Protected Health Information, Minimum Necessary Uses and Disclosures

Compliance

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Author: Compliance Services 828-0500
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General Description

**Purpose:** To provide guidance for VCU Health System Team Members to reasonably limit uses and disclosures of Protected Health Information (PHI) to the minimum necessary to achieve the purpose of the requested use or disclosure.

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Policy

A. When using or disclosing PHI, or when requesting PHI, Team Members must limit the PHI used, disclosed, or requested to the least amount necessary to achieve the purpose of the requested use or disclosure.

B. Use or disclosure of PHI more than the minimum necessary may be a violation of the HIPAA regulation and must be reported as directed in 'Notification of Privacy Violations, LG.PH.006'.

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Procedures

1. Each VCU Health System hospital/clinic and operating department requiring access to PHI to conduct business will develop system protocols appropriate to its business practices or
operations that identify:

1.1 The Team Member roles that need access to PHI to carry out their duties;

1.2 The type of PHI to which each role needs access; and

1.3 Any conditions appropriate to such access.

1.4 Further guidance on Administrative Safeguards may be found in policy, MR.PH.007, Administrative, Physical, and Technical Safeguards for Protected Health Information.

2. Minimum necessary requirements do not apply to the following types of uses, disclosures, or requests:

2.1 Disclosures of PHI to or requests of PHI from another health care provider for treatment purposes;

2.2 Disclosures of PHI to the patient who is the subject of the PHI, to a personal representative who is authorized to make health care decisions for the patient, or the patient’s estate;

2.3 Disclosures of PHI authorized by the patient;

2.4 Disclosures of PHI to the Department of Health and Human Services (DHHS) when disclosure of information is required under the Privacy Rule for enforcement purposes;

2.5 Uses or disclosures of PHI that are required by law (not just as permitted by law); and

2.6 Uses or disclosures of PHI required for compliance with HIPAA, the HITECH Act, and their implementing regulations.

3. PHI disclosed on a routine and recurring basis will be limited to the amount reasonably necessary to achieve the purpose of the disclosure.

3.1 Routine requests are those generally made by members of the general public, insurance companies, or attorneys and received through normal methods (e.g. fax, mail, and e-mail).

3.2 Non-routine requests are Subpoena Duces Tecum, search warrants, and Grand Jury Subpoenas, see "Release of Patient Health Information Protocol, MR.PH.002' and 'Legal Notice, Subpoena and Court Order Handling, LG.AD.001'.

3.3 Each request will be reviewed on an individual basis in accordance with the
established protocol.

4. A request from the following sources may be relied on as the minimum necessary information for the disclosure, if the requestor represents it as such:

4.1 Public officials to whom disclosure is permitted without an authorization, such as a public health official, a health oversight agency official, or national security official.

4.2 Other covered entities;

4.3 A professional who is a VCU Health System Team Member or is a business associate of VCU Health System.

5. Use and disclosures of PHI for research purposes

5.1 Requests for research purposes must include documentation of the waiver of authorization requirements and the scope of PHI used or disclosed. For additional guidance, see 'Uses and Disclosures of Protected Health Information for Research, COMP-014'.

5.2 Team Members review the documentation of the Institutional Review Board or other entity to determine the minimum amount of PHI necessary.

5.3 De-Identified PHI or a Limited Data Set may be used for the disclosure of the information.

5.4 If a Limited Data Set is used, a Data Use Agreement between VCU Health System and the requestor must be executed before disclosure. The Data Use Agreement must be reviewed by Compliance Services to ensure it contains the required elements.

5.5 Team Members may reference policy MR.PH.004, De-Identification of Protected Health Information for further guidance regarding de-identification of PHI.

5.6 Policy 'Uses and Disclosures of Protected Health Information for Research, COMP-014' may be referenced for requirements for the use of Limited Data Sets and Data Use Agreements.

6. Subject to the exceptions above, Team Members shall not use, disclose, or request an entire medical record except when the entire medical record is specifically justified as the amount of information that is reasonably necessary to accomplish the purpose of the use, disclosure or request.

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**Definitions**

**Definitions:** De-Identified PHI
Health information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual.

**Limited Data Set**
Protected health information that excludes specified direct identifiers of the individual or of relatives, employers, or household members of the individual.

**Team Member**
Any person, whether compensated or not, who performs some function for, on behalf of, and under the supervision of the VCU Health System, and who has access to health system premises, information and/or electronic information systems including, but not limited to: salaried or hourly team members, medical staff, credentialed providers, faculty, researchers, VCU employees, students, volunteers, contractors, consultants and agency or temporary employees.

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**Related Documents & Resources**

The following is a list of resources related to the current document.

**Compliance**
COMP-014
*Protected Health Information, Uses & Disclosures for Research*

LG.PH.006
*Privacy Violation Notification*

**VCU Health System Policy**
MR.PH.002
*Protected Health Information, Release of Patient Health Information Protocol*

**Compliance**
MR.PH.004
*De-Identification of Protected Health Information*

MR.PH.005
*Uses & Disclosures of Protected Health Information for Treatment, Payment, and Operations*

MR.PH.007
*Protected Health Information, Administrative, Technical, and Physical Safeguards*

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