

The Minimum Necessary Standard

RATIONALE

The Health Insurance Portability and Accountability Act (HIPAA) requires application of the “Minimum Necessary” standard apply to the use, disclosure or request of protected health information (PHI).

Item 45CFR 164.502(b) of the federal codes states:

“(b) Standard: Minimum necessary - Minimum necessary applies. When using or disclosing protected health information or when requesting protected health information from another covered entity or business associate, a covered entity or business associate must make reasonable efforts to limit protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.”

PURPOSE

This Minimum Necessary Standard policy (Policy) establishes and describes Palmer College of Chiropractic’s (College) expectations for application of the “Minimum Necessary” standard for use, disclosure and/or requests of PHI.

SCOPE

This Policy applies to the entire College community, which is defined as including the Davenport campus (Palmer College Foundation, d/b/a Palmer College of Chiropractic), West campus (Palmer College of Chiropractic West) and Florida campus (Palmer College Foundation, Inc., d/b/a Palmer College of Chiropractic Florida) and any other person(s), groups, or organizations affiliated with any Palmer campus.

DEFINITIONS

For the purposes of this Policy, the following terms shall have the meanings specified below:

- > The term **“College”** refers to Palmer College of Chiropractic, including operations on the Davenport campus; West campus; and Florida campus.
- > The term **“College community”** refers to all students, faculty, staff (including administration), and any other person(s), groups, or organizations affiliated with any Palmer campus.

- > The term “**disclosure**” refers to the release, transfer, provision of access to, or divulging in any manner of PHI by an individual within the HCC or ACE with a person or entity outside the HCC or ACE.
- > The term “**incidental use or disclosure**” refers to a secondary use or disclosure that cannot reasonably be prevented, is limited in nature, and that occurs as a result of another use or disclosure that is permitted by the Privacy Rule.
- > The term “**legally authorized representative**” refers to a person with authority to act on behalf of an adult, emancipated minor, un-emancipated minor or deceased individual in making decisions related to health care and/or health care information. The legally authorized representative of un-emancipated minors includes a parent, guardian or other persons acting *in loco parentis* of the minor.
- > The term “**minimum necessary**” refers to using, disclosing or requesting the minimum amount of PHI as necessary to accomplish the intended use or disclosure.
- > The term “**need-to-know**” refers to the limiting of access to information to just that information for which an individual has a legitimate clinical or business need.
- > The term “**Palmer College of Chiropractic Affiliated Covered Entity**” (PCC ACE) refers to The Palmer College of Chiropractic Affiliated Entity (PCC ACE) consists of the following; **Palmer College Foundation** d/b/a Palmer College of Chiropractic, **Palmer College Foundation, Inc.** d/b/a Palmer College of Chiropractic Florida and **Palmer College of Chiropractic West**. Palmer College Foundation and Palmer College Foundation, Inc. are one legal entity. Palmer College of Chiropractic West is a separate legal entity. PCC ACE is a hybrid entity. The combination of units within PCC ACE designated as part of the Palmer College of Chiropractic Health Care Component (PCC HCC) comprise the Palmer College of Chiropractic Affiliated Covered Entity (PCC ACE).
- > The term “**Palmer College of Chiropractic Health Care Component**” (PCC HCC) refers to those health care units of Palmer College Foundation and Palmer College of Chiropractic West that have been designated as part of its health care component. For more information, refer to the Institutional Policy, Designation of the Palmer College of Chiropractic Health Care Component.
- > The term “**protected health information**” (PHI) refers to information, including demographic information, which relates to the individual’s past, present or future physical or mental health

or condition; the provision of health care to the individual; or the past, present or future payment for the provision of health care to the individual, and that identifies the individual or for which there is a reasonable basis to believe can be used to identify the individual. PHI includes many common identifiers (e.g. name, address, birthdate, Social Security number) when such can be associated with the health information listed above. PHI does not include student records held by educational institutions or employment records held by employers. However, this information is still treated confidentially under other applicable laws.

- > The term **“role”** refers to the category or class of person or persons doing a type of job, defined by a set of similar or identical responsibilities.
- > The term **“use”** refers to the sharing, employment, application, utilization, examination, or analysis of PHI by an individual within the PCC HCC or the PCC ACE.

