



Department of Health, Housing & Human Services (H3S)

POLICY TITLE:	Minimum Necessary Standard		
POLICY ID:	HP-14	EFFECTIVE DATE:	
SECTION:	H3S Directors Office	REVISION DATES:	
CHAPTER:	Privacy HIPAA	NEXT REVIEW:	
CONTACT:	H3S Privacy Coordinator	APPROVED BY:	County Counsel
APPLIES TO:	All H3S workforce members of the hybrid covered component	REPLACES:	
SIGNED BY:	Rich Swift	DATE SIGNED:	4/25/18

I. PURPOSE: The Privacy Rule does not define minimum necessary, nor does it specify what the “minimum amount” of information is for use or disclosure. The purpose of this policy is to create a guideline for determining minimum necessary standards for non-routine uses, disclosures, and requests of PHI.

II. POLICY: Clackamas County, when using, disclosing or requesting protected health information (PHI), will make reasonable efforts to limit the PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure or request with the following exceptions:

- Disclosures to or requests by a health care provider for treatment
- Disclosures made to the individual about his or her own PHI
- Uses or disclosures made pursuant to a HIPAA-compliant authorization
- Disclosures made to the Secretary of Health and Human Services in accordance with the HIPAA Privacy Rule
- Uses or disclosures that are required by law (e.g.- reporting of neglect, abuse or domestic violence)
- Uses or disclosures that are required for compliance with HIPAA

Covered components may rely on the minimum necessary determination made by the following entities in responding to a request for PHI;

- Public official with authority to receive the information, such as worker's compensation agency or Health Oversight Agency
- Another covered entity
- A health care professional for treatment purposes
- A researcher with proper authorization

III. DEFINITIONS: See Clackamas County HIPAA Privacy Policy

IV. PROCEDURE: Each Division or program must implement the Minimum Necessary Standard as follows:



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- A. Workforce Members with Access: Managers and/or supervisors of each division or program must identify workforce members (or classes of workforce members) within the Division or program who need access to PHI to carry out their duties. Each division maintains the documentation regarding request and approval for access. Privacy Managers may use documentation of access for monitoring and auditing purposes.
- B. Categories of Treatment: For each health care provider workforce member (or classes of workforce members) the Division or program Manager and/or supervisor must identify the category (or categories) of PHI to which access is needed for the purpose of treatment and any conditions appropriate to such access. A list or matrix of categories of treatment must be provided to the H3S Privacy Coordinator as requested for monitoring and auditing purposes.
- C. Limitation of Access: Once workforce members within a Division or program who need access to PHI and categories of information are identified, the Division or program must make reasonable efforts to limit access only to such identified workforce members to their respective identified categories of PHI. Health care provider workforce members will be limited to their assigned Categories of Treatment.
- D. Termination of Access: Divisions or programs must ensure that access to systems containing PHI are shut off when a workforce member's employment terminates or role changes. A list or report of terminated or changes of access must be provided to the H3S Privacy Coordinator as requested for monitoring and auditing purposes.
- E. Type of Disclosure or Request:
 - 1. *Routine*: When a Disclosure or request is of the type that occurs on a routine or recurring basis, each Division or program must implement a standard protocol for use that limits the PHI disclosed or requested to the minimum amount reasonably necessary to achieve the permissible purpose of the disclosure.
 - 2. *Non-Routine*: For any non-routine use, disclosure or request, the division or program must develop criteria to limit the PHI disclosed to the minimum amount reasonably necessary to accomplish the purpose of the disclosure. With the assistance of the Privacy Manager and County TS, the division or program must train designated staff administrators to review workforce requests for use or disclosure of PHI on an individual basis in accordance with such criteria.
- F. Responding to Requests for Disclosures: Division or program staff may rely on a requested disclosure as the minimum necessary for the stated purpose in the following situations:



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1. When making disclosures to public officials as permitted or required under applicable policy if the requesting official represents that the information requested is the minimum necessary for the stated purpose.
 2. When the information is requested by another Covered Entity.
 3. When the information is requested by a health care professional who is a member of the County's workforce or is a business associate of the County for the purpose of providing professional service to H3S and the professional represents that the information requested is the minimum necessary for the stated purpose.
 4. When the information is requested for research purposes and the person requesting the information has provided documentation or representations that comply with applicable H3S policy concerning disclosure for research.
- G. Request for Entire Record: As a general rule, H3S Divisions or programs may not use, disclose or request an entire record of a client unless the entire record is specifically justified as the minimum amount that is reasonably necessary to accomplish the purpose of the use, disclosure or request. Each Division must determine the type of routine requests that justify use, disclosure, or request of the entire record.
- H. Breach: Uses or disclosures that exceed the minimum necessary must be reported as described in Clackamas County HIPAA Privacy Policy.
- I. Leaving Messages: When leaving a message with a client on voice mail, Divisions or programs must implement procedures to ensure only a high level purpose of the call is disclosed. Client's permission to otherwise leave a more detailed message must be documented in the Client's record.

V. REGULATIONS:

45 CFR 164.502 and 514(d)

VI. REFERENCES:

HP-02 H3S Audit Process

HP-12 H3S Permissions for Uses and Disclosures of PHI without an Authorization

HP-26 H3S Uses and Disclosures of PHI Created for Research

VII. LINKS (TITLE & URL):

None

VIII. ATTACHMENTS:

None