



Policy #: DHHS-03-13

Issue Date: 7/17/13

Revised Date:

I. SUBJECT

HIPAA - Minimum Necessary Policy

II. POLICY STATEMENT

The Department of Health and Human Services (DHHS) and its offices will make reasonable efforts to use and disclose only the minimum necessary protected health information (PHI) in any format to accomplish the intended work-related purpose(s).

III. RATIONALE

The minimum necessary policy is required by the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule and good business practice.

IV. PROCEDURE STATEMENT

1. Our workforce will not use or disclose more than the PHI necessary to accomplish the intended purpose of such use or disclosure.
2. The minimum necessary policy does not apply in the following situations:
 - Disclosures to or requests by a health care provider for treatment purposes.
 - Disclosures to the individual who is the subject of the information.
 - Uses or disclosures made pursuant to an individual's authorization.
 - Uses or disclosures required for compliance with the Health Insurance Portability and Accountability Act (HIPAA) Administrative Simplification Rules.
 - Disclosures to the U.S. Department of Health and Human Services (HHS) when disclosure of information is required under the Privacy Rule for enforcement purposes.
 - Uses or disclosures that are required by other law.

Where an entire record is disclosed, the reason for such disclosure should be noted. In the event that more than the minimum necessary PHI is disclosed, even where the disclosure is inadvertent or unintentional, that disclosure is required by law to be investigated for potential breach notification under federal law.

3. The right to access PHI in any format, including on computer systems, must be documented and maintained by the Office Director or his/her designee. Such documentation must identify the persons or classes of persons within the Department who need access to PHI to carry out their job duties, the categories or types of PHI needed, and conditions appropriate to such access. For example, hospitals may implement policies that permit a category (i.e. providers) including doctors, nurses, or others involved in treatment, to have access to the entire medical record, as needed.
4. Routine disclosures must always be limited to the minimum amount necessary to accomplish the purpose of the disclosure, and to no more than the specific PHI requested. Standard protocols for repeated requests must be developed and utilized. Criteria must be established and used to ensure that no more than the minimum necessary PHI is disclosed in responding to non-routine requests.
5. Reasonable Reliance - the Department is permitted, but not required, to reasonably rely on the judgment of the party requesting the disclosure as to the minimum amount of PHI that is needed in certain circumstances. This reliance is permitted when the request is made by:
 - A public official or agency who states that the PHI requested is the minimum necessary for a purpose permitted under 45 CFR 164.512 of the Rule, such as for public health purposes (45 CFR 164.512(b)).
 - Another covered entity.
 - A professional who is a workforce member or business associate of the covered entity holding the PHI and who states that the PHI requested is the minimum necessary for the stated purpose.
 - A researcher with appropriate documentation from an Institutional Review Board (IRB) or Privacy Board.
6. Intentional failure to follow this policy will result in sanctions, as set forth in our HIPAA Sanctions Policy, up to and including termination of employment.

V. DEFINITION

Protected Health Information is information about an individual, including demographic information, that may identify the individual, which relates to the individual's past, present or future physical or mental health condition, related health care services or payment for such services.

VI. DISTRIBUTION

All Staff via e-mail and posting on the DHHS Intranet.

7/17/13

Date



Mary C. Mayhew
Commissioner