ADMINISTRATIVE RULES

The HIPAA Privacy Rule requires application of the “minimum necessary” standard for the use, disclosure or request for PHI, except as specifically stated in the regulations. The College will only use, disclose or request the minimum amount of PHI as necessary to accomplish the intended use or disclosure. This is known as the “minimum necessary” standard.

The minimum necessary standard does **not** apply to the following:

1. Disclosures to or requests for PHI by a health care provider for treatment purposes;
2. Disclosures of PHI to the patient or the patient’s legally authorized representative;
3. Uses or disclosures of PHI made pursuant to an authorization signed by the patient or the patient’s legally authorized representative;
4. Uses or disclosures of PHI that are required by law; and/or
5. Uses or disclosures of PHI that may be required for compliance with HIPAA (including disclosures made to the U.S. Department of Health and Human Services in response to an investigation of compliance with HIPAA).

Minimum Necessary as it Applies to Access to and Use of PHI

All access to PHI, whether it be electronic or hardcopy, must be limited to individuals who have a legitimate clinical or business need-to-know the information. Accessing or using more information than is necessary to perform one's job responsibilities is prohibited.

Each PCC HCC unit's Privacy Officer is responsible for identifying roles within each unit (hereafter referred to as "department"). This will normally be done with assistance from supervisors. A role is defined as the category or class of person(s) doing a job, defined by a set of similar or identical responsibilities. For example, PCC HCC departments may identify the following roles:

1. Treatment provider;
2. Support to treatment provider;
3. Admissions/registration;
4. Business services;
5. Clinic management;
6. Health Information Management (HIM)/medical record staff;
7. Housekeeping/environmental services; and
8. Maintenance.

Each department's Privacy Officer (or designee) must analyze each role and determine to what degree PCC HCC personnel in that role require access to PHI.

ACCESS TO THE HIGHEST LEVEL OF PHI

Access to the highest level of PHI (e.g. unlimited access to electronic information or the entire hard-copy medical record) may be justified in the following circumstances:

1. The "role" provides direct clinical care (e.g. physicians, athletic trainers, health care trainees/health care students in assigned rotations or clerkship) and access to different parts of the medical record for different patients may vary from patient to patient depending on the circumstances surrounding the provision of care.

2. The “role” conducts quality assurance, peer review and related functions and access to potentially all protected health information is necessary because different review processes may require access to different parts of a patient’s medical record.
3. The “role” is legal or risk management function and access to potentially all of a patient’s PHI is necessary because review and use of the PHI may require access to different parts of the medical record depending on the circumstances surrounding the legal or risk management inquiry.
4. Various “roles” related to Health Information Management (e.g. medical records) as necessary to code, release, file, transport and secure medical records.
5. “Roles” in business services/billing in which access to potentially the entire medical record is necessary to provide third party payers with information related to payment of a claim.
6. The “role” needs access to potentially the entire medical record because the individuals in those roles need to investigate employee or patient issues or complaints (e.g. senior directors, directors, supervisors).
7. Senior management, administration staff and the PCC HCC department Privacy Officer who potentially needs access to the entire medical record for treatment, payment or health care operations purposes.
8. Directors/Supervisors are responsible for assuring staff has access to appropriate level of PHI. This includes electronic or paper.

VARYING LEVELS OF ACCESS TO PHI

Varying levels of access to PHI may be appropriate, depending upon role definition, for the following (staff with varying levels of need to access PHI for their role often have access to the entire hard-copy medical record, and are expected to access and use only that PHI in the hard-copy medical record, that they would normally have access to electronically):

1. The “role” provides support to direct clinical providers (e.g. clinic assistants, clerical support staff, and students) and access needs to varying levels of PHI depend on the type of support provided (e.g. ordering tests, supplies, and etc. for patients, maintenance of charts, data collection related to treatment, completion of

billing or compliance paperwork). Business management roles in which access to limited PHI (e.g. demographic and financial information) is necessary for business and operations analysis and decision-making.

