

MINIMUM NECESSARY RULE POLICY

RESPONSIBILITY: Privacy Official or Designee(s)

BACKGROUND:

Protected health information must be treated with the utmost confidentiality. Members of the Behavioral Health and Health Facilities (BHHF) workforce are required to limit the amount of protected health information they use, request, or disclose to others, to the minimum amount necessary to achieve the specific purpose of that use, request, or disclosure.

This policy establishes the general rule regarding the minimum necessary limitation on the use or disclosure of protected health information.

POLICY:

1. Members of the BHHF workforce may not use, request, or disclose to others, any protected health information that is more than the minimum necessary to accomplish the purpose of the appropriate use, request, or disclosure.
2. Members of the workforce are required to comply with specific policies and procedures established to limit uses of, requests for, or disclosures of protected health information to the minimum amount necessary.
3. BHHF workers may not use, disclose, or request an entire medical record except when the entire medical record is specifically justified as the amount that is reasonably necessary to accomplish the purpose of the use, disclosure or request.
4. BHHF may rely on a request from another entity for PHI as representing the minimum necessary for the stated purpose, if such reliance is reasonable under the circumstances, and if:
 - 4.1 The request is from a public official.
 - 4.1.1. The disclosure to the public official must otherwise be permitted under BHHF policies, and
 - 4.1.2. The public official must represent that the information requested is the minimum necessary for the stated purpose(s); or,
 - 4.2 The information is requested by another covered entity; or,
 - 4.3 The information is requested by a professional who is a member of the BHHF workforce or is a BHHF business associate, and
 - 4.3.1. The purpose of the request is to provide professional services to the covered entity, and

- 4.3.2. The professional represents that the information requested is the minimum necessary for the stated purpose(s); or,
- 4.4 The request is for research purposes, and the requestor has complied with the BHHF policy regarding disclosure of PHI for research, and has presented all documentation or representation required by that policy. See USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR PURPOSES OF RESEARCH.

Exceptions:

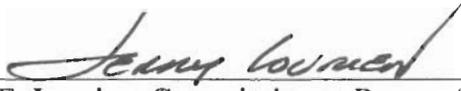
1. BHHF is not limited in the amount of protected health information (PHI) that it may disclose to another provider of health care for the purpose of treating patients. Nor is BHHF limited in the amount of PHI that it may request, from any source, for the purpose of treating patients.
2. When federal or state law requires a disclosure of protected health information, the minimum necessary amount of information is that which is required in order to comply with such law. Requests for PHI made by the federal government in the course of a complaint investigation or compliance review, undertaken under federal privacy rules, are deemed to meet the minimum necessary rule.
3. When disclosing a patient’s own information to that patient, or to the patient’s personal representative, the minimum necessary rule does not apply. See RIGHT OF ACCESS TO PROTECTED HEALTH INFORMATION, and DISCLOSURE OF PROTECTED HEALTH INFORMATION TO PERSONAL REPRESENTATIVES.
4. All information that is requested by an authorization may be disclosed in accordance with that authorization. This policy does not limit such disclosures. See AUTHORIZATION TO USE OR DISCLOSE PROTECTED HEALTH INFORMATION policy.

REFERENCE: 45 CFR §§ 164.502(b), 164.514(d)

See also: ASSIGNMENT OF ACCESS PRIVILEGES
 ROUTINE AND RECURRING REQUESTS FOR AND DISCLOSURES OF PROTECTED HEALTH INFORMATION
 REQUESTS FOR, AND DISCLOSURES OF, PROTECTED HEALTH INFORMATION THAT ARE NOT ROUTINE AND RECURRING
 RIGHT OF ACCESS TO PROTECTED HEALTH INFORMATION
 AUTHORIZATION TO USE OR DISCLOSE PROTECTED HEALTH INFORMATION

Effective Date: 4/14/03

Dates Revised:

A handwritten signature in cursive script, reading "Jerome E. Lovrien". The signature is written in black ink on a light-colored background.

Jerome E. Lovrien, Commissioner, Bureau for Behavioral Health and Health Facilities