

**The HIPAA Privacy Rule's Minimum Necessary Standard
45 CFR 164. 502(b) and 164.514(d)**

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I. The Minimum Necessary Standard

- A. The minimum necessary standard requires a covered entity to develop and implement policies and procedures to:
1. Limit uses and disclosures of PHI to the minimum necessary amount of PHI to accomplish the purpose of the use or disclosure;
 2. Limit requests for PHI to the minimum necessary amount of PHI to accomplish the purpose of the request; and
 3. Limit who among the covered entity's workforce has access to PHI.
- B. The standard does not apply to any of the following uses or disclosures:
1. Disclosures to or requests by a health care provider for treatment.
 2. Uses or disclosures made to the individual who is the subject of the PHI.
 3. Uses or disclosures made pursuant to an authorization.
 4. Disclosures made to the Secretary of US DHHS for compliance enforcement purposes.
 5. Uses or disclosures that are required by law.
 6. Uses or disclosures that are required for compliance with the requirements of the privacy rule.

II. Minimum Necessary Uses of PHI

- A. A covered entity must do all of the following:
1. Identify the persons, or classes of persons, in its workforce who need access to PHI to carry out their duties.
 2. For each person or class of persons:
 - a. identify the category(ies) of PHI to which access is needed, and
 - b. identify any conditions appropriate to the person's or class of persons' access.
 3. Make reasonable efforts to limit workforce members' access to PHI in accordance with the above determinations.

III. Minimum Necessary Disclosures of PHI

- A. Routine and recurring disclosures: A covered entity must implement policies and procedures (which may be standard protocols) regarding any disclosures of PHI that it makes on a routine and recurring basis. The policies and procedures must

limit the PHI disclosed to the amount reasonably necessary to achieve the purpose of the disclosure.

- B. All other disclosures: For all other disclosures, a covered entity must:
 - 1. Develop criteria designed to limit the PHI disclosed to that reasonably necessary to accomplish the purpose for which disclosure is sought, and
 - 2. Review requests for disclosure on an individual basis in accordance with the criteria.

- C. Reasonable reliance on requests for disclosures
 - 1. A covered entity may rely on a requested disclosure as the minimum necessary for the stated purpose in any of the following circumstances:
 - a. When making disclosures that are permitted under § 164.512 to public officials, if the public official represents that the information requested is the minimum necessary for the stated purpose.
 - b. When the information is requested by another covered entity.
 - c. When the information is requested by a professional who is either a member of its workforce or a business associate, if:
 - i. the request for disclosure is for the purpose of providing professional services to the covered entity, and
 - ii. the professional represents that the information requested is the minimum necessary for the stated purpose.
 - d. When the disclosure is for research purposes, and the person requesting the disclosure has provided documentation or representations that comply with the requirements of § 164.512(i).
 - 2. A covered entity's reliance must be reasonable under the circumstances.

IV. Minimum necessary requests for PHI: § 164.514(d)(4)

- A. When requesting PHI from another covered entity, a covered entity must limit its request to the PHI that is reasonably necessary to accomplish the purpose for which the request is made.

- B. Routine and recurring requests: A covered entity must implement policies and procedures (which may be standard protocols) regarding requests for disclosures of PHI that the covered entity makes on a routine and recurring basis. The policies and procedures must limit the PHI requested to the amount reasonably necessary to accomplish the purpose for which the request is made.

- C. All other requests: For all other requests for PHI that the covered entity makes, it must:
 - 1. Develop criteria designed to limit the PHI requested to that reasonably necessary to accomplish the purpose for which the request is made, and
 - 2. Review requests for disclosure on an individual basis in accordance with the criteria.

V. Using, Disclosing, or Requesting Entire Medical Record

- A. General Rule: If the minimum necessary standard applies to a particular use, disclosure, or request for PHI, a covered entity may not use, disclose, or request the entire medical record.
 - 1. Note: Remember that the minimum necessary standard does not apply to disclosures to, or requests by, a health care provider for treatment purposes. Health care providers may disclose or request entire medical records for treatment purposes, without making the specific justification described below.

- B. Exception: The covered entity may use, disclose, or request the entire medical record if it specifically justifies that the entire record is the amount of PHI that is reasonably necessary to accomplish the purpose of the use, disclosure, or request.