2. Information Technology staff who need access to electronic systems to provide technological support to these systems.
3. Office staff that need access to limited PHI to process admissions documents, provide information to payors for benefits information and related purposes, and to schedule clinic visits or procedures.
4. Development staff and Marketing and Communication staff who need access to limited PHI to handle inquiries from outside sources and to manage marketing and fundraising activities.

MINIMAL ACCESS TO USE PHI

Minimal access to use of PHI is appropriate for the following roles depending on job duties:

Some volunteers or others who need minimal access to PHI, for example, to assist families and friends with directory information.

1. Access to use of PHI, except when incidental, is inappropriate for the following roles:
2. Custodial services;
3. Shipping and Receiving staff and Records staff who handle and deliver PHI (e.g. in a sealed envelope or box); and/or
4. Facilities.

Summary of “Roles” and Levels of Access to PHI

Table 1: Roles and Levels of Access to PHI

Role	All PHI	Limited PHI	Minimal PHI	No PHI	Limitations
Clinical staff	X	N/A	N/A	N/A	Need-to-know
CIP staff	X	N/A	N/A	N/A	Need-to-know

Role	All PHI	Limited PHI	Minimal PHI	No PHI	Limitations
Legal/Risk Management staff	X	N/A	N/A	N/A	Need-to-know
Records staff	X	N/A	N/A	N/A	Need-to-know
Senior Directors, Directors, Supervisors	X	N/A	N/A	N/A	Need-to-know
PCC Privacy Officer	X	N/A	N/A	N/A	Need-to-know
Office staff	X (some)	X (most)	N/A	N/A	N/A
Support to Direct Clinical Providers	N/A	X	N/A	N/A	Need-to-know
Business Management Roles	N/A	X	N/A	N/A	Need-to-know
IT staff	N/A	X	N/A	N/A	Need-to-know
Advancement	N/A	X	N/A	N/A	Need-to-know
Marketing and Communication	N/A	N/A	N/A	N/A	n/a
Students	N/A	N/A	X (some)	X (most)	Need-to-know
Custodial	N/A	N/A	N/A	X	N/A
Shipping & Receiving	N/A	N/A	N/A	X	N/A
Facilities	N/A	N/A	N/A	X	N/A

Minimum Necessary as it Applies to Disclosures of PHI

ROUTINE DISCLOSURES

When responding to requests for disclosures made on a periodic or recurring basis, the PCC HCC department must limit the disclosures to the amount reasonably necessary to achieve the purpose. A “routine” disclosure is one made on a routine or recurring basis, and/or is relatively straightforward and appropriate to release per state and federal law. Disclosures in response to routine requests must be evaluated and released according to the following limiting measures:

1. By what is specifically authorized;

2. By what is specifically requested; and/or
3. Documents (e.g. procedure notes, test results) related to specific dates.

EXAMPLES OF ROUTINE DISCLOSURES WHERE MINIMUM NECESSARY RULE APPLIES

Table 2: Examples of Routine Disclosures Where Minimum Necessary Rule Applies

Requester	Purpose of Request	What is Disclosed
Business Associates (Collection Agency, Transcription Service,	Obtain information to carry out business purpose	When outside the exceptions- Need to Know Only
Health Oversight Agency	Audits and investigations	Only release minimal information requested
Law enforcement	Investigate accident or Locate a victim or suspect of crime	Only release minimal information requested
Insurance carrier	Billing/collection of payment	Limit release of documents to the dates of services in question
Court order	Legal issues such as placement of mentally or physically handicapped child	Only what is requested per written order

NON-ROUTINE DISCLOSURES

When responding to requests for non-routine disclosures, the PCC HCC department must limit the disclosures to the amount reasonably necessary to achieve the purpose based on the criteria established below. Non-routine means the disclosure is made infrequently, or processing the request often requires legal assistance. All non-routine disclosures shall be directed to the department Privacy Officer for review and processing. When necessary, the department Privacy Officer will consult with the PCC Privacy Officer to aid in the review and processing of a request. The PCC HCC department will apply the following criteria when reviewing requests for non-routine disclosures:

1. Specificity of the request;
2. Purpose/importance of the request;
3. Impact on patients;

4. Impact on the PCC HCC department;
5. Extent to which disclosures would increase number of individuals or organization with access to PHI;
6. Likelihood of re-disclosure;
7. Ability to achieve the same purpose with de-identified information;
8. Technology available to limit the disclosures of the PHI;
9. Cost of limiting the disclosure of PHI; and/or
10. Other factors,

Examples of Non-Routine Disclosures

1. Court order;
2. Request from federal or state governmental agency;
3. To county/investigating agency, protective services;
4. To foster care, group home, child care institutions, or correctional facility for minor;
5. To the military for purposes other than recruitment; and/or
6. Insurance carrier audit.

