

## Using VcDs in Senior Living and Care Settings: A Situation Guide for the Provider, Caregiver, and Clinician

Use of voice-controlled devices (VcDs) like Alexa, among many others, is on the rise. Whether a community provides devices to residents as a service or residents bring their personal devices with them at move in, the presence of VcDs in senior living and care is becoming more prevalent. Depending on how these devices are used—and in which setting—providers have much to consider. Here are examples of some possible situations and the roles providers, caregivers, and clinicians might play in each of four settings:

1. Skilled Nursing
2. Assisted Living
3. Independent Living
4. Life Plan Communities

### Skilled Nursing

The Skilled Nursing Facility (SNF) environment, as a defined covered entity, must always comply with HIPAA/HITECH regulations and adopt evolving procedures to conform with new technologies. Among other things, these procedures need to address potential business associates and workforce training, anticipating and protecting against Electronic Protected Health Information (ePHI) breaches, all within a framework of resident rights. In a SNF, there are a number of benefits for a resident who uses a device for assistance and entertainment. There are situations with minimal privacy or information-security concerns such as when a resident:

- listens to music;
- accesses information on the internet; or
- simply operates the television.

These are, of course, relatively harmless activities.

But for administrators there are also risks with regard to privacy, information security, and regulatory compliance. It is useful for an administrator to have a privacy and information-security consultant provide current suggested conforming procedures. ePHI is indeed a primary concern.



...it may also record communication between caregivers and residents that would be considered ePHI.

### Always “On”

Remember, these devices are always “on” and listening, possibly observing and documenting. While the VcD is an excellent tool in many ways as it fields verbal requests directly, it may also record communication between caregivers and residents that may include talk considered to be ePHI.

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Voice-enabled technology is developing rapidly and can be highly beneficial for clinicians in multiple ways, especially in a SNF setting. Soon, a clinician, nurse or certified nursing assistant (CNA) may use a voice-controlled virtual assistant to:

- obtain a resident's electronic health record;
- remind a resident to exercise; or
- prompt voiding.

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It may be used during a physician visit to accurately capture examinations and therefore support accurate coding and billing.

The administrator must, of course, be aware that any type of interactive recording will probably be accessible for Quality Assurance purposes, as well as third-party audits. So, when VcD tools are allowed or provided by the facility, that facility should be skilled at maintaining and securing these tools and including them as part of the annually required risk assessment.

In addition, VcDs may also be used for entertainment, for example playing the resident's favorite music or keeping them socially connected and engaged with family, peers, and staff.

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### Assisted Living

The VcD has broad appeal throughout the senior living sector. Communities may provide devices as an amenity to families or the residents themselves and enhance the concierge services provided. Perhaps even more common currently is the interest among seniors to bring their own personal devices with them at move-in.

#### Always Listening

While concern for the user's own privacy and information security is more obvious, it is also important to consider the privacy of neighbors who may visit the user's apartment and inadvertently share health information conversationally. A VcD has the capacity to record this information, most likely unbeknownst to the visitor. Information shared and/or recorded between residents is probably not considered legally protected information, but the facility needs to consider the ramifications and their potential liability if prudent precautions are not in place. This is where privacy and information-security consultants can provide many suggested best practices.

Another potential liability for assisted living providers is when home-health caregivers provide services in the resident's apartment. Because resident rooms are typically modest in size, the resident and caregiver are likely to exchange health information within earshot of a VcD without remembering that it is passively listening.

Depending on how the assisted living provider needs to comply with state or federal privacy requirements, they along with the home-health provider should be aware of how the VcD is intentionally or passively involved with health information privacy, security, and documentation issues. The risks in this situation could rise to HIPAA violations if the ePHI is breached due to an unsecured network or other unmitigated risks.

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### Independent Living

If an independent living community chooses to offer a VcD to each of its new residents as an amenity, there are particular issues that accompany that decision. While information security and privacy may not be regulated for independent living communities, the liability and community's reputation is still a concern for the ownership. Similar to the assisted living scenario, a resident might engage a home healthcare agency.

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### Community Concerns

When the VcD or network is owned by the community and sensitive information may be stored, the healthcare provider might need to have a business relationship agreement with the community or authorization from the resident indicating the recognition of the device and its functions. As in other residential community settings, the community must take responsibility for how listening devices will be secured against potential violations.

Even in the case of residents bringing their own VcDs to a community, the provider may face state privacy laws because, although the community is not a regulated healthcare setting, the law may apply to any environment. In addition, the provider's WIFI networks should maintain reasonable protections and mitigate vulnerability to outside attacks.

### Life Plan Communities

Since life plan communities encompass many or all of the aforementioned settings, operators need to take precautions at the highest and perhaps more stringent level for the enterprise. Skilled nursing, assisted living, and independent living on one campus and under the auspices of one corporate entity warrant a more comprehensive approach to internet and data security, possibly using firewalls and other tools to either segregate or integrate data in ways that are the most effective for the organization.

Being aware of a desire to serve residents who move among care settings within the community means taking a reasoned approach that can make information compliance easier to manage across departments and settings.

### Conclusion

The use of VcDs in senior living and care settings certainly creates exciting opportunities, but also a complex set of challenges that warrant careful monitoring and vigilant compliance. Providers need to pay attention to related topics from industry associations, literature, trade media, and knowledgeable vendors that analyze these issues. And it is always advisable to consult legal, privacy, and information-security experts to keep up with best practices.