



Policy

Quarryville Presbyterian Retirement Community ("QPRC") respects the importance of its residents' personal privacy, and understands the sensitive nature of its residents' health information. QPRC also recognizes that Federal and State laws require that individually identifiable health information must be safeguarded against improper use or disclosure. It is QPRC's policy not to use or disclose a resident's health information except as permitted by law, and to adopt safeguards to protect the confidentiality of its residents' health information.

Definitions

1. **Health Information.** As used in this policy, "health information" shall mean information that is created or received by QPRC that (a) relates to the past, present, or future physical or mental health or condition of a resident; the provision of health care to a resident; or the past, present, or future payment for the provision of health care to a resident; and (b) that identifies the resident, or with respect to which there is a reasonable basis to believe that information can be used to identify the resident.
2. **Disclosure.** The release, transfer, provision of access to, or divulging in any other manner of health information to an individual or entity not part of QPRC.
3. **Use.** The sharing, employment, application, utilization, examination, or analysis of resident health information within QPRC.
4. **Treatment.** The provision, coordination, or management of health care and related services by QPRC, including the coordination or management of health care by QPRC with a third party; consultation with other health care providers relating to a resident; or the referral of a resident for health care between QPRC and another health care provider.
5. **Payment.** The activities undertaken by QPRC to obtain reimbursement for the provision of health care.
6. **Health Care Operations.** Any of the following activities of QPRC:
 - a) Conducting quality assessment and improvement activities, provided that the obtaining of knowledge is not the primary purpose of any studies resulting from such activities; protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;
 - b) Reviewing the competence or qualifications of health care professionals,



evaluating employee and QPRC performance, conducting training programs under supervision to practice or improve skills, training of non-health care professionals, accreditation, certification, licensing, or credentialing activities;

- c) Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;
 - d) Business planning and development, such as conducting cost-management and planning related analyses related to managing and operating QPRC; and
 - e) Business management and general administrative activities of QPRC, including, but not limited to:
 - (i) Customer service.
 - (ii) Resolution of internal grievances;
 - (iii) Due diligence in connection with the sale or transfer of assets to a potential successor in interest; and
 - (iv) Creating de-identified health information, fundraising for the benefit of QPRC, and marketing for which an individual authorization is not required.
7. Workforce. QPRC's workforce includes its employees, agents and volunteers.
8. Business Associate. A "business associate" is a person or entity who on behalf of QPRC performs, or assists in the performance of, a function or activity involving the use of a resident's health information, or who provides services to QPRC that require the disclosure of a resident's health information. Members of QPRC's workforce are not business associates. Examples of business associates are persons or entities that perform the following services to or on behalf of QPRC: claims processing or administration, data analysis, utilization review, quality assurance, billing, legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services.
9. Limited Data Set. A "limited data set" is protected health information that excludes the following direct identifiers of the individual or of relatives, employers, or household members of the individual:
 - a) Names;
 - b) Postal address information, other than town or city, State, and zip code;
 - c) Telephone numbers;
 - d) Fax numbers;
 - e) Electronic mail addresses;



- f) Social security numbers;
 - g) Medical record numbers;
 - h) Health plan beneficiary numbers;
 - i) Account numbers;
 - j) Certificate/license numbers;
 - k) Vehicle identifiers and serial numbers,
 - l) including license plate numbers;
 - m) Device identifiers and serial numbers;
 - n) Web Universal Resource Locators (URLs);
 - o) Internet Protocol (IP) address numbers;
 - p) Biometric identifiers, including finger and voice prints; and
 - q) Full face photographic images and any comparable images.
10. **Breach.** Breach is defined as the unauthorized acquisition, access, use, or disclosure of protected health information which compromises the security or privacy of the protected health information.

