

<b>EVMS Medical Group</b>		
<b>POLICY: Involvement in Care</b>	<b>DATE:</b>	
<b>CATEGORY: PRIVACY</b>	<b>REVIEWED/ REVISED: 07/2014</b>	<b>Page 1 of 3</b>

**POLICY:**

EVMS Medical Group providers will only share protected patient information with a patient’s family, friends or others involved in the patient’s care or payment for care in accordance with the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder (collectively, “HIPAA”), including 45 C.F.R. Part 164.500 et seq. (the “Privacy Rule”), and the Virginia Health Records Privacy Act, Va. Code Ann. § 32.1-127.1:03, the requirements of which are summarized below.

This Involvement in Care Policy does not govern whether a family member, friend, or other person may make healthcare decisions on behalf of a patient under the Virginia Health Care Decisions Act, Va. Code Ann. § 54.1-2983, and the related regulations. Please consult the Personal Representative of Patient Policy with regard the ability of others to make medical decisions on behalf of a patient.

Furthermore, nothing contained in this Involvement in Care Policy shall limit the right of a person who is duly appointed as the patient’s personal representative in accordance with HIPAA under 45 C.F.R. § 164.502(g) and the Virginia Health Records Privacy Act, from being treated as the patient with respect to uses and disclosures of protected health information relevant to such personal representation. For more information about the appointment of a patient’s personal representative, see the Personal Representative of Patient Policy.

**A. If the Patient is Present:** Under 45 C.F.R. § 164.510 of the Privacy Rule, a provider may share with the patient’s family, friends, or other persons identified by patient, protected health information that is directly relevant to the involvement of such persons in the patient’s care or payment for care. If the patient is present, or is otherwise available prior to the disclosure, and has the capacity to make health care decisions, the provider may discuss the information with the family member or other person if the patient agrees, or when given the opportunity, does not object. The United States Department of Health & Human Services (“HHS”) has provided the following examples demonstrating the application of this rule:

- (1) A doctor may give information about a patient’s mobility limitations to a friend driving the patient home from the hospital.
- (2) A hospital may discuss a patient’s payment options with the patient’s adult daughter.
- (3) A doctor may instruct a patient’s roommate about proper medicine dosage when she comes to pick up her friend from the hospital.

- (4) A physician may discuss a patient's treatment with the patient in the presence of a friend when the patient brings the friend to a medical appointment and asks if the friend can come into the treatment room.

**B. If the Patient is Not Present or in Emergency Circumstances:** Even when the patient is not present or it is impracticable because of emergency circumstances or the patient's incapacity for the provider to ask the patient about discussing her care or payment with a family member or other person, the provider may share this information with the person when, in exercising professional judgment, he or she determines that doing so would be in the best interest of the patient. Unless the person is the patient's duly appointed personal representative, the health care provider is not required by HIPAA to share a patient's information when the patient is not present or is incapacitated, and the provider can choose to wait until the patient has an opportunity to agree to the disclosure before sharing such information with those involved in the patient's care. HHS has provided the following examples demonstrating this rule:

- (1) A surgeon may, if consistent with such professional judgment, inform a patient's spouse, who accompanied her husband to the emergency room, that the patient has suffered a heart attack and provide periodic updates on the patient's progress and prognosis.
- (2) A doctor may, if consistent with such professional judgment, discuss an incapacitated patient's condition with a family member over the phone.

**C. Limitation on Information Shared with Others:** In either situation described above, the health care provider may discuss only the information that the person involved in the patient's care needs to know about the patient's care or payment. For example, a provider may give information regarding a patient's drug dosage to the patient's health aide who accompanies the patient to an appointment. On the other hand, a provider may not tell a patient's friend about a past medical problem that is unrelated to the patient's current condition. Furthermore, as a general rule the provider may not disclose psychotherapy notes to any such person involved in the patient's care without the patient's express written authorization.

## **PROCEDURE:**

In determining whether to share patient information with someone involved in the patient's care, the provider should follow the policy and guidelines described above. Although the Privacy Rule does not require that a provider document the patient's agreement or lack of objection to sharing information with a person involved in the patient's care, a provider should document the patient's agreement or lack of objection in writing as part of the patient's medical record.

Alternatively, patients may use the EVMS Medical Group Involvement in Care – Patient Designation to designate those individuals involved in their care who should have access to their information. After a patient completes the form, staff should follow the procedure below to ensure proper documentation of the information:

1. Scan the form into the patient's record under the HIPAA folder of the EHR.

2. Send completed and scanned forms to the Compliance Office so that they may be entered into IDX. Forms should include enough information, such as an MRN number, to ensure that the Compliance Office can correctly identify the patient.