

Approved By:	Board of Directors	Adopted Date:	6/22/20
Distribution:	All Staff	Revision Date(s):	
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Notice: Under the federal Health Insurance Portability and Accountability Act (HIPAA), those provisions of HIPAA concerning the privacy and confidentiality of a person's confidential health information "give way" to those California state law provisions, and other federal provisions, that are more stringent than HIPAA.

ODCHC staff should follow California law or other federal law if it provides greater protection than HIPAA. If you are unsure which law to follow please contact your immediate supervisor or the Privacy Officer.

PURPOSE:

To outline the use of the Minimum Necessary Standard to guide staff in the release of medical records. This will limit the use and disclosure of protected health information to that which is necessary to accomplish the intended purpose, limit access to protected health information to only staff that require access to perform their duties, and assure safeguards and practices reflect the minimum necessary standard.

DEFINITIONS:

See HIPAA Compliance Overview policy for all definitions.

POLICY:

General Rule

The minimum necessary requirements in the Privacy Rule require a covered entity such as ODCHC to develop and implement policies and procedures that:

- Limit uses and disclosures of protected health information (PHI) to the minimum amount of PHI to accomplish the purpose of the use or disclosure;
- Limit requests for PHI to the minimum amount of PHI to accomplish the purpose of the request; and
- Limit staff access to PHI to those authorized users who require the PHI to perform their assigned duties, and limit that access to the PHI required to perform those duties.

NOTE: HIPAA's minimum necessary standard is similar to federal 42 CFR Part 2 substance abuse confidentiality regulations which require that any disclosure be limited to information necessary to carry out the purpose of the disclosure.

Minimum Necessary Rule Not Applicable

Under the Privacy Rule, the minimum necessary does not apply to the following use or disclosure:

- Disclosures to a health care provider or from a health care provider for treatment.
- Uses or disclosures made to the individual who is the subject of the PHI.
- Uses or disclosures made to the Secretary of U.S. DHHS for compliance enforcement and investigations purposes.
- Uses and disclosures to regulatory agencies tasked with health care oversight or licensing.
- Uses or disclosures required by law.
- Uses or disclosures that are required to comply with the Privacy Rule.

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NOTE: For alcohol and drug treatment programs, the minimum necessary standard applies to all disclosures of information.

Minimum Necessary Disclosures of PHI

- Routine and recurring disclosures: ODCHC must implement policies and procedures regarding any disclosures of PHI that it makes on a routine and recurring basis. The disclosure of PHI must be limited to the amount reasonable necessary to achieve the purpose of the disclosure.
- All other disclosures: For all other disclosures, ODCHC must develop criteria designed to limit the PHI disclosed to that reasonably necessary to accomplish the purpose for which disclosure is sought, and then review the request on an individual basis in accordance with the criteria.
- Reasonable reliance on request for disclosure: For disclosures of PHI, ODCHC may reasonably assume that the minimum necessary standard has been applied when the disclosure is requested by public officials, by another covered entity such as a health care provider, and by a professional who is either a member of the staff or a business associate if the request is to provide services to ODCHC and the professional represents that the information requested is the minimum necessary for the stated purpose. Under these circumstances, ODCHC does not need to make a separate minimum necessary determination.
- All disclosures must be documented.

Minimum Necessary Requests for PHI

- General rule: When requesting PHI, ODCHC must limit its request to the PHI that is reasonably necessary to accomplish the purpose for which the request is made.
- Routine and recurring requests: ODCHC must implement policies and procedures regarding requests for disclosures of PHI that it makes on a routine and recurring basis. The requests for PHI must be limited to the amount necessary to achieve the purpose of the disclosure.
- All other requests: For all other requests, ODCHC, must develop criteria designed to limit the PHI requested to that reasonably necessary to accomplish the purpose for which the request is sought and review requests on an individual basis in accordance with the criteria.

Use, Disclosure or Request of Entire Medical Record

- General Rule: If the minimum necessary standard applies to a particular use, disclosure or request for protected health information, the entire medical record may not be used, disclosed, or requested.

REFERENCES:

California Hospital Association, California Health Information Privacy Manual, 2017

HIPAA rules and regulations, 45 CFR 164

County of Sacramento, HIPAA Privacy Rules Policies and Procedures, September 23, 2013

ASSOCIATED DOCUMENTS:

AG_Electronic Communication of Protected Health Information

AG_HIPAA Compliance Overview

AG.603 MINIMUM NECESSARY STANDARD

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KEYWORD TAGS:

HIPAA, minimum, necessary, limit, limited, disclosure, PHI, protected, health, information, HIPPA