

**DEPARTMENT OF HEALTH SERVICES  
COUNTY OF LOS ANGELES**



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

**POLICY NO:** 361.8

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**PURPOSE:**

To establish processes to limit DHS' uses or disclosures of, and requests for Protected Health Information (PHI) to the minimum necessary to accomplish the intended purpose of the use, disclosure or request.

**POLICY:**

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. Each DHS facility 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.

**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. DHS' uses and disclosures of PHI.
2. DHS' 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

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**APPROVED BY:**

**EFFECTIVE DATE:** April 14, 2003

**SUPERSEDES:**

**PAGE 1 OF 5**

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---

include provider communications with a patient in a waiting areas; PHI included on whiteboards or pharmacy display boards; patient sign-in sheets).

## PROCEDURE:

### I. Minimum Necessary Uses of PHI

- A. Each DHS facility 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, hospitals 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. Each DHS facility 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, each DHS facility 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.

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**EFFECTIVE DATE:** April 14, 2003

**SUPERSEDES:**

**PAGE 2 OF 5**

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PROTECTED HEALTH INFORMATION (PHI)

**POLICY NO.:** 361.8

---

- B. Each DHS facility 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.

### **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. Each DHS facility 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, facilities 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 DHS or is a business associate of DHS 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.
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**EFFECTIVE DATE:** April 14, 2003

**SUPERSEDES:**

**PAGE 3 OF 5**

# DEPARTMENT OF HEALTH SERVICES COUNTY OF LOS ANGELES

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**POLICY NO.:** 361.8

---

## **V. Routine Request for Information from other Covered Entities**

- A. When requesting PHI from other Covered Entities, each DHS facility must 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, each DHS facility must limit the PHI requested to the amount reasonably necessary to accomplish the purpose for which the request is made.
  - Each DHS facility 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.

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

- A. For requests that do not fall within Section 5, each DHS facility 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. Each DHS facility 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.
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**EFFECTIVE DATE:** April 14, 2003

**SUPERSEDES:**

**PAGE 4 OF 5**

**DEPARTMENT OF HEALTH SERVICES  
COUNTY OF LOS ANGELES**

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

**POLICY NO.:** 361.8

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**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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**EFFECTIVE DATE:** April 14, 2003

**SUPERSEDES:**

**PAGE 5 OF 5**

**(MODEL) ROLE BASED ACCESS WORKSHEET  
Job Functions, Categories of PHI Needed; Conditions**

<b>Job Functions</b>	<b>Categories of PHI Needed</b>	<b>Conditions</b>
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

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.
<b>Job Functions</b>	<b>Categories of PHI Needed</b>	<b>Conditions</b>
Medical Director		
Hospital Billing Director		
Hospital Billing Personnel		
Food and Nutrition (Dietary) Personnel		
Ward Clerk/Unit Secretary		
Admissions Personnel		
Hospital Volunteers		
Chaplain		
Ambulance Personnel ("Disclosure")		
	Routine and Recurring Disclosures	
Physician Referring Patient Outside Hospital for Treatment ("Disclosure")	Minimum Necessary Rules Not Applicable	

**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



