

Emma Eccles Jones College of Education & Human Services

POLICY INFORMATION

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Safeguard:	Approved by: Dean Beth E. Foley  7AB6B86710B5491...	Date Approved: 10/6/2016

I. POLICY STATEMENT

When using or disclosing Protected Health Information (PHI), or when requesting PHI, CEHS will make reasonable efforts to limit the PHI used, disclosed, or requested, to the minimum necessary, as required by 45 CFR §164.502(b).

II. DEFINITIONS

See HIPAA Privacy Policy 100

III. AUTHORITY AND RESPONSIBILITIES

CEHS has component units that are listed as a hybrid entity in accordance with USU's HIPAA Hybrid Covered Entity Declaration. Only the health care component/HCC (i.e., covered functions) of CEHS must comply with this policy. All references in this policy to "CEHS" shall be construed to refer only to the health care component of CEHS.

IV. PROCEDURES TO IMPLEMENT

1. **When the Minimum Necessary Standard applies:**
 - a. When using PHI internally;
 - b. When disclosing PHI to an external party in response to a request (except for treatment related disclosures); and
 - c. When requesting PHI from another covered entity.
2. **When the Minimum Necessary Standard does NOT apply:**
 - a. The PHI is for use by or a disclosure to a healthcare provider for treatment purposes;
 - b. The disclosure is to the patient or the patient's legally authorized representative;
 - c. The disclosure is pursuant to a valid authorization, in which case, the disclosure will be limited to the PHI specified on the authorization;
 - d. The disclosure is the Secretary of Health and Human Services; or
 - e. The disclosure is required by law.

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3. Accessibility by Workforce Members to PHI:

Each HCC is responsible for identifying workforce members in the HCC who need access to PHI in order to carry out their duties and the PHI or types of PHI to which access is needed and to assign role-based access to those individuals appropriate to their job function.

4. Requests for PHI:

Each HCC is responsible for reviewing requests for PHI from internal and/or external sources to determine whether the request is one to which the Minimum Necessary Standard applies.

- a. If the request is made by another health care provider in order to obtain PHI necessary to treat the patient, the Minimum Necessary Standard does NOT apply, and the PHI that is requested will be released as quickly as possible.
- b. If the request is not made for purposes of providing treatment to the patient, but is also a type of request to which the Minimum Necessary Standard does not apply, the HCC will release the PHI in accordance with CEHS policies.
- c. If the request is not made for purposes of providing treatment to the patient, and it is a type of request to which the Minimum Necessary standard applies, the HCC will:
 - i. Evaluate to determine that the request includes a statement of purpose and release only the minimum amount of information necessary to meet the purpose of the request; or
 - ii. If the request does not include a statement of purpose, contact the requestor to obtain the purpose for the requests, document the contact, and take appropriate action.
- d. If the request for PHI is one that occurs on a routine or recurring basis, the HCC is responsible for reviewing the request to determine if the Minimum Necessary Standard applies. These requests should be reviewed again any time the request is modified after the initial request.
- e. Each HCC will request only the minimum amount of PHI necessary to accomplish the purpose for which the request is made.
 - i. Any questions about how to limit a request for PHI to only the minimum amount necessary should be directed to the HCC Privacy Officer or the CEHS Privacy Officer.
 - ii. Each HCC Privacy Officer is responsible for conducting audits on an “as needed” basis to confirm that the HCC is in compliance with the Minimum Necessary Policy. Any issues should be immediately reported to the CEHS Privacy Officer.
- f. HCC will rely on requests for PHI as requesting only that PHI that is minimally necessary to meet the purpose of the request if:
 - i. The request is from a public official and the public official represents that the information requested is the minimum necessary for the state purpose(s); or

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- ii. The information is requested by an employee or a business associate of CEHS and the individual represents that the information requested is the minimum necessary for the stated purpose(s); or
- iii. The information is for research purposes and is requested in accordance with and in the required legal format specified by law and has been approved by the IRB.

5. Responses to Requests for PHI

If a request for PHI is reviewed to determine whether the Minimum Necessary Standard applies to it, but it is then forwarded to someone else at CEHS for processing, the individual forwarding the request is responsible for advising the individual who will respond to the request whether the Minimum Necessary Standard applies.

- a. The person who responds to a request for PHI to which the Minimum Necessary Standard applies is responsible to determine that the PHI disclosed is limited to the minimum necessary and to meet the purpose of the request.
- b. The person who responds to the request is responsible to document the request and information disclosed in the patient's chart.

6. Special Considerations:

- a. *Incidental Uses and Disclosures* - Incidental uses and disclosures are defined by HHS in the preamble to the modifications as secondary uses or disclosures that: (1) cannot be reasonably prevented; (2) are limited in nature; and (3) occur as a by-product of an otherwise permissible use or disclosure.

An incidental use or disclosure is permitted only to the extent that the covered entity has applied reasonable safeguards to prevent disclosures of PHI and has implemented the minimum necessary standard. Examples of incidental disclosures are:

- i. When a patient or other person happens to see individually identifiable health information of other patients on sign-in sheets in waiting rooms of clinics.
- ii. The HCC may call out a patient's name in a waiting room so long as the information disclosed is appropriately limited.
- iii. Also, doctors can confer at a nurse's station without fear of being in violation of the rule if overheard by a passerby.
- b. *Oral Communications* - The HCC must prohibit its workforce members from discussing PHI unnecessarily among themselves and with others. The HCC workforce members must make reasonable efforts to the limit the amount of information announced about a patient in public areas.
- c. *Disclosures to Relatives and Friends* - The Minimum Necessary Standard applies to disclosures of PHI to relatives, friends, or others involved in patient care. The HCC may make disclosures of PHI directly relevant to the person's involvement with the patients' health care or payment for the care to friends and relatives of the patient if:
 - i. The patient agrees that PHI can be disclosed;

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- ii. The patient has an opportunity to object and does not; or
- iii. It is reasonable to infer that the patient does not object, such as when a patient brings a friend or family member into the room when treatment is being discussed.
- d. *Visual Communications* - The Minimum Necessary Standard applies to whiteboards, bulletin boards and other visual postings used to communicate the location and or status of patients in treatment areas.
- e. *Business Associates* - The use or disclosure of PH by a business associate must be consistent with the Minimum Necessary Standard.

V. ATTACHMENTS

N/A

VI. REFERENCES

45 CFR §164.502(b).