

TITLE OF POLICY: NONDISCLOSURE POLICY

1.0 PURPOSE

To require all employees to maintain the confidentiality of VA, third party, and VRFP confidential information.

2.0 SCOPE

This policy applies to all VRFP employees, including those who hold a VA Without Compensation (WOC) appointments; and all non-VA directors and officers

3.0 DEFINITION

Confidential Information is defined as information of any kind, nature, or description concerning any matters affecting or relating to employees' services as further described under part 4.0.

4.0 POLICY

VRFP employees are required to maintain the confidentiality of information obtained in the performance of their duties. There are three main categories of confidential information that employees will encounter:

- 1) *VA Confidential Information.* – VA is subject to various laws regarding confidentiality, including but not limited to the Privacy Act, the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), the Freedom of Information Act, and 38 U.S.C. §§5701, 5705, and 7332. VA may only use or disclose Confidential Information consistent with applicable legal authority. Examples of VA Confidential Information include Individually Identifiable Information contained in VA patient files, VA data, VA research and VA employee records including but not limited to licensure and credentialing.
- 2) *Third Party Confidential Information.* – Confidential Information obtained from federal or nonfederal sponsors and research collaborators in the context of potential and actual collaborative research and/or education. This information includes, but is not limited to, trade secrets, commercial, financial information, protocols and data.
- 3) *VRFP Confidential Information.* – Confidential information such as budget, personnel, and information pertaining to internal business operations matters.

New Employees and Non-VA directors and officers – New employees and non-VA directors and officers shall be provided a copy of this policy and shall be required to execute a nondisclosure agreement as part of their orientation process within 15 days of hiring.

Existing Employees and Non-VA directors and officers – Existing employees and Non-VA directors and officers who have not executed a nondisclosure agreement shall be provided a copy of this policy and will be required to execute a nondisclosure within 45 days of the effective date of this policy.

For VA WOC Employees - VRFP employees who hold a VA Without Compensation appointment are subject to various laws regarding confidentiality, including but not limited to the Privacy Act, Freedom of Information Act, 38 U.S.C. §§5701, 5705, and 7332. VA WOC employees may only use or disclose confidential information consistent with applicable authorities. Requests for disclosure of confidential information will be handled in accordance with 5 U.S.C. §552, E.O. 12600, and 38 C.F.R. 1.554a. VA employees are bound by 18 U.S.C. § 1905, known as the Federal Trade Secrets Act, to not disclose confidential and proprietary information disclosed to them in the conduct of their official duties. Additionally, the Economic Espionage Act of 1996 makes the theft or misappropriation of a trade secret by VA employees a federal crime. 18 U.S.C. §§ 1831-1839.

NDA Record Maintenance – NDAs shall be maintained in the employee’s personnel file.

5.0 RELATED DOCUMENTS

- A) VHA Handbook 1200.17, ¶ 12(e)
- B) Nondisclosure Agreement

6.0 Rescission

Non-Disclosure Policy November 19, 2015