

**ROUTINE AND RECURRING REQUESTS FOR AND
DISCLOSURES OF PROTECTED HEALTH INFORMATION
PROCEDURE**

1. A committee composed of the Director of Medical Records, Director of Information Systems, Business Office Director, and Privacy Official or Designee(s) will annually review reasons for disclosure of PHI and for requests for PHI from others. In this review, the committee will also draw on the expertise of others with relevant operational and patient care experience.
2. Disclosures and requests that seem to this committee to be routine and recurring will be included on a list of routine and recurring disclosures and requests. Additional disclosures or requests may be included on the lists at the request of the Director of Operations, the Chief Financial Officer, the Designated Attorney or Designee(s), or the Chief Executive Officer.
3. The committee composed of the Director of Medical Records, Director of Information Systems, Business Office Director, and Privacy Official or Designee(s), with the advice of other knowledgeable people in the BHHF workforce and representatives of other parties to these disclosures and requests, will determine the minimum amount of PHI necessary to accomplish the purpose of each routine and recurring disclosure or request on the list.
4. In this review, the following principles will apply:
 - 4.1. Requests from other health care providers (other than BHHF) for PHI for purposes of treating patients are assumed to represent the minimum necessary and are not to be questioned.
 - 4.2. Disclosures of PHI to other health care providers for purposes of treating patients are assumed to represent the minimum necessary and are not to be questioned.
 - 4.3. Requests for PHI, and disclosures of PHI, that conform to the data content requirements of electronic transactions for which the federal government has adopted standards are, by definition, the minimum necessary.
 - 4.4. Requests from health plans, or from other health care providers that are covered entities, for PHI that is in addition to that required in standard electronic transactions, will be assumed to represent the minimum necessary if the requests are routine and recurring, and reasonable (for example, requests for discharge summaries in connection with emergency room claims, when additional information is needed to process the claim, are routine and recurring).
 - 4.4.1. Requests for PHI that are found by the committee to be unreasonable, even if routine and recurring, will be questioned and evaluated before being approved by the committee.

- 4.4.2. Each individual request for the entire medical record must be justified by the requestor, even if such requests are routine and recurring.
 - 4.5. Requests for disclosure that are supported by, and are consistent with, an authorization signed by the patient to whom the PHI pertains, are deemed to represent the minimum necessary. However, if BHHF requested a patient to sign an authorization to use or disclose PHI, BHHF may not request more than the minimum necessary.
 - 4.6. 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.
 - 4.7. Disclosures that are required by law are deemed to be the minimum necessary, to the extent that the information that is disclosed is authorized or required by such law.
 - 4.8. Other disclosures of PHI, or requests for PHI, that are made in conformance with other BHHF policies, are deemed to be the minimum necessary. That is, any determinations made under these procedures do not override other BHHF policies. Any apparent conflicts will be resolved by the Privacy Official or Designee(s).
5. Determinations made in accordance with these procedures will be recorded in writing (“Minimum Necessary Content for Routine and Recurring Disclosures and Requests”). The records for each such determination, for each item on the list, will include the rationale for the determination, and are retained for as long as the determination continues in force, plus six years or longer if required by state law or regulation. [NOTE: Federal HIPAA privacy regulations do not require that this documentation be retained. However, it is recommended in order to demonstrate compliance.]
 6. The written determinations will be communicated to managers in Information Systems, Medical Records, the Office of Designated Attorney or Designee(s), and each affected operational area of responsibility.
 7. Each manager who receives a copy of the Minimum Necessary Content for Routine and Recurring Disclosures and Requests is responsible for responding within a reasonable time with a description of actions taken to reasonably assure that electronic and administrative procedures conform to these determinations.
 8. The Privacy Official or Designee(s) is responsible for assuring that all such responses are received within a reasonable time, and for notifying the Office of Designated Attorney or Designee(s) of responses not received.
 9. The Privacy Official or Designee(s) is responsible for responding to objections to any “minimum necessary” determinations, and for accommodating such objections if doing so would not violate the minimum necessary rule.

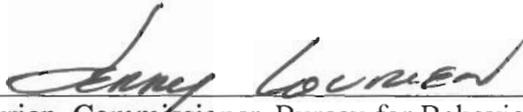
10. For disclosures that must be included in an accounting of disclosures, the Privacy Official or Designee(s) and Director of Information Systems will develop a mechanism to record, for each routine and recurring disclosure, the information necessary to account for the disclosure in accordance with the ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION policy.

REFERENCE: 45 CFR §§ 164.502(b); 164.514(d)(3) and (4)

See also: MINIMUM NECESSARY RULE
ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION
REQUESTS FOR, AND DISCLOSURES OF, PROTECTED HEALTH
INFORMATION THAT ARE NOT ROUTINE AND RECURRING

Effective Date: 4/14/03

Revised Dates:



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