

HARBOR-UCLA MEDICAL CENTER

SUBJECT: MINIMUM NECESSARY REQUIREMENTS FOR USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION (PHI)

POLICY NO. 713

PURPOSE:

To establish processes to limit uses or disclosures of, and requests for Protected Health Information (PHI).

POLICY:

Harbor-UCLA Medical Center shall make reasonable efforts to limit the use, disclosure of, and requests for Protected Health Information (PHI) to the minimum necessary to accomplish the intended purpose of the use, disclosure or request. Minimum necessary is based on a "need-to-know", and is the "limited" health information required to accomplish the intended purpose of the use or disclosure or request.

Application of the Minimum Necessary Standard

The minimum necessary provisions *do not* apply to the following situations:

1. Disclosures to or request by a health care provider for treatment purposes;
2. Disclosures to the individual who is the subject of the information;
3. Uses and disclosures made pursuant to an authorization requested by the individual;
4. Uses and disclosures required for compliance with the standardized HIPAA transactions;
5. Disclosures to the Department of Health and Human Services (DHHS) when disclosure of information is required under the rule for enforcement purposes; or
6. Uses or disclosures that are required by law.

The minimum necessary requirement *applies to*:

1. Harbor-UCLA Medical Center's uses and disclosures of PHI.
2. Harbor-UCLA Medical Center's requests to other covered entities for PHI for any purpose other than treatment.
3. Incidental uses and disclosures, including unintended access to or communication of PHI that may occur as a by-product of permitted uses and disclosures (e.g., incidental disclosures include provider communications with a patient in a waiting areas; PHI included on whiteboards or pharmacy display boards; patient sign-in sheets).

EFFECTIVE DATE: 04/14/03

SUPERSEDES:

REVISED:

REVIEWED: 05/14, 07/17

REVIEWED COMMITTEE: N/A

APPROVED BY:

Kim McKenzie, RN, MSN, CPHQ
 Chief Executive Officer

Anish Mahajan, MD
 Chief Medical Officer

Patricia Soltero Sanchez, RN, BSN, MAOM
 Chief Nursing Officer

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PROCEDURE:

I. Minimum Necessary Uses of PHI

A. Harbor-UCLA Medical Center shall identify those persons or categories of persons, as determined by job function, in its workforce who need access to PHI to carry out their job responsibilities. And shall, for each such person or category:

1. Identify the categories of PHI to which access is needed in order for the persons or category to carry out their duties; and
2. Identify any conditions that should apply to each person's or category's access to the PHI.

For example, Harbor-UCLA Medical Center may implement policies that permit doctors, nurses, or others involved in treatment to have access to the entire medical record, as needed. Case-by-case review of each use is not required. Where the entire medical record is necessary, policies and procedures must state so explicitly and include a justification.

B. Harbor-UCLA Medical Center is responsible for implementing procedures that set forth the persons or categories entitled to access PHI, and the types or categories of PHI to which such persons or categories can access, and any conditions to such access, and documenting these procedures. A ***Role Based Access Worksheet (Attachment A)*** can be used for such documentation.

C. In no event shall the Minimum Necessary rules and procedures be interpreted or implemented in a manner that impedes or obstructs the delivery of quality patient care.

II. Routine and Recurring Disclosures to Third Parties

A. For uses or disclosures made on a routine or recurring basis as described in the Notice of Privacy Practices, Harbor-UCLA Medical Center must limit the PHI disclosed to the Minimum Necessary to achieve the purpose of the disclosure. Individual review of each disclosure or request is not required.

B. Harbor-UCLA Medical Center is responsible for assisting each applicable Department or function to create standard protocols to be applied to reasonably ensure that routine disclosures only include the Minimum Necessary PHI. Each protocol developed under this Section must address the following:

1. The protocol must set forth the type of PHI that can be Disclosed.
2. The protocol must identify the types or categories of persons to whom the PHI identified in the protocol can be Disclosed.
3. The protocol must identify any applicable conditions to providing the Disclosure.

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III. Non-Routine Disclosure to Third Parties

- A. For non-routine disclosures, i.e., those requiring patient authorization, a case-by-case review based upon a pre-established criteria developed by the facility is required to limit the PHI disclosed to what is reasonably necessary to achieve the purpose of the disclosure.
- B. Harbor-UCLA Medical Center shall be responsible for developing criteria to be applied to analyze non-routine Disclosures to determine the Minimum Necessary PHI that can appropriately be Disclosed.

IV. Reasonable Reliance

- A. If reasonable under the circumstances, Harbor-UCLA Medical Center may consider a request for disclosure to meet the minimum necessary requirement for the stated purpose when:
- B. Making disclosures to a public official or agency permitted under the Privacy Rule if the public official represents that the information requested is minimum necessary for the stated purpose;
- C. The information is requested by another covered entity; The information is requested by a professional who is a workforce member of Harbor-UCLA Medical Center or is a business associate of Harbor providing professional services, if the professional or business associate represents that the information is the minimum necessary for the stated purpose; or
- D. Documentation submitted by a researcher that the information is preparatory to research, related to research on a decedent, or the disclosure has been approved by the IRB.

