

PRIVACY 6.0

MINIMUM NECESSARY POLICY

Scope: All **workforce** members (employees and non-employees), including employed medical staff, management, and others who have direct or indirect **access** to patient **protected health information (PHI)** created, held or maintained by any subsidiaries of Universal Health Services, Inc., including facilities and UHS of Delaware Inc. (collectively, “UHS”), including UHS **covered entities** (“Facilities”).

Purpose: To establish a policy and procedure for compliance with the “**minimum necessary**” requirements of **HIPAA**, in order to limit unnecessary or inappropriate **access**, use and disclosure of **PHI**.

Definitions:

Terms not defined in this Policy or the *HIPAA Terms and Definitions* maintained by the UHS Compliance Office will have the meaning as defined in any related State or Federal privacy law including the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”) and regulations promulgated thereunder by the U.S. Department of Health and Human Services (“HHS”) at 45 CFR Part 160 and 164, Subparts A and E (“Privacy Regulations” or “Privacy Rule”) and Subparts A and C (“Security Regulations” or “Security Rule”), the Health Information Technology for Economic and Clinical Health Act (“HITECH”) privacy and security provisions of the American Recovery and Reinvestment Act (Stimulus Act) for Long Term Care, Public Law 111-5, the American Recovery and Reinvestment Act of 2009 (“ARRA”), Title XIII and related regulations.

Policy:

When accessing, **using**, or **disclosing PHI** or when requesting **PHI** from another source, reasonable efforts must be made to limit **PHI** to the **minimum necessary** to accomplish the intended purpose. When using or disclosing protected health information or when requesting protected health information from another covered entity or business associate, Facilities must make reasonable efforts to limit protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.

Exceptions: The requirements of the “**minimum necessary standard**” do not apply to:

- **Disclosures** to or requests by a health care provider for **treatment** purposes;
- **Uses** and **disclosures** made to the patient or their authorized **personal representative**;
- **Uses** and **disclosures** made pursuant to an **authorization** from a person in interest;
- **Disclosures** made to the Secretary of the U.S. Department of Health and Human Services for enforcement or during an investigation of compliance with the Privacy Rule;
- **Uses** or **disclosures** required by law; and
- **Uses** or **disclosures** required for compliance with **HIPAA**.

Procedure:

Each Facility department must limit the **access** to **PHI** by its **workforce** members to the minimum necessary to accomplish the intended purpose of the **use**. Determinations regarding the **use** of, and **disclosures** and requests for **PHI** should be consistent with this Policy. Any questions regarding the Minimum Necessary Standard requirements should be directed to the supervisor or Facility Privacy Officer.

Each Facility will prepare documentation similar to that in Addendum A to this Policy in order to identify the following (note that the categories in Addendum A are provided by way of example only and Facilities will need to identify and include their own information):

- Those persons or classes of persons in the **workforce** who need **access** to **PHI** to carry out their duties; and,
- 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**. Where **access** to the entire medical record is necessary, a justification is provided.

Facilities will prepare documentation similar to that set forth in Addendum B and Addendum C, in order to accomplish the following:

- Addendum B to this Policy establishes the policy and procedures designed to limit the **PHI disclosed by the Facility** to the amount reasonably necessary to achieve the purpose of the disclosure.
- Addendum C to this Policy establishes the policy and procedures designed to limit the **PHI requested by the Facility** from others (including health care providers) to the amount reasonably necessary to accomplish the purpose for which the request is made.

For *routine or recurring* requests and **disclosures**, the **PHI disclosed** or requested will be limited to that which is the minimum necessary for the particular type of **disclosure** or request. Individual review of each routine or recurring **disclosure** is not required.

Non-routine disclosures and requests will be limited to only the minimum amount of **PHI** necessary to accomplish the purpose of the **disclosure** or request. Non-routine **disclosures** and requests will be reviewed by the Facility on an individual basis in accordance with the criteria in Addenda B and C and are to be limited accordingly. Any questions regarding the **Minimum Necessary Standard** requirements should be directed to the Facility Privacy Officer.

In certain circumstances, the Facility is permitted but not required to reasonably rely on the judgment of a party who is requesting **disclosure** in determining the minimum amount of

information that is needed.¹ Reliance must be reasonable under the particular circumstances of the request for PHI and is permitted when made by:

- A public official or agency that states that the information requested is the minimum necessary for a permitted purpose under HIPAA regulation 45 CFR 164.512, such as for public health purposes;
- Another covered entity;
- A professional who is a workforce member or Business Associate who represents that the information requested is the minimum necessary for stated purposes and who requests the information for the purpose of providing professional services to the Facility; or
- A researcher with appropriate documentation from an Institutional Review Board (IRB).

These disclosures will be determined on a case-by-case basis. The Facility has the discretion to make its own “minimum necessary standard” determination according to the particular circumstances.