Procedure

(A) General

1. **Verification.** When implementing the procedures noted in this Policy Statement, QPRC shall take reasonable steps to verify the identity and authority of the person or entity requesting access to a resident's health information. Reasonable verification procedures include, but are not limited to: reviewing an identification badge or license; a written statement on letterhead; personal knowledge of the requestor; or knowledge of the place of business, address, telephone number, etc. For purposes of notification of family or friends, QPRC shall assume a person's involvement in the resident's care based on the circumstances, such as the fact that they visit the resident or sign necessary paperwork during the admission process.
2. **Minimum Necessary.** When implementing the procedures noted in this Policy Statement with respect to the use, disclosure, or request of health information, QPRC shall limit, to the extent practicable, the amount of such information provided to the limited data set or, if needed by QPRC, to the minimum necessary to accomplish the intended purpose of such use, disclosure, or request. QPRC must itself determine the minimum amount of information necessary.
3. **Release of Entire Medical Record.** In general, QPRC will not release a resident's entire medical record unless the release of the whole record is justified as reasonably necessary to accomplish the purpose of the requested use or disclosure. Unless the circumstances indicate otherwise, QPRC shall presume that requests from public officials, health care providers, plans and



clearinghouses, professional members of QPRC's workforce, business associates, requests for research, requests from the resident, and requests pursuant to a valid authorization for the entire medical record are reasonable. If there are instances where QPRC will release the entire medical record, then QPRC will note those instances and the reasons for the release of the entire medical record.

(B) Treatment, Payment, or Health Care Operations.

1. Workforce access to medical record. The following classes of QPRC's workforce shall have access to a resident's entire medical record, as needed, in order to accomplish their job duties: administration, nursing, dietary, social service, admission, therapy, and other classes of persons as necessary. In addition, the following classes of business associates and health care professionals and their employees and agents, shall have access to the entire medical record, as needed, to accomplish their duties: ambulances, laboratories, pharmacies, radiology providers, physicians, podiatrists, dentists, therapists, oxygen suppliers, audiologists, dialysis providers, hospice providers, optometrists, ophthalmologists, psychiatrists, psychologists, and other classes of business associates as necessary. The Administrator and/or Privacy Officer may grant permission for other persons or classes of persons/entities to access a resident's medical record for the purposes of treatment. All persons, classes of persons, or entities that are not listed above in this policy and who do not have specific permission from the Administrator shall not access a resident's medical record.
2. Accounting for Disclosures. If QPRC implements the use of electronic health records with respect to protected health information, QPRC must provide an accounting, at the resident's request, of treatment, payment and health care operations. Such accounting is limited to three years before the date on which the accounting is requested.

(C) Notice with Opportunity to Agree/Object.

1. General. QPRC may use or disclose health information without the written authorization of the resident for use in a QPRC directory or for notification purposes to family members or friends provided that the resident is informed in advance of the use or disclosure and has the opportunity to agree to or prohibit or restrict the disclosure or use.
2. Family and friends. Subject to the conditions below, QPRC may disclose to a family member, other relative, close personal friend, or any other person identified by the resident, health information (i) that is directly relevant to that person's involvement with the resident's care or payment for that care; and (ii) to notify such person of the resident's location, general condition, or death.