Minimum Necessary as it Applies to Requests by PCC HCC Staff for Protected Health Information from Other Covered Organizations

Requests by PCC HCC staff for PHI from other organizations covered by the HIPAA Privacy Rule, including business associates, must be limited to the portions of the record reasonably necessary to accomplish the purpose for which the request is made.

Any request for the entire medical record that is not made by a health care provider for treatment purposes must have in the request justification for requesting the entire medical record.

Monitoring of Minimum Necessary Requirement

1. PCC HCC department Privacy Officers will carry out periodic reviews, at least annually but more frequently when appropriate, of access levels to determine:
 - a) Changes in staff member position or scope of responsibilities; and
 - b) Changes in information available through information components.
2. PCC HCC department Privacy Officers, in collaboration with data security analysts, will periodically monitor access to determine appropriateness of staff review of PHI. Tracking incidents of unauthorized access will increase the security of patient's health information and decrease the risk of privacy violations. Methods for auditing access may include:
 - a) Conducting random spot-checks of patients to determine appropriateness of access;
 - b) Using exception reports to determine time of access, length of access, access to "confidential" or "publicly recognizable" patient PHI;
 - c) Reviewing "role-based" access by position and department of assignment within the organization; or
 - d) Reviewing requests for and access to "hard copy" patient records.
3. Reports of monitoring done under 1. and 2. above should be filed with the PCC HIPAA Privacy Officer.

DOCUMENTATION REQUIREMENTS

1. Monitoring reports by PCC HCC department Privacy Officers (see section above in this Policy, "Monitoring of Minimum Necessary Requirement"); and

At the option of the PCC HCC department Privacy Officer, access to PHI by staff member may be documented by completing the [Determination of Access to Protected Health Information](#) form. Additionally, requests for amendments of health information, the department response, and any notification of amendment made to Privacy Officer, must be documented and retained for six years from the date of its creation or the date when it last was in effect, whichever is later.

STANDARD INSTITUTIONAL POLICY PROVISIONS

Institutional policies are supplemented by provisions that are applicable to all institutional policies. It is the responsibility of all employees and students to know and comply with these standards.

- > [Standard Provisions Applicable to All Institutional Policies](#)

Additional Information

ASSOCIATED POLICIES, PROCESSES AND/OR PROCEDURES

This Policy is supplemented below. It is the responsibility of all employees and students to know and comply with policies and procedures as supplemented.

POLICIES

- > [Designation of the Palmer College of Chiropractic Health Care Component](#)
- > [Marketing with The Use of Protected Health Information](#)
- > [Uses of Protected Health Information for Education and Training](#)
- > [Uses and Disclosures of Protected Health Information for Fundraising](#)
- > [Uses and Disclosures of Protected Health Information That Require Patient Authorization](#)
- > [Uses and Disclosures of Protected Health Information Not Requiring Patient Authorization or an Opportunity to Agree or to Object](#)
- > [Uses and Disclosures of Protected Health Information That Require Providing the Patient with an Opportunity to Agree or to Object](#)
- > [Verifying Identity and Authority of Outsiders Seeking Disclosure of a Patient's Protected Health Information](#)

PROCESSES AND/OR PROCEDURES

- > N/A

FORMS/INSTRUCTIONS

- > [Determination of Access to Protected Health Information](#)

OTHER RELATED INFORMATION

- > 45 CFR 164.502(b) HIPAA Privacy Rule
- > 45 CFR 164.510 HIPAA Privacy Rule
- > 45 CFR 164.512 HIPAA Privacy Rule
- > 45 CFR 164.522(a) HIPAA Privacy Rule

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