



VOLUME 13: PRIVACY	Effective Date: 2/15/12
CHAPTER 4	Revision Date: 09/2015
13.4 MINIMUM NECESSARY USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION POLICY	Attachments: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

I. POLICY

California Correctional Health Care Services (CCHCS) and its workforce must make reasonable efforts to limit Protected Health Information (PHI) to the minimum necessary to accomplish the intended purpose of the use, disclosure or request when CCHCS policy permits the use or disclosure of a patient’s PHI or when requesting PHI from another entity. CCHCS shall determine what access to PHI is needed by workforce members to carry out work duties.

II. PURPOSE

To improve the privacy of PHI used or disclosed by workforce members in the course of carrying out their job duties, and ensure workforce members have appropriate access to PHI required to accomplish the missions, goals and objectives of CCHCS while maintaining compliance with privacy and related health information law.

III. DEFINITIONS

Business Associate: An individual or corporate “person” who: performs on behalf of CCHCS or on behalf of another business associate of CCHCS any function or activity involving the use or disclosure of PHI for which CCHCS is responsible, and is not a member of the CCHCS’ workforce.

- The definition of “function or activity” includes but is not limited to: claims processing or administration, data analysis, utilization review, quality assurance, billing, legal, actuarial, accounting, consulting, data processing, management, administrative, accreditation, technology services, financial services, and similar services for which CCHCS might contract if access to PHI is involved.
- Business associates do not include providers unless the provider also performs some “function or activity” as described above on behalf of CCHCS.

Covered Entity: Health plans, health care clearinghouses, and health care providers who transmit any health information in electronic form in connection with a transaction that is subject to federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) requirements, as those terms are defined and used in the HIPAA regulations, 45 Code of Federal Regulations (CFR) Sections 160 and 164.

Disclosure: The release, transfer, provision of access to, or divulging in any other manner, of information outside the entity holding the information.

Non-routine Disclosure: The disclosure of records outside CCHCS that is not for a purpose for which it was collected.

CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES

Protected Health Information: Information created or received by CCHCS which identifies or can be used to identify an individual as it relates to past, present, or future health conditions; health care services provided to the individual; or health care related payments. This applies to information that is transmitted or maintained in verbal, paper, or electronic form.

Public Official: A public official is any member, officer, employee, or consultant of a state or local government agency.

Routine and Recurring Disclosure: The disclosure of records outside CCHCS, without the authorization of the individual, for a purpose that is compatible with the purpose for which the information was collected.

Workforce: Employees, volunteers, trainees, and other persons whose conduct, in the performance of work for CCHCS or a business associate, is under the direct control of CCHCS or a business associate, whether or not they are paid by CCHCS or the business associate.

IV. RESPONSIBILITY

Oversight responsibility of the Privacy Office shall be vested in the Privacy Officer. The Privacy Officer is required to oversee privacy rights as required by laws, policies, and standards for respecting the rights of individuals with regard to the collection, use, and disclosure of personal information throughout CCHCS.

V. MINIMUM NECESSARY USES OR DISCLOSURES OF PHI

A. When Minimum Necessary Uses or Disclosures of PHI Applies

1. Unless an exception set forth in this policy applies, CCHCS workforce members may only use, request, and disclose the minimum amount of PHI necessary to perform their duties, including the fulfillment of a request for the use or disclosure of PHI. For requests requiring patient authorization, CCHCS must limit the use and disclosure of PHI as described in the patient authorization.
 - a. **Uses or disclosures of entire health records.** CCHCS workforce members shall not use, disclose or request a patient's entire health record, except when the entire health record is specifically justified as the amount that is reasonably necessary to accomplish the use, disclosure, or request.
 - b. **Routine and recurring disclosures.** For routine and recurring disclosures, CCHCS subdivisions shall implement policies and procedures that limit the PHI disclosed to the amount reasonably necessary to achieve the purpose of the disclosure.
 - c. **Non-routine disclosures.** For non-routine disclosures, CCHCS subdivisions shall develop criteria designed to limit the PHI disclosed to only the minimum amount necessary to accomplish the purpose for which the disclosure is sought; requests for non-routine disclosures shall be reviewed on an individual basis in accordance with such criteria.
2. **Reasonable Reliance.** CCHCS may rely on the judgment of the party requesting a disclosure in determining the minimum amount of information that is needed when:

CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES

- a. Making disclosures to public officials as stated in Inmate Medical Services Policies and Procedures, Volume 13, Chapter 6, Use and Disclosure of Protected Health Information: Special Exceptions Policy, if the public official represents that the PHI requested is the minimum necessary for the stated purpose.
 - b. The information is requested by another covered entity; or
 - c. The information is requested by a professional who is a member of the CCHCS workforce or is a CCHCS business associate for the purpose of providing professional services, if the professional represents that the information requested is the minimum necessary for the stated purpose(s).
3. **Access and use.** CCHCS subdivisions shall establish role-based access controls that provide only the minimum amount of information necessary for workforce members to perform their duties. CCHCS subdivisions shall safeguard information accessible by computer, kept in files, or other forms of information consistent with CCHCS policy.

B. When Minimum Necessary Uses or Disclosures of PHI does not Apply

The minimum necessary standard does not apply to the following.

1. Disclosures to or requests by a health care provider for treatment.
2. Disclosures to the patient who is the subject of the information.
3. Uses and disclosures based upon a valid authorization to use and disclose PHI.
4. Uses or disclosures required by law.

VI. TRAINING REQUIREMENTS AND CONTACT INFORMATION

- A. Privacy training is required for new employees during New Employee Orientation and annually thereafter.
- B. For questions or clarification, please contact: Privacy@cdcr.ca.gov or 1-877-974-4722.

VII. REFERENCES

- Code of Federal Regulations, Title 45, Subtitle A, Subchapter C, Part 160, Subpart A, Section 160.103 - Definitions
- Code of Federal Regulations, Title 45, Subtitle A, Subchapter C, Part 164, Subpart E, Section 164.502(b)
- Code of Federal Regulations, Title 45, Subtitle A, Subchapter C, Part 164, Subpart E, Section 164.514(d)(1)
- California Correctional Health Care Services, Inmate Medical Services Policies and Procedures, Volume 13, Chapter 1, General Use and Disclosure of Protected Health Information Policy
- California Correctional Health Care Services, Inmate Medical Services Policies and Procedures, Volume 13, Chapter 2, Use and Disclosure of Protected Health Information Based on Patient Authorization Policy
- California Correctional Health Care Services, Inmate Medical Services Policies and Procedures, Volume 13, Chapter 5, Administrative, Technical, and Physical Safeguards Policy
- California Correctional Health Care Services, Inmate Medical Services Policies and Procedures, Volume 13, Chapter 6, Use and Disclosure of Protected Health Information: Special Exceptions Policy