

UNIVERSITY OF FLORIDA
INFORMATION PRIVACY POLICIES & PROCEDURES
HEALTH INFORMATION OPERATIONAL GUIDELINES

I. Minimum Necessary Rule

A. POLICY

Rev. 06/01/2009

1. **Healthcare providers and staff** must make every effort to reasonably limit uses, disclosures, and requests for protected health information (PHI) to the minimum necessary to accomplish the intended purpose of the use, disclosure or request.
 - a) *All staff members are responsible for knowing and following their departments' minimum necessary procedures.*
 - b) *The entire health record should not be disclosed or requested unless it is specifically required for treatment of the patient.*
2. **Limiting Use:**
 - a) *Departments should identify, by role, persons or entities that need access to PHI to carry out their duties; and identify categories of PHI to which access is needed and any conditions appropriate to such access.*
 - b) *All access to PHI must be documented and all staff must be educated about their department's minimum necessary procedures.*
3. **Disclosures and requests classified as "Routine"** should only be for treatment, payment, and health care operations.
4. **Limiting Disclosures:**
 - a) *Routine Disclosures*
 - (1) Departments should develop and maintain a list of categories of persons and organizations to which PHI is routinely disclosed, the purpose of the disclosures, and the minimum information needed for each purpose.
 - (2) Any disclosure that is not specifically for treatment, payment, or health care operations or authorized by the patient should be flagged as a disclosure that must be logged for potential accounting of disclosures.
 - b) *Non-Routine Disclosures*
 - (1) Designated personnel in each department should be able to use the "Minimum Necessary Decision Tree" to identify persons or entities, who do not routinely request information, as either meeting or not meeting the specifications for the minimum necessary rule.
 - (2) Disclosures should be authorized only after review of the request, verification of the requestor's identity and authority to receive PHI, and a review of the minimum necessary criteria.
 - (3) Personnel may rely on a health care provider's request to disclose information for treatment to be the minimum necessary for the purpose.

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5. Limiting Requests:

- a) *Routine Requests: Each department should develop and maintain a list of categories of persons or organizations from which it routinely requests information, the usual purpose of the requests, and the minimum information necessary to fulfill each purpose.*
- b) *Non-Routine Requests*
 - (1) Each request should be analyzed carefully to determine the minimum necessary information needed to fulfill the purpose.
 - (2) Requests by UF for PHI from another entity that are not considered routine requests may be reviewed individually for compliance with the minimum necessary rule.
 - (3) Any request for PHI from another person or organization that is not specifically for treatment, payment, or health care operations may only be made with the patient's authorization.

B. DEFINITIONS

- 1. **Professional Need to Know:** Specific and limited information necessary to complete assigned work.

C. PRIVACY REQUIREMENTS

- 1. **Exemptions to the Minimum Necessary Rule:** "Minimum Necessary" does not apply to the following uses, disclosures, or requests:
 - a) *By or to a health care provider for treatment*
 - b) *By or to the individual who is the subject of the information*
 - c) *In response to a valid authorization by the patient/representative*
 - d) *For HIPAA-mandated transactions*
 - e) *By or to the Department of Health and Human Services (HHS)*
 - f) *When required by law (public health reporting, suspected abuse, neglect, or domestic violence; in response to a subpoena or court order, to law enforcement agents investigating a crime).*

D. PROCEDURES

1. Limiting Use:

- a) *Refer to the departmental list that identifies persons by role, and the types of PHI to which each role has access.*
- b) *Do not use the entire health record unless it is specifically authorized or required for the intended purpose.*

- 2. **Limiting Disclosures:** Do not disclose the entire health record unless it is specifically justified as the amount reasonably needed for the purpose of the disclosure.

