

Summary for Commonwealth of Virginia Medical Records Privacy Laws

I. Summary

Virginia laws and regulations regarding privacy of healthcare information are applicable to all providers of healthcare within the Commonwealth regardless of whether the health care provider transmits health care information electronically, or charges a fee for services. The laws are interpreted broadly enough to be applicable even for not-for-profit Pregnancy Medical Clinics (PMCs) operating in the Commonwealth. Pregnancy Resource Centers (PRCs) would not be required to comply because they do not compile healthcare records. PRC's do have a legal obligation to protect their client's personal and private information.

II. Does Virginia law define “Protected Information” differently than HIPAA?

Yes! Virginia's definition of protected information (“Health record”) is more broad than HIPAA and includes any written or printed health care information maintained by a health care provider in the course of providing health services, including information from confidential conversations, and any other information otherwise obtained in confidence by the provider about the individual in connection with the provision of health services, not just electronically recorded material.

III. Are there any specific compliance requirements for PMCs under Virginia law not identified in the NIFLA HIPAA VOLUNTARY COMPLIANCE MANUAL FOR PMCs?

- A. Virginia requires specific information be present in a written release form. Virginia PMCs should always use the Virginia specific release form.
- B. PMCs must provide patient health records within 15 days of receipt of a written request and provide records in the format requested, so long as the requested format is reasonably available to the PMC.
- C. PMCs must maintain patient health records for a minimum of six years unless there is a qualifying exception, and provide patients written notice concerning the PMC's records retention policies. Destroy records by incineration or shredding to protect patient confidentiality.
- D. When closing, or relocating a PMC, staff must notify patient in writing that copies of patient health records can be sent to a provider of the patient's choice or provided to the patient.

IV. Are there any specific Virginia law provisions applicable to PRCs

Virginia laws regarding protection and privacy of personal information may be applicable to both PMCs and PRCs, and both are strongly encouraged to install encryption software programs in their computer systems in order to minimize the risk of electronic personal data of their clients being compromised or breached. Unless encryption software is utilized, the laws require a business to immediately report any electronically stored personal data that has, or may have been, compromised both to the Virginia Attorney General's Office and to each individual whose data may be potentially impacted by the breach.

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