- a) Conditions if the resident is present. If the resident is present for, or otherwise available prior to, a permitted disclosure, then QPRC may use or disclose the health information if it: (i) obtains the resident's agreement; (ii) provides the resident with an opportunity to object to the disclosure, and the resident does not express an objection; or (iii) reasonably infers from the circumstances, based on the exercise of professional judgment, that the resident does not object to the disclosure.
 - (b) Conditions if the resident is not present or is incapacitated. If the resident is not present, in an emergency, or the opportunity to agree/object to the use or disclosure cannot practicably be provided because of the resident's incapacity, QPRC may, in the exercise of professional judgment, determine whether the disclosure is in the best interests of the resident, and, if so, disclose only the protected health information that is directly relevant to the person's involvement with the resident's health care.
 - (c) Verification. QPRC does not need to verify the identity of relatives or other individuals involved in the resident's care. QPRC may rely on the circumstances as verification of involvement in care. For example, the fact that a person admits a resident to QPRC and visits regularly is verification of involvement in the resident's care.
3. QPRC Directory.
- (a) Permissible use. Except when an objection is expressed, QPRC may use the following information to maintain a directory of residents in QPRC:
 - (i) The resident's name.
 - (ii) The resident's location in QPRC.
 - (iii) The resident's condition described in general terms that does not communicate specific medical information about the resident, e.g., fair, critical, stable, etc.
 - (iv) The resident's religious affiliation.
 - (b) Release upon request. QPRC may disclose any of the previous four elements to clergy, and may release all of the information except for religious affiliation to anyone else who inquires about the resident by name. Note that the information in QPRC's Directory may only be released upon request, thus the Directory may not be posted in a publicly viewed area absent consent of the residents.
 - (c) Resident incapacity or emergency. If the opportunity to agree or object cannot practicably be provided because of the resident's incapacity or in an emergency, then QPRC may use some or all of the information permitted above in a QPRC directory, if such disclosure is: (i) consistent with a prior expressed desire of the resident, if any, that is known to QPRC; or (ii) in the resident's best interests as determined by QPRC in



the exercise of professional judgment. QPRC must inform the resident and provide an opportunity to object to any uses or disclosures when it becomes practicable to do so.

- (d) Notice. QPRC shall notify residents that it will use a resident's health information for QPRC's directory, and their right to object to such use, in the Notice of Privacy Practices.
4. Fundraising. Unless a resident objects, QPRC may use certain personal health information to contact a resident in an effort to raise money for QPRC and its operations. QPRC may disclose personal health information to a foundation related to QPRC so that the foundation may contact a resident in raising money for QPRC. In doing so, QPRC would only release contact information, such as a resident's name, address and phone number and the dates a resident received treatment or services at QPRC. Such fundraising communications shall provide, in a clear and conspicuous manner, the opportunity for the resident or recipient of the fundraising request to opt out of receiving future fundraising communications.
5. Accounting of disclosures. QPRC does not need to keep an accounting of disclosures made to a QPRC directory or for notification purposes as noted above.

(D) Authorization.

All releases of a resident's health information not permitted pursuant to the treatment, payment and health care operations exception, or allowed when notice to agree or object is provided, shall require the resident's Authorization. The following protocol shall be followed with regard to resident Authorizations:

1. Authority to release health information. Only the Administrator or Privacy Officer may give permission for the release of a resident's health information pursuant to an Authorization by the resident and/or his/her legal representative.
2. Authorization form must be used. All requests for a resident's health information must be made in writing, and must be made using QPRC's approved "Authorization for the Release of Health Information" (hereinafter, "Authorization").
3. Notify the Privacy Officer. The Privacy Officer is to be notified of the receipt of any completed Authorization.
4. Review the Authorization for completeness. Upon the receipt of an Authorization, QPRC shall review it to ensure that all sections of the form have been filled out completely and accurately. Note that the spaces on the Authorization must be initialed by the requestor; check marks or other indicators are not acceptable. If the form is incomplete, then QPRC shall return it to the requestor noting the areas that need to be completed in order to process the records request.



