

POLICIES AND PROCEDURES
TOPIC: Minimum Necessary
DOCUMENT NUMBER: 1400
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I. BACKGROUND AND PURPOSE

The purpose of this policy is to establish when a request, use, or disclosure of Protected Health Information must be limited to the Minimum Necessary to accomplish the intended purpose of the request, use, or disclosure.

II. POLICY

The concept of “Minimum Necessary” is derived from the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the Privacy Rules set forth at 45 C.F.R. Part 164, Subpart E. Minimum Necessary represents a fundamental and common-sense limitation upon the disclosure of Protected Health Information. It essentially means that when requesting, using, or disclosing Protected Health Information, a Covered Entity under HIPAA or a Business Associate must make reasonable efforts to limit the amount of Protected Health Information to the Minimum Necessary to accomplish the intended purpose of the request, use, or disclosure. This concept of Minimum Necessary clearly applies to the WVHIN’s Health Information Exchange and its Participating Organizations. It is therefore essential that procedures be established under the WVHIN’s Health Information Exchange to facilitate compliance with the Minimum Necessary rule.

There are a few major exceptions to the Minimum Necessary rule. The most significant exception involves any disclosure to assist in the Treatment of Patients. Hence, the Minimum Necessary rule does not apply to Treatment or Emergency Treatment. The Minimum Necessary rule also does not apply to any disclosure to a Patient of his or her own Protected Health Information, as in the establishment of a Patient Portal or maintenance of a Personal Health Record. Similarly, it does not apply to any disclosure made pursuant to a HIPAA-compliant authorization form signed by the Patient. However, the Minimum Necessary rule does apply to requests, uses, or disclosures of Protected Health Information for Payment, Limited Health Care Operations, and Public Health Reporting.

The Minimum Necessary rule must work in close coordination with the policy and procedures for User Authorization (*see* Policy and Procedure Document Number 300), and the role based access control principles enunciated there. In order to properly address the Minimum Necessary rule, workforce members may be limited in their access to Protected Health Information to the Minimum Necessary based upon their role and need for such data within the organization.

No attempt will be made to impose the Minimum Necessary rule upon any Inquiry for Treatment or Emergency Treatment.

Any request for or disclosure of Protected Health Information through the WVHIN's Health Information Exchange for the Permissible Purposes of Payment or Limited Health Care Operations shall be limited to the Minimum Necessary.

In the case of Public Health Reporting, the WVHIN will cooperate with federal and state agencies in establishing and implementing protocols within its Health Information Exchange that contain data fields of Protected Health Information as designated under and required by law. These Public Health Reporting protocols will be designed to disclose only the Minimum Necessary amount of Protected Health Information for a Participating Organization to comply with its reporting obligations as required or authorized by law, and nothing more.

III. PROCEDURES

A. Patient Responsibilities.

1. The Minimum Necessary rule does not apply to any disclosure to a Patient of his or her own Protected Health Information, as in the establishment of a Patient Portal or maintenance of a Personal Health Record.

2. The Minimum Necessary rule does not apply to any disclosure of Protected Health Information made pursuant to a HIPAA-compliant authorization form signed by a Patient.

B. Participating Organization Responsibilities.

1. When submitting an Inquiry for the Permissible Purpose of Treatment or Emergency Treatment, a Participating Organization will not be subject to the Minimum Necessary rule.

2. When engaged in Public Health Reporting, a Participating Organization must limit its disclosure to the data fields identified in the applicable WVHIN Public Health Reporting protocol and provide only the Minimum Necessary amount of Protected Health Information needed to comply with its reporting obligations as required or authorized by law.

3. When submitting an Inquiry for the Permissible Purpose of Payment or Limited Health Care Operations,, a Participating Organization must limit its Inquiry for Protected Health Information to the Minimum Necessary which is reasonably necessary to accomplish the Payment or Limited Health Care Operations intended purpose.

C. WVHIN Responsibilities.

1. An Inquiry for Treatment or Emergency Treatment will be designed to elicit all Protected Health Information that may be available through the WVHIN's Health Information Exchange from other Participating Organizations. However, Sensitive Health Information may only be disclosed in accordance with the Policy and Procedure for Sensitive Health Information (*see* Policy and Procedure No. 102).

2. The WVHIN will develop standard Public Health Reporting protocols designed to disclose only the Minimum Necessary amount of Protected Health Information needed to enable a Participating Organization to comply with its reporting obligations as required or authorized by law.

3. The WVHIN will develop protocols designed to disclose only the Minimum Necessary amount of Protected Health Information which is reasonably necessary to accomplish the Payment or Limited Health Care Operations intended purpose.