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Owner: David Behinfar: HCS Exec
 Dir Privacy
Policy Area: HIPAA - Privacy
Policy Tag Groups:
Applicability: UNCHCS - All except Pardee

Minimum Necessary

APPLICABILITY:

This policy applies to the following entities (collectively referred to as "UNC Health" in this policy):

✓ UNC Health Care System / UNC Medical Center*	✓ Johnston Health
✓ UNC Physicians Network	✓ Lenoir Memorial Hospital
✓ UNC Physicians Network Group Practices / UNC Physicians Group Practices II	Margaret R. Pardee Memorial Hospital
✓ Rex Healthcare / Rex Hospital	✓ Nash Healthcare System/Nash Hospitals
✓ Chatham Hospital	✓ Wayne Memorial Hospital
✓ Caldwell Memorial Hospital	
✓ UNC Rockingham Health Care / UNC Rockingham Hospital	

*UNC Medical Center includes all UNC Hospitals' facilities and the clinical patient care programs of the School of Medicine of UNC-Chapel Hill (including UNC Faculty Physicians).

I. Description

Members of the UNC Health workforce shall only access, use and disclose the type and amount of PHI that is the minimum necessary to perform most job functions outside of treatment. This policy describes the application of the "minimum necessary" principle for access, use and disclosure of PHI by all UNC Health workforce members.

Included within the scope of this policy are the patient care programs of the UNC School of Medicine (UNC SOM). As a result, this policy shall apply to all UNC SOM personnel, including but not limited to faculty, staff, students, trainees, interns and volunteers who may be full-time, part-time, paid or unpaid who create, store, transmit, access or use any patient information in support of clinical purposes for UNC Health or any other healthcare entity.

II. Policy

A. **Accessing, Using and Releasing the Minimum Amount of PHI Necessary.** When accessing, using or

releasing PHI, UNC Health workforce members shall only use the minimum amount of PHI necessary in order to accomplish the intended purpose.

B. Exclusions to the Minimum Necessary. The Minimum Necessary principle does not apply in the following circumstances:

1. Uses or disclosures of PHI in furtherance of treatment;
2. Disclosures of PHI made to the patient;
3. Uses or disclosures of PHI made pursuant to an authorization signed by the patient or his or her representative;
4. Disclosures of PHI made to the Secretary of Health and Human Services;
5. Uses or disclosures of PHI that are required by law; or
6. Uses or disclosures of PHI by UNC Health required for compliance with applicable UNC Health privacy policies and/or HIPAA.

C. Identifying Workforce Members who are Permitted to access, use and/or disclose PHI. Every Department, area or working group shall identify all employees or classes of employees who need access to PHI to perform their duties, and the level of access needed. PHI shall only be used or accessed by those identified employees or classes of employees as follows:

1. Categories of PHI to which access is needed must be identified and any conditions appropriate to such access clearly defined.
2. All categories of access to PHI and approved uses of PHI must be documented and all staff must be educated about their department's minimum necessary procedures.
3. Access to UNC-owned or operated electronic systems containing PHI may require those seeking access credentials to the system to meet role-based access requirements and procedures as a condition to granting access to workforce members.

D. Determining the Minimum Necessary. The determination of the minimum amount of PHI necessary is based on the role of the workforce member. The type, and amount of PHI that they access, use or disclose should be limited to that which is necessary to perform the specific job or task.

E. DISCLOSURES OF PHI – ROUTINE AND NON-ROUTINE DISCLOSURES

1. **Routine Disclosures of PHI.** For any type of disclosure that is made on a routine, recurring basis, only the disclosure of the minimum PHI reasonably necessary to achieve the purpose of the disclosure may be made, limited to that which is allowable under applicable law and/or statutes.
2. **Non-routine Requests.** Each non-routine request for disclosure of PHI shall be reviewed on an individual basis to determine the appropriate and minimum necessary disclosure required, based upon the following criteria:
 - a. Whether the requestor was specific about the type of information that is needed;
 - b. Why the information is being requested; and
 - c. Whether the requestor is a person who can be relied on.
3. **Responsibility for Compliance with Requests to use or access PHI.** The responsibility for establishing the appropriateness of a request to use or access PHI is the primary responsibility of the individual seeking to access or use the data.

Additionally however, if the data owner is someone other than the party requesting access to the data, the data owner should also ensure that he or she is in agreement with the requesting party's conclusions as to whether the requested data is for the minimum amount of information in compliance with this policy.

4. **Requests Deemed Reasonable on their Face.** A requested disclosure of PHI may be relied on as the minimum necessary for the stated purpose if such reliance is reasonable under the circumstances, when:
 - a. Making permitted or required disclosures to a public official, if the official represents that the information is the minimum necessary for the stated purposes;
 - b. The information is requested by another covered entity with a relationship to the patient for treatment, payment or health care operations;
 - c. The information is requested by a professional who is a member of the workforce or a professional who is a business associate, if either such professional represents that the information is the minimum necessary for the stated purposes;
 - d. An IRB or privacy board is requesting disclosure of PHI needed for research, and such request is consistent with the approved IRB approved protocol;
 - e. A request to disclose PHI is necessary to prepare a research protocol or for research on decedents.
5. **Verification of Identity of Requesting Party.** Employees shall verify the identity of an outside requestor pursuant to the UNC Health [Verification of Identity](#) Policy before disclosing PHI.
6. **Review of Outside Requests.** Requests for use or disclosure of PHI from other covered entities shall be reviewed on an individual basis and limited to the minimum necessary for the use or disclosure intended. The following criteria shall be used in making a request for PHI:
 - a. Requests should be as specific as possible;
 - b. Unless absolutely necessary, requests for entire medical records should not be made (unless the request is for treatment purposes); and
 - c. The requestor should be able to provide justification for the scope of the request.
7. **Using and/or Disclosing an Entire Medical Record for Non-treatment Purposes.** UNC Health Facilities may not use, disclose or request an entire medical record for a non-treatment purpose, unless the entire medical record is reasonably necessary to accomplish the purpose of the use, disclosure, or request.

III. Definitions

Minimum Necessary – Refers to reasonable efforts made to limit use, disclosure, or requests for PHI to the minimum necessary to accomplish the intended purpose.

IV. References

45 C.F.R. §§ 164.502(b), 164.514(d), 164.514(e)) and HITECH Section 13405(b)

V. Related Policies/Forms

UNC Health [Verification of Identity](#) Policy

Attachments

No Attachments

Approval Signatures

Step Description	Approver	Date
	Jerylyn Williams: Chief Audit & Compliance Ofcr	06/2020
SYSTEM Site Administrator	Emilie Hendee: HCS Attorney Sr	06/2020
	David Behinfar: HCS Exec Dir Privacy	06/2020

Applicability

Caldwell Memorial Hospital, Chatham Hospital, Johnston Health, Nash UNC Health Care, UNC Health Care System, UNC Lenoir Health Care, UNC Medical Center, UNC Physicians Network, UNC Rex Healthcare, UNC Rockingham Health Care, Wayne Memorial Hospital

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