

LAC+USC MEDICAL CENTER POLICY

Subject: PROTECTED HEALTH INFORMATION: MINIMUM NECESSARY REQUIREMENTS FOR USE AND DISCLOSURE OF	Original Issue Date: 4/14/03	Policy # 400.9
	Supersedes: 11/12/13	Effective Date: 5/9/17
Departments Consulted: Health Information Management HIPAA Compliance Office Health Information Committee Privacy Council	Reviewed & Approved by: Attending Staff Association Executive Committee Senior Executive Council	Approved by: Chief Medical Officer
		Chief Executive Officer

PURPOSE

To establish processes to limit LAC+USC Medical Center's uses, disclosures of, and requests for protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.

POLICY

The 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.

DEFINITIONS

Protected Health Information (PHI)

Individually identifiable information relating to past, present, or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present, or future payment for health care provided to an individual.

Minimum Necessary

Minimum necessary is based on a "need-to-know," and is the "limited" health information required to accomplish the intended purpose of the use, disclosure, or request.

Application of the Minimum Necessary Standard

The minimum necessary requirement applies to:

- The Medical Center's uses and disclosures of PHI;
- The Medical Center's requests to other covered entities for PHI for any purpose other than treatment; and
- 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 area; PHI included on whiteboards or pharmacy display boards; patient sign-in sheets).

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

- Disclosures to or request by a health care provider for treatment purposes;
- Disclosures to the individual who is the subject of the information;
- Uses and disclosures made pursuant to an authorization requested by the individual;
- Uses and disclosures required for compliance with the standardized HIPAA transactions;
- Disclosures to the Department of Health and Human Services (DHHS) when disclosure of information is required under the rule for enforcement purposes; or
- Uses or disclosures that are required by law, e.g. Reportable Diseases and Conditions (Title 17, California Code of Regulations (CCR), Section 2550).

PROCEDURE

Minimum Necessary Uses of PHI

- The Medical Center will 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 will, for each such person or category:
 - Identify the categories of PHI to which access is needed in order for the persons or category to carry out their duties; and
 - Identify any conditions that should apply to each person 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.
- The 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 may be used for such documentation.
- In no event, will the "Minimum Necessary" rules and procedures be interpreted or implemented in a manner that impedes or obstructs the delivery of quality patient care.

Routine and Recurring Disclosures to Third Parties

- For uses or disclosures made on a routine or recurring basis as described in the Joint Notice of Privacy Practices, the 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.

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- The 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 of 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.

Non-Routine Disclosure to Third Parties

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

Reasonable Reliance

- If reasonable under the circumstances, the Medical Center may consider a request for disclosure to meet the minimum necessary requirement for the stated purpose when:
 1. Making disclosures to a public official or agency permitted under the Privacy Rule if the public official represents that the information requested is the minimum necessary for the stated purpose
 2. The information is requested by another covered entity;
 3. The information is requested by a professional who is a workforce member of the Medical Center or is a Business Associate of the Medical Center providing professional services, if the professional or Business Associate represents that the information is the minimum necessary for the stated purpose; or
 4. 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.

Routine Request for Information from other Covered Entities

- When requesting PHI from other covered entities, the Medical Center must limit any request for PHI to the Minimum Necessary to accomplish the purpose for which the request is made.

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- For requests that are made on a recurring and routine basis, the Medical Center must limit the PHI requested to the amount reasonably necessary to accomplish the purpose for which the request is made.
- The 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.

Non-Routine Request for Information from other Covered Entities

- For requests that do not fall within the "Routine Request for Information from other Covered Entities" Section, the Medical Center will 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.
- The Medical Center is responsible for developing criteria to be applied to analyze non-routine requests to determine the Minimum Necessary PHI that can appropriately be requested.
- All non-routine requests must be reviewed and approved prior to making the request. Health Information Management is responsible for reviewing each non-routine request and determining the minimum necessary PHI that can be requested.

REFERENCES

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

DHS Policy 361.8: Minimum Necessary Requirements For Use And Disclosure Of Protected Health Information (PHI)

REVISION DATES

March 01, 2007; September 25, 2008; November 12, 2013; May 9, 2017