V. Routine Request for Information from other Covered Entities

- A. When requesting PHI from other Covered Entities, Harbor-UCLA Medical Center will limit any request for PHI to the Minimum Necessary to accomplish the purpose for which the request is made.
- B. For requests that are made on a recurring and routine basis, Harbor-UCLA Medical Center will limit the PHI requested to the amount reasonably necessary to accomplish the purpose for which the request is made.
 - Harbor-UCLA Medical Center is responsible for assisting each applicable Department or function to create standard protocols to be applied to reasonably ensure that routine requests for Disclosures of PHI are limited to the Minimum Necessary.
- C. Each protocol developed under this Section must address the following:
 - 1. The protocol must set forth the type of PHI that can be requested.
 - 2. The protocol must identify the types or categories of persons from whom the PHI identified in the protocol can be requested.
 - 3. The protocol must identify any applicable conditions to making the request.

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VI. Non-Routine Request for Information from other Covered Entities

- A. For requests that do not fall within Section 5, Harbor-UCLA Medical Center shall take steps to limit them to the Minimum Necessary. All requests that are not routine and recurring must be reviewed on an individual basis in accordance with this Section.
- B. Harbor-UCLA Medical Center shall be responsible for developing criteria to be applied to analyze non-routine requests to determine the Minimum Necessary PHI that can appropriately be requested.
- C. All non-routine requests must be reviewed and approved prior to making the request. The Medical Records Department shall be responsible for reviewing each non-routine request and determining the Minimum Necessary PHI that can be requested.

REFERENCES:

- 1. Code of Federal Regulations 45 Part 160 and 164; Section 164.514(d) “Other Requirements Relating to Uses and Disclosures of Protected Health Information – Minimum Necessary
- 2. Code of Federal Regulations 45 Part 160 and 164; Section 164.502(b) “Uses and Disclosures of Protected Health Information: General Rules – Uses and Disclosures of De-Identified Protected Health Information”.

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Attachment A

(MODEL) Job Functions, Categories of PHI Needed; Conditions

Job Functions	Categories of PHI Needed	Conditions
Nurse Performing Treatment ("Use")	Entire Medical Record	Only for patients for whom responsible; only during on-duty hours
Nurse Performing QA/QI	Entire Medical Record	While entire medical record must be reviewed to perform QA/QI appropriately, information reported in QA/QI form should avoid use of unnecessary identifiers, especially name, and avoid/limit use of sensitive diagnoses unless necessary for appropriate QA/QI function or follow-up.
Nurse Supervisor	Entire Medical Record	While entire medical record access is necessary for appropriate supervision and problem-solving assistance, use of patient identifiers in reports (verbal and written) should be minimized, especially name. Avoid/limit use of sensitive diagnoses unless necessary for supervisor functions.
Physician Performing Treatment or Referring Patient Inside Hospital ("Use")	Entire Medical Record	Only for patients for whom responsible (as attending, consulting)
Physician Receiving Referral of Patient Inside Hospital ("Use")	Entire Medical Record	Only for patient being referred

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Physician Peer Reviewer	Entire Medical Record for charts meeting review criteria	While entire chart is necessary for thorough review, limit or eliminate, if possible, patient identifiers in reports and conversations, by assigning a different identification system for purposes of the peer review.
Medical Director	N/A	N/A
Hospital Billing Director	N/A	N/A
Hospital Billing Personnel	N/A	N/A
Food and Nutrition (Dietary) Personnel	N/A	N/A
Ward Clerk/Unit Secretary	N/A	N/A
Admissions Personnel	N/A	N/A
Hospital Volunteers	N/A	N/A
Chaplain	N/A	N/A
Ambulance Personnel ("Disclosure")	Routine Disclosures	N/A
Physician Referring Patient Outside Hospital for Treatment ("Disclosure")	Minimum Necessary Rules Not Applicable	

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Additional job categories that may be applicable:

Board of Supervisors
Health Information Management personnel
Privacy Coordinators
Utilization Review Nurses
Quality Assurance and Improvement personnel
Coder
Transcriptionist
Personnel who release patient information
Assembly Analyst
File Clerk
Ancillary staff/transporters (physical therapy, radiology, laboratory, ultrasound, etc.)
Nurse Aide
Dietitian (also dietary aides, deliverers, food preparation, Food Services workers generally)
Tumor Registrar
Chief Information Officer
Information Systems/Technology personnel
Chief Executive Officer
Chief Financial Officer
Audit and Compliance personnel
Patient Services personnel
Public relations/marketing personnel
Risk Manager
Infection Control personnel
Pharmacy personnel