
SUBJECT: MINIMUM NECESSARY

GENERAL STANDARD (PRIVACY RULE SECTIONS 164.502(b) and 164.514(d))

When using or disclosing PHI or when requesting PHI from another CE, AHS must make reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure or request, in accordance with the requirements of the Privacy Rule.

PRIVACY RULE:

I. Minimum Necessary Uses of PHI.

- A. A CE must identify:
 - 1. Those persons or classes of persons, as appropriate, in its workforce who need access to PHI to carry out their duties; and
 - 2. For each such person or class of persons, the category or categories of PHI to which access is needed and any conditions appropriate to such access.
- B. A CE must make reasonable efforts to limit the access of such persons or classes to such category or categories of PHI.

II. Minimum Necessary Disclosures of PHI.

- A. For any type of disclosure that it makes on a routine and recurring basis, a CE must implement policies and procedures (which may be standard protocols) that limit the PHI disclosed to the amount reasonably necessary to achieve the purpose of the disclosure.
- B. For all other disclosures, a CE must:
 - 1. Develop criteria designed to limit the PHI disclosed to the information reasonably necessary to accomplish the purpose for which disclosure is sought; and
 - 2. Review requests for disclosure on an individual basis in accordance with such criteria.
- C. A CE may rely, if such reliance is reasonable under the circumstances, on a requested disclosure as the minimum necessary for the stated purpose when:

1. Making disclosures to public officials that are permitted under Section 164.512, if the public official represents that the information requested is the minimum necessary for the stated purpose(s);
2. The information is requested by another CE;
3. The information is requested by a professional who is a member of its workforce or is a business associate of the CE for the purpose of providing professional services to the CE, if the professional represents that the information requested is the minimum necessary for the stated purpose(s); or
4. Documentation or representations that comply with the applicable requirements of the AHS General Standard and Guidelines on “Research” have been provided by a person requesting the information for research purposes.

III. Minimum Necessary Requests for PHI.

- A. A CE must limit any request for PHI to that which is reasonably necessary to accomplish the purpose for which the request is made, when requesting the information from other CEs.
- B. For a request that is made on a routine and recurring basis, a CE must implement policies and procedures (which may be standard protocols) that limit the PHI requested to the amount reasonably necessary to accomplish the purpose for which the request is made.
- C. For all other requests, a CE must:
 1. Develop criteria designed to limit the request for PHI to the information reasonably necessary to accomplish the purpose for which the request is made; and
 2. Review requests for disclosure on an individual basis in accordance with such criteria.

IV. Entire Medical Record; Exceptions to Minimum Necessary Requirements.

- A. A CE may not use, disclose or request an entire medical record, except when the entire medical record is specifically justified as the amount that is reasonably necessary to accomplish the purpose of the use, disclosure, or request.
- B. The minimum necessary requirement does not apply to:
 1. Disclosures to or requests by a health care provider for treatment;

2. Uses or disclosures made to the individual (e.g., when exercising rights to access PHI, or to obtain an accounting of disclosures of PHI);
 3. Uses or disclosures made pursuant to an authorization (i.e., for any type of authorization required by any AHS General Standard and Guidelines);
 4. Disclosures made to the Secretary of HHS (or his/her designee) in connection with an investigation or compliance review;
 5. Uses or disclosures that are required by law (see the AHS General Standard and Guidelines on “Legal Requirements”); and
 6. Uses or disclosures that are required for compliance with applicable requirements of the Privacy Rule.
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GUIDELINES:

Minimum Necessary Uses of Protected Health Information

1. AHS has, or will, identify each relevant job type that needs access to PHI, the specific types of PHI those job types must access to perform their work, and any conditions appropriate to such access. These role based access determinations will be maintained by AHS departments, divisions and offices.
2. AHS has trained, and will continue to train, its workforce such that they understand and adhere to the minimum necessary principles.
3. AHS health care providers will use a patient’s entire medical record in fulfillment of their obligations to provide quality care to a patient. However, AHS does not envision the need to use an entire medical record for any other purpose, and will not do so, unless a specific justification for such a use is documented by AHS, and approved by the Privacy Official or designee.

Minimum Necessary Disclosures of Protected Health Information

1. AHS has, or will, identify disclosures of PHI that it makes on a routine and recurring basis. These disclosure identifications will be maintained by AHS departments, divisions and offices.
2. In all cases involving routine and recurring disclosures, AHS will limit the amount of PHI disclosed to that which is necessary to accomplish the purpose of the disclosure.
3. AHS reviews non-routine disclosures of PHI that are subject to the minimum necessary standard on a case-by-case basis.

4. Such non-routine disclosures are discussed with the Privacy Official or designee to determine if the amount of PHI at issue is the minimum necessary to achieve the purpose of the disclosure, according to established criteria.
5. When necessary with respect to such non-routine disclosures, the Privacy Official or designee will speak with a representative from the entity making the request, to obtain additional information or clarifications regarding the request.
6. AHS will not disclose an individual's entire medical record in fulfillment of any request subject to the minimum necessary standard for any reason, unless a specific justification for such a disclosure is documented by AHS, and approved by the Privacy Official or designee. AHS does not envision the necessity of disclosing an entire medical record for a purpose other than treatment or when expressly authorized by an individual (as set forth above, disclosures for treatment, and disclosures pursuant to an authorization, are not subject to the minimum necessary standard).

Minimum Necessary Requests for Protected Health Information

1. AHS has, or will, identify requests for PHI that it makes on a routine and recurring basis. These request identifications will be maintained by AHS departments, divisions and offices.
2. In all cases involving routine and recurring requests, AHS will limit the amount of PHI requested to that which is necessary to accomplish the purpose of the request.
3. AHS reviews non-routine requests it makes for disclosures of PHI that are subject to the minimum necessary standard on a case-by-case basis.
4. The Privacy Official or designee will review such non-routine requests to ensure that the amount of PHI requested is the minimum necessary to achieve the purpose of the request, according to established criteria.
5. AHS will not request an entire medical record in fulfillment of any request subject to the minimum necessary standard for any reason, unless a specific justification for such a request is documented by AHS, and approved by the Privacy Official or designee. As set forth above, requests of PHI for treatment are not subject to the minimum necessary standard.