result from any use or disclosure permitted under the Privacy Rule, and not just to incidental uses and disclosures resulting from treatment communications, or only to communications among health care providers or other medical staff. For example:

- A provider may instruct an administrative staff member to bill a patient for a particular procedure, and may be overheard by one or more persons in the waiting room.
- A health plan employee discussing a patient's health care claim on the phone may be overheard by another employee who is not authorized to handle patient information.

If the provider and the health plan employee made reasonable efforts to avoid being overheard and reasonably limited the information shared, an incidental use or disclosure resulting from such conversations would be permissible under the Rule.

### **Minimum Necessity Requirements**

Regarding Minimum Necessity Requirements, the OCR Standards Document answers the following:

**“Q. How are covered entities expected to determine what is the minimum necessary information that can be used, disclosed, or requested for a particular purpose?”**

**Answer:** The HIPAA Privacy Rule requires a covered entity to make reasonable efforts to limit use, disclosure of, and requests for protected health information to the minimum necessary to accomplish the intended purpose. To allow covered entities the flexibility to address their unique circumstances, the Rule requires covered entities to make their own assessment of what protected health information is reasonably necessary for a particular purpose, given the characteristics of their business and workforce, and to implement policies and procedures accordingly. This is not an absolute standard and covered entities need not limit information uses or disclosures to those that are absolutely needed to serve the purpose. Rather, this is a reasonableness standard that calls for an approach consistent with the best practices and guidelines already used by many providers and plans today to limit the unnecessary sharing of medical information.

The minimum necessary standard requires covered entities to evaluate their practices and enhance protections as needed to limit unnecessary or inappropriate access to protected health information. It is intended to reflect and be consistent with, not override, professional judgment and standards. Therefore, it is expected that covered entities will utilize the input of prudent professionals involved in health care activities when developing policies and procedures that appropriately limit access to personal health information without sacrificing the quality of health care.

### **HIPAA Security Overview**

The security regulations jointly developed by HHS Center for Medicare/Medicaid Services (CMS) and the Department of Commerce were released on February 13, 2003 and became effective for most cover entities in April 2005. While the Privacy Rule discussed earlier in this document addressed physical safeguards for protecting patient information in paper documents, the security rule addresses only electronic information. The security rule has been drafted to allow considerable flexibility and discretion in deciding how the security measures will be implemented by a covered

entity. The rule comprehensively covers security regulations for electronic data and distinguishes between "required" and "addressable" measures.

The rule avoids setting specific standards for security. This gives covered entities the opportunity to assess individual risk and determine appropriate implementation specifications best suited to meet the needs of the facility. This lack of specifics also removes the guarantee that a covered entity has achieved total compliance. Much like the Privacy Rule, the Security Rule comes down to commonsense measures to protect patients' medical information, along with comprehensive documentation explaining compliance policies. Organizations that choose to scale down or forgo "addressable" measures are encouraged to take special care to document the bases for their decisions. This documentation is essential since only time will tell what measures the government and the courts will find adequate for compliance with the rule.

### **Required Measures**

This paper does not list all "required" measures of the HIPAA security regulations, focusing primarily on those related to patient charting. Under the new regulations affected, covered entities are required to:

- ◆ Conduct a thorough risk analysis of their organizations and review electronic information handling procedures, information system activities and policies to develop measures that ensure the integrity of patient health information.
- ◆ Develop clear policies for detecting and reporting security violations, as well as contingency and disaster recovery plans to guard against patient data loss.
- ◆ Make business associates and partner companies aware of security policies and procedures, either through written contracts or other less formal means.

While much of the compliance efforts will be the responsibility of the Information Technology (IT) Departments and software vendors (i.e., most physical electronic security measures), a great deal of the responsibility will rest on entity leadership to ensure appropriate policies and procedures are developed and followed. Most healthcare facilities today chart using a combination of electronic and paper methods, giving those caregivers responsibility for approving, granting or obtaining access to electronic patient health information. Use of electronic data will be subject to the new requirements. Specifically, individuals who use electronic patient data will need to understand:

- ◆ Who has access to electronic protected health information (PHI);
- ◆ How electronic access to PHI is assigned or changed;
- ◆ What staff training will be required with regard to electronic security;
- ◆ Who can change PHI electronic information;
- ◆ How will electronic records be protected in the event of a disaster;
- ◆ What steps need to be taken to minimize the chances of electronic record theft;
- ◆ What proper safeguards and disclaimers need to be in place when PHI needs to be sent electronically (i.e. computer generated or faxed to another party).

Changes in patient charting procedures will depend on existing security and training measures within each entity. How each organization decides to meet the new standards will vary, but what won't vary is the fact that each covered entity is required to review the procedures in place and establish a strategy and action plan to comply. In some institutions, the biggest change will not be in procedures or policy but rather in punishment for breaches in security. Practices, such as granting 'generic logons,' sharing IDs/passwords, or faxing information without first validating destination, although always considered a policy violation in most facilities, will now not only be bad practice, but it may also be considered criminal.