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a) Routine Disclosures

- (1) Refer to the list of categories of persons and organizations to which your department routinely discloses PHI. Limit the amount of information disclosed to the minimum needed in each case to fulfill the purpose.
- (2) For accounting of disclosures purposes, log any disclosure that is not for treatment, payment, or health care operations, or that is not authorized by the patient.

b) Non-Routine Disclosures

- (1) Use the “Minimum Necessary Decision Tree” to identify persons or entities, who do not routinely request information, as either meeting or not meeting the specifications for the minimum necessary rule.
- (2) Verify the identity and authority of the requestor, and obtain authorization from the patient or a supervisor before releasing any information, if the disclosure is not routine.
- (3) The minimum necessary rule does not apply to a health care provider’s request for information for treatment purposes. Disclose, within the limitations of other state and federal laws, any amount of information that is requested for treatment.

3. Limiting Requests: Do not request an entire health record unless it is specifically required for treatment of the patient.

a) Routine Requests: should only be for treatment, payment, and health care operations. Workforce members are responsible for helping maintain:

- (1) A list of categories of persons or places from whom PHI is routinely requested,
- (2) The routine purpose of the requests,
- (3) The minimum information necessary to meet each request.

b) Non-Routine Requests

- (1) Individually review requests for PHI by your area from other providers or covered entities, if they are not on the “routine” list.
- (2) Obtain the patient’s authorization before requesting PHI from another provider or covered entity, if it is not specifically related to treatment.

E. REFERENCES:

HIPAA: 45 CFR §164.502 and 514 (General Rules and Minimum Necessary)

F. EXHIBITS

- 1. Minimum-Necessary Decision Tree**
- 2. Examples of Routine and Non-Routine Disclosures and Requests**

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Minimum-Necessary Decision Tree:

ASK:	If the answer is "NO"	If the answer is "YES"
1) Is the intended use, request, or disclosure for or by, a healthcare provider for treatment purposes?	Go to the next question	The Minimum Necessary Rule does NOT apply.
2) Is the use or disclosure being made to the individual who is the subject of the PHI?	Go to the next question	
3) Is the use and disclosure being made in response to a valid authorization?	Go to the next question	
4) Has HHS requested disclosure for HIPAA compliance and enforcement?	Go to the next question	
5) Is the use or disclosure required by law (reporting abuse, neglect or domestic violence, responding to a subpoena or court order, or in response to a law enforcement officer investigating a crime)?	Then the information to be used, disclosed, or requested must abide by the minimum necessary rule. Verify identity and authority, if appropriate.	Then certain other restrictions apply under HIPAA, but not the Minimum Necessary Rule.

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Examples of Routine and Non-Routine Disclosures and Requests

	Routine Disclosures	What to Disclose	Routine Requests	What to Request
<u>Treatment Purposes</u>	Disclosures associated with routine referrals to local Laboratories, Pharmacies, Rehab Facilities, etc.	Generally limit PHI to patient name, demographics, appropriate diagnosis information, and reason for referral/prescription	Requests for PHI from Referring Physicians and other Health Care Practitioners	Patient authorization is required if the request includes records of mental health, substance abuse, sexually transmitted diseases, or HIV/AIDS.
<u>Payment Purposes</u>	Disclosures for Billing/Reimbursement Purposes	Limit information to records for the date of service in question.	Requests for Pre-approval and Eligibility Determinations	Limit information to the specific data needed for the determination.
<u>Required By Law</u>	Disclosures for Public Health Activities Disclosures Relating to Victims of Crime or Abuse	Limit information to the specific data required by the database or agency. Only related to the specific incident being reported or investigated. Additional info, including the pat's health history may only be disclosed by court order, subpoena, or under other applicable statutes or laws.		
	Non-Routine Disclosures	What May Be Disclosed	Non-Routine Requests	What May Be Requested
<u>Treatment Purposes</u>	Emergency Disclosures of Health Information Needed for Treatment	Any information needed for treatment. Minimum Necessary Rule does not apply.	Emergency Requests for Health Information Needed for Treatment	Any information needed for treatment. Minimum Necessary Rule does not apply.
<u>Payment Purposes</u>	Disclosures for Billing/Reimbursement Activities of another health care provider	Disclose no information without patient's authorization.	Requests for Billing/Reimbursement Activities of another health care provider	Information may not be requested without patient's authorization.
<u>Required By Law</u>	Disclosures in Response to Court Orders and Subpoenas:	Limit disclosures to the specific information indicated in the order.		