5. Verify the legal right of the requestor to the records. Health information regarding a resident who is still living will only be released to the following persons:
- (a) The resident
 - (b) The resident's attorney-in-fact under a Power of Attorney (POA). QPRC shall verify this assertion by reviewing a copy of the power of attorney. QPRC will not assume that the mere existence of a power of attorney grants a person the right to obtain medical information from the resident's record. The power of attorney must grant the attorney-in-fact the power to obtain copies of the resident's health information.
 - (c) The resident's legal guardian. QPRC shall verify this assertion by reviewing a copy of the designation of guardianship from the probate court of the county in which QPRC is located.
 - (d) A person who has been specifically authorized by the resident or his/her legally authorized representative to obtain the health information. A resident may grant a person access to their health information by signing and dating a document that specifically grants a person the right to access his/her health information. When reviewing such a document, QPRC will make sure that there is no time limit to the authorization and that it was dated prior to any incompetency of the resident. If a legal representative of the resident has executed this form, then in addition QPRC shall review the underlying document providing the legal representative the legal right to the resident's health information.
 - (e) The ombudsman under certain circumstances. Under Pennsylvania law, a representative of the state long term care ombudsman program may have access to a resident's records that is reasonably necessary for the investigation of a complaint if consent has been given. Consent may be given in the following ways:
 - (i) In writing by the resident;
 - (ii) Orally by the resident, witnessed in writing at the time consent is given by one other person plus an employee of QPRC
 - (iii) In writing by the guardian;
 - (iv) In writing by the attorney-in-fact (if the resident has authorized the attorney-in-fact to give such consent); and
 - (v) In writing by the executor or administrator of the estate of a deceased resident.

If the representative from the ombudsman's office insists on reviewing records in the absence of an open investigation or without consent, then he/she should be referred to the Administrator.



6. Release of a deceased resident's health information. All of the legal rights to the resident's health information noted above cease on the resident's death, and QPRC may only release such information to the resident's estate. Thus, QPRC shall only release the health information of a deceased resident to the executor or administrator of the resident's estate after receiving a copy of a valid probate court appointment, or as otherwise required by law.
7. Timeliness of access. The resident or his/her legal representative are to be given access to the resident's health information within twenty-four (24) hours (excluding weekends and holidays) of making such a request. The resident or his/her legal representative shall be provided a private room where he/she can review the health information in confidence. QPRC shall take appropriate measures to ensure the integrity of the health information during the review, such as having a staff person in the room with the reviewer.
8. Making copies of health information.
 - (a) Requests for copies after inspection. The resident or his/her legal representative has the right after inspection of the records at QPRC to purchase copies of medical records as long as he or she gives QPRC two working (2) days advance notice.
 - (b) Requests for copies with no prior inspection. QPRC requires at least two working (2) days notice of any requests for it to make copies of health information. QPRC will make the copied records available for the requestor within 48 hours.
 - (c) Payment of copying costs. QPRC shall charge a reasonable fee, consistent with the requirements established by the Department of Health, for paper copies, the actual cost of making the copy for information that is stored electronically, and the actual cost of any postage incurred. No fee will be charged for collection and preparation of the copies.
 - (i) Copies are picked up. If a person picks up the copies of the health information that have been made at QPRC, then he/she shall pay the copying costs at that time. QPRC shall obtain a signed receipt from the person as evidence that the records were delivered.
 - (ii) Copies are sent. If a person requests copies of the health information be made and sent to him/her, then QPRC shall determine the number of pages of medical records requested, and the shipping costs associated with sending the records to the requestor. QPRC shall notify the requestor of the cost for such records. Upon receipt of payment in full of the costs of copying and shipping the



requested records, QPRC shall send the records to the requestor by certified mail, return receipt requested.

9. Maintenance of a copy of all records that leave QPRC. QPRC shall keep an exact copy of all records provided to the requestor along with the Authorization requesting the records. The copies of the records shall be filed in a secure location accessible only to the Administrator and Privacy Officer.
10. Accounting of Disclosures. QPRC shall keep an accounting of all disclosures made pursuant to an Authorization.

(E) Business Associates.

QPRC shall enter into a written agreement with a business associate prior to releasing any resident's health information to the business associate. At a minimum, the agreement must provide that that business associate will:

1. Not use or further disclose the information other than as permitted or required by the agreement or as required by law.
2. Use appropriate safeguards to prevent the use or disclosure of information other than as provided for by the agreement.
3. Report to QPRC any use or disclosure of the information of which it becomes aware that is not covered by the agreement or permitted by law within 60 days of such unauthorized use or disclosure.
4. Ensure that any agents of the business associate agree to the same restrictions and conditions that apply to the business associate.
5. Make protected health information available for access and amendment as required by QPRC.
6. Make protected health information available as required to provide an accounting of disclosures.
7. Make its internal practices, books and records related to the use and disclosure of protected health information received from or created by or received by the business associate on behalf of QPRC available to the Secretary of the Department of Health and Human Services for purposes of determining QPRC's compliance with the business associate agreement requirement of HIPAA.