References:

45 C.F.R. § 164.502(b)

45 C.F.R. § 164.512

45 C.F.R. § 164.514(d)

Related UHS Policies:

UHS Privacy 24.0 *Overview of the Uses and Disclosures of PHI*

Revision Dates: 10-12-2017; 11-16-2015; 07-22-2013

Implementation Date: 07-25-2011

Reviewed and Approved by:

UHS Compliance Committee

ADDENDUM A

PERMITTED ACCESS TO PHI BY JOB TITLE OR CATEGORY*

Job Title/Category	Permitted Access (include justification where access to entire record is permitted)
Physicians	Entire patient record for treatment and operations (e.g., patient care, quality, peer review, billing and related activities)
Nursing Staff	Entire Medical Record for treatment and operations (e.g., patient care, quality, peer review and related activities)
Allied Health Professionals	Entire Medical Record for treatment and operations (e.g., patient care, quality, peer review and related activities)
Admitting Department	[INSERT DESCRIPTION OF FILES AND DATABASES RELATED TO ADMITTING]
Billing Department	[INSERT DESCRIPTION OF FILES AND DATABASES RELATED TO BILLING]
Risk Management Compliance and Legal Staff	Entire Medical Record and, when at issue, the billing records and other records containing PHI for health care operations (e.g., investigating incidents, patient complaints, defending the Facility or workforce members in litigation)

***Note that this information is provided as an example only and Facilities should determine and document their own information.**

ADDENDUM B

DISCLOSURES OF PHI BY THE FACILITY

I. Review Process and Criteria for PHI Disclosures by the Facility or its Workforce That Occur on a Routine or Recurring Basis

A. Types of Routine or Recurring Disclosures

The types of disclosures that occur on a routine or regular basis include the following listed disclosures. The Facility will follow the Standard Protocol and Review Criteria described below in handling these disclosures. Any additional routine or recurring types of disclosures identified by the Facility will be subject to the Standard Protocol and Review Criteria as well. Questions regarding the Minimum Necessary Standard requirements should be directed to the local Facility Privacy Officer.

[FACILITY TO INSERT LIST]

Standard Protocol and Review Criteria

The Facility will be responsible for reviewing requests from inside or outside the Facility received for disclosure of PHI to determine whether the Minimum Necessary Standard applies. Routine or recurring requests need be reviewed to determine whether the Minimum Necessary Standard applies only the first time they are received and after each time they are modified. The following process will be followed in reviewing the requests:

1. If the request is made by another health care provider in order to obtain PHI necessary to treat a patient, the Minimum Necessary Standard does not apply, and the PHI that is requested will be released promptly.
2. If the request is not made for purposes of providing treatment to a patient and the Minimum Necessary Standard does not apply under this Policy, the department will release the PHI in accordance with Facility policies.
3. If the request is not made for purposes of providing treatment to the patient and the Minimum Necessary Standard does apply, the Facility will, in accordance with this Policy:
 - assure that the request states the purpose and release only the minimum amount of information necessary to meet the purpose of the request; or
 - if the request does not state the purpose, call the requester to obtain a statement of purpose for the request, document the call, and take the appropriate action.
 - The Privacy Officer should be consulted if there are any questions regarding a request for PHI where the Facility intends to rely on the judgment of a party who is requesting disclosure in determining the minimum amount of information that is needed, under the UHS Minimum Necessary Policy.

II. Review Process and Criteria for All Other PHI Disclosures by the Facility or its Workforce

Non-routine disclosures of PHI will be required to be reviewed by the Facility on a case-by-case basis in accordance with the Standard Protocol and Review Criteria described above and limited accordingly. Questions regarding the Minimum Necessary Standard requirements should be directed to the Facility Privacy Officer.

ADDENDUM C

REQUESTS BY THE HOSPITAL FOR PHI

I. Requests for PHI by the Facility That Occur on a Routine or Recurring Basis

A. Types of Routine or Recurring PHI Requests Made by the Facility

The types of requests for PHI that are made by the Facility on a routine or regular basis include the following types listed. The Facility will follow the Standard Protocol described below in handling these requests. Any additional routine or recurring types of requests identified by the Facility will be subject to the Standard Protocol as well. Questions regarding the Minimum Necessary Standard requirements should be directed to the Facility Privacy Officer.

[FACILITY TO INSERT LIST]

B. Standard Protocol and Review Criteria

1. For PHI to which the Minimum Necessary Standard applies under this Policy, Facility workforce members will request only the minimum amount necessary to accomplish the purpose for which the request is made.
2. The Facility may establish protocols for routine or recurring requests that assure only the minimum necessary PHI is requested.
3. If the request is made to another health care provider in order to obtain PHI necessary to treat a patient, the Minimum Necessary Standard does not apply.
4. Any questions regarding the Minimum Necessary Standard requirements should be directed to the Facility Privacy Officer.

II. Review Process and Criteria for All Other Requests for PHI by the Facility

Non-routine requests for PHI will be reviewed on an individual basis in accordance with the Standard Protocol and Review Criteria described above and limited accordingly. Questions regarding the Minimum Necessary Standard requirements should be directed to the Facility Privacy Officer.