

Virginia Medical Reserve Corps HIPAA & Liability Policy Acknowledgment

Health Insurance Portability and Accountability Act (HIPAA) Protects Patient Privacy

As a student/volunteer performing duties for the Virginia Department of Health (VDH), you will have access to the Protected Health Information (PHI) of our clients. The fact that an individual is or was a client of the Virginia Department of Health is PHI. Federal and state laws, including HIPAA and our policies and procedures, protect the privacy and security of this PHI.

It is illegal for you to use or disclose PHI outside the scope of your volunteer duties for the Virginia Department of Health. This includes oral, written, or electronic uses and disclosures.

The following are guidelines for using public health information:

- ★ You may use PHI as necessary to carry out your duties as a student/volunteer.
- ★ You may share PHI with other health care providers for treatment purposes.
- ★ You may NOT photocopy PHI.
- ★ You must access only the minimum amount of PHI necessary to care for a patient or to carry out an assignment.
- ★ You may NOT record PHI (such as patient names, diagnoses, dates of birth, addresses, phone numbers, etc.) on any assignments you may need to turn into your instructor, reports you may need to turn in to your program, or forms you may need to take with you.
- ★ You may only access the PHI of patients for whom you are caring/volunteering when there is a need for the PHI.
- ★ Be aware of your surroundings when discussing PHI. For example, because others may overhear you, it is inappropriate to discuss PHI in bathrooms, lunch areas or in any other public place.
- ★ When disposing of any documents with PHI, do NOT put them into a waste can. Instead, place discarded documents with PHI into containers marked for shredding.
- ★ If you have questions about the use or disclosure of PHI, contact the health district's Privacy Officer or Medical Reserve Corps Coordinator.

MRC Volunteer Liability

Persons who volunteer to serve in a Medical Reserve Corp (MRC) unit could be protected from liability for injuries to persons treated by the MRC through various provisions of state and federal law. (*Note that in all cases the facts of the situation will determine if liability protections apply.*)

Code of Virginia § 44-146.23 (Commonwealth of Virginia Emergency Services and Disaster Law of 2000)

- MRC volunteers while engaged in emergency service and activities should be immune from liability for negligence caused when providing medical and health services so long as they are doing so under supervision of the VDH.
 - An emergency includes the threat of an occurrence that could cause substantial harm, preparing for disasters, and the prevention of injury.
- Additionally, during an emergency, those volunteers who are licensed or certified to render health care services should receive immunity from negligence when they gratuitously render aid using their skills.

Code of Virginia § 2.2-3600 et seq., (State Government Volunteers Act)

- MRC volunteers may enjoy the protection of the Commonwealth's sovereign immunity if they are deemed to be a volunteer of VDH.

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Code of Virginia § 8.01-225.02 may provide certain liability protection for health care providers during declared disasters.

- In the absence of gross negligence or willful misconduct, any health care provider who responds to a disaster shall not be liable for any injury or wrongful death of any person arising from the delivery or withholding of health care when (i) a state or local emergency has been or is subsequently declared in response to such disaster, and (ii) the emergency and subsequent conditions caused a lack of resources, attributable to the disaster, rendering the health care provider unable to provide the level or manner of care that otherwise would have been required in the absence of the emergency and which resulted in the injury or wrongful death at issue.

Code of Virginia § 8.01-225.01 - may provide protection from liability in cases where a provider is alleged to have abandoned his own patients while helping out in a declared emergency.

Code of Virginia § 8.01-225 (Good Samaritan Act)

- If MRC members are actually assisting ill or injured people at a "scene of an accident, fire, or any life-threatening emergency" the Good Samaritan Act may apply.

Federal Law: Public Readiness and Emergency Preparedness Act (PREP Act) Pub. L. 109-148

- If the MRC's activities relate to the dispensing of drugs or devices in an emergency situation, the PREP Act might apply.
- During a public health emergency, the Secretary of HHS may appoint MRC volunteers as intermittent disaster response personnel, which grants them the legal protections when they are working within the scope of their Federal employment as members of the MRC federal deployment cadre.

(<http://www.medicalreservecorps.gov/MRCDeployment/FAQ/LegalProtections>).

Liability & Risk Management

Virginia Medical Reserve Corps volunteers are covered by VDH's Risk Management policy for daily public health activities when under the direction of VDH and abiding by VDH volunteer policies. (Virginia Code 2.2-1837 and 2.2-1840)

- This includes up to \$2 million in Tort/Medical Malpractice Liability and up to \$10,000 for medical payment claims.

I acknowledge that I have read and understand the information above. I realize that there are civil and criminal penalties for the unauthorized use and disclosure of PHI. I will abide by the volunteer policies and guidelines when performing my duties as a Medical Reserve Corps volunteer for the VDH.

Signature of Volunteer: _____

Print Name: _____

Date: _____