8. At termination of the agreement, if feasible, return or destroy all protected health information received from or created by or received by the business associate on behalf of QPRC that the business associate maintains in any form and retain no copies of such information; or if such return or destruction is not feasible, then extend the protections of the contract to the information and limit further uses or disclosures to those purposes that make the return or destruction of the information infeasible.
9. The agreement must authorize QPRC to terminate the agreement if QPRC determines that the business associate has violated a material term of the agreement.
10. QPRC shall enter into business associate agreements with all persons or entities that satisfy the definition of a "business associate" in the Definitions section of this Policy Statement regardless of whether the disclosures to that person or entity may be for treatment, payment and health care operations purposes.

(F) Notification of Breach.

1. QPRC will notify the resident in the event that a resident's unsecured protected health information (PHI) is breached. "Breach" is defined as the unauthorized acquisition, access, use or disclosure of PHI which compromises the security or privacy of the PHI, but does not include unintentional acquisition, access or use of such information, inadvertent disclosure of such information within a QPRC, and disclosure to a person not reasonably able to retain it. "Unsecured protected health information" refers to PHI that is not secured through the use of a valid encryption process approved by the Secretary of Health and Human Services or the destruction of the media on which the PHI is recorded or stored. Such encryption or destruction methods are not mandated on covered entities such as QPRC. We will evaluate the propriety of securing PHI for QPRC residents, and act using our own discretion. However, should any of the resident's "unsecured" PHI held by QPRC be "breached," then QPRC will notify the resident in the manner discussed below.
2. QPRC must provide notice to the resident no later than 60 days after discovery of the breach of unsecured PHI via first-class mail or e-mail, if the resident specifies that as his/her preference. If the breach involves the information of more than 500 individuals, QPRC will also provide notice to prominent media outlets. Additionally, QPRC will notify the Secretary of Health and Human Services of the breach (immediately if the breach involves the information of more than 500 individuals and in an annual log for all other breaches).
3. The notification must include:
 - (a) A brief description of what happened, including the date of breach and date of



- discovery (if known)
- (b) A description of the types of protected health information that were involved in the breach
- (c) Any steps the resident should take to protect himself/herself from potential harm resulting from the breach
- (d) A brief description of what QPRC is doing to investigate the breach, mitigate harm to the resident, and protect against further breaches; and
- (e) Contact procedures for the resident to ask questions or learn additional information, which must include a toll-free telephone number, an e-mail address, Web site, or postal address.

(G) Marketing Communications.

Discussions between QPRC and the resident concerning possible products and services offered by outside entities are considered “marketing communications.” For example, if an outside vendor requests that QPRC recommend their product or service to the resident, or provide the resident with a pamphlet or other written brochures, a “marketing discussion” has occurred. Generally, speaking, before QPRC can engage in these conversations with the resident, or provide the resident with the materials, QPRC will need to receive the resident’s authorization. The only current exception to this process is for conversations that involve a drug or biologic that the resident is currently receiving, and so long as any payment received by QPRC from the outside supplier in exchange for this communication is reasonable in amount.

(H) Other Uses or Disclosures.

Any uses or disclosures of a resident's health information that are not addressed in section (A) through (D) of this policy shall only occur with the approval of the Privacy Officer. Such other uses and disclosures may include, but are not limited to, uses and disclosures for the following purposes:

1. As required by law
2. For public health activities
3. About victims of abuse, neglect or domestic violence, such as reports to DOH
4. For health oversight activities, such as surveys
5. For judicial and administrative proceedings, such as in response to subpoenas
6. For law enforcement purposes
7. Notification of coroners



8. Notification of funeral directors
9. For cadaveric organ, eye or tissue donation purposes
10. For research purposes
11. To avert a serious threat to health or safety
12. For specialized government functions, such as releases for military or veteran's activities, national security or intelligence activities, or use by a prison
13. For workers' compensation
14. Disclosures of de-identified information

(I) Right to Access Records.

If QPRC [maintains/moves to store] protected health information in an electronic health record, a resident may choose to obtain a copy of such information in an electronic format and direct QPRC to transmit such copy directly to an entity or person designated by the resident.

(J) Denial of Access to Health Information.

QPRC may restrict a resident's right to inspect and obtain a copy of his/her health information in the instances noted below. The Privacy Officer must authorize any denials of access to health information.

1. Denials without a right of review. QPRC may deny a resident access to records that contain his/her health information without providing the resident an opportunity for review, i.e., without an appeal, when:
 - (a) The resident requests copies of psychotherapy notes.
 - (b) The resident requests information compiled in anticipation of use in a civil, criminal or administrative action or proceeding.
 - (c) The health information is subject to the Clinical Laboratory Improvement Amendments (CLIA) of 1988.
 - (d) The resident agreed to a temporary denial of access when consenting to



participate in research that includes treatment, and the research is not complete.

- (e) The health information was obtained from someone other than a health care provider under the promise of confidentiality and access would likely reveal the source of the information.

2. Denials with a right of review. QPRC may deny a resident access to records that contain his/her health information, but must provide the resident the right to have such denials reviewed, in the following circumstances:

- (a) QPRC has determined that the access is likely to endanger the life or physical safety of the resident or another person.
- (b) The health information makes reference to another person who is not a health care provider, such as another resident, and a licensed health care professional has determined that the access requested is likely to cause substantial harm to such other person.
- (c) The request for access is made by a resident's personal representative, and a licensed health care professional has determined that access is likely to cause substantial harm to the resident or another person.

(3) Requirements if access is denied. If access is denied, in whole or in part, for one of the reasons noted in section (J)(2) above, then QPRC shall do the following:

- (a) To the extent possible, give the resident access to any other health information requested, after excluding the health information as to which QPRC has a ground to deny access.
- (b) Provide a timely, written denial to the resident. The denial will be in plain language and contain: (i) the basis for the denial; (ii) if applicable, a statement of the resident's review rights, including a description of how the resident may exercise those rights; and (iii) a description of how the resident may complain to QPRC or to DHHS. The description will contain the name, or title, telephone number or office of the designated privacy contact person for QPRC.
- (c) If QPRC does not maintain the health information requested, and QPRC knows where the information is maintained, then inform the resident where to direct his/her request.



(d) If the resident has requested a review of the denial, QPRC will designate a licensed health care professional, who did not participate in the original decision to deny, to act as a reviewing official. QPRC will promptly refer a request for review to the reviewing official. The designated reviewing official will determine, in a reasonable amount of time, whether or not to deny the access based on the standards noted in this section (J). QPRC will promptly provide written notice to the resident of the determination of the designated reviewing official, and take other action as is necessary to implement the designated reviewing official's determination.

(4) When Request Must be Granted. QPRC must grant the resident's request to restrict disclosure when the disclosure is to a health plan for purposes of carrying out payment or health care operations and the information pertains solely to a health care item or service for which the resident has paid in full out of pocket.

(K) Privacy Officer Responsibility.

The Privacy Officer shall be responsible for overseeing the implementation of the steps in this policy and procedure, including the following:

1. Ensuring that the Notice of Privacy Practices adequately discusses QPRC's use and disclosure policies.
2. Designing and updating, as appropriate, the Authorization form, as well as any standard forms developed to be used for the use and disclosure of health information.
3. Reviewing any requests for a resident's health information pursuant to an Authorization, determining whether to deny a resident access to health information, and responding in the required time frames.
4. Notifying the Administrator of any requests that he/she receives for a copy of the resident's health information, and informing the Administrator of decisions to grant or deny access to health information.