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| Policy Title: HIPAA Minimum Necessary Requirement | | | |
| Department Responsible: Compliance and Privacy | Policy Code: 9.5 | Effective Date: August 3, 2016 | Next Review/Revision Date: September 30, 2019 |
| Title of Person Responsible: Chief Compliance Officer | | Approval Council: THN Compliance & Privacy | Revision/Adoption Date: July 10, 2017 |

PURPOSE:

To define how Triad HealthCare Network (THN) will utilize the Minimum Necessary Rule as defined in the HIPAA Privacy Rule, and to document when the minimum necessary requirement applies and does not apply under the Privacy Rule.

DEFINITIONS:

Business associates: Vendors, contractors, consultants, agents and other persons (other than members of the THN workforce) who create, receive, maintain, or transmit protected health information (PHI) to carry out or perform certain functions or activities involving the use or disclosure of PHI on behalf of THN. Administrative functions performed by a business associate would include but are not limited to claims processing or administration, data analysis, utilization review, quality assurance, patient safety activities, billing, benefit management, practice management, repricing, legal, actuarial, accounting, consulting, accreditation, or financial services.

Individually identifiable health information (IIHI): Information that is a subset of health information, including demographic information collected from an individual, created or received by THN, and relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual (a) that identifies the individual, or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

Protected health information (PHI): Information that is IIHI and is transmitted by electronic media, or transmitted or maintained in any other form or medium, except education and other records covered by the Family Educational Right and Privacy Act and employment records held by a covered entity in its role as an employer.

Minimum Necessary Requirement: A HIPAA Privacy Rule standard requiring that when protected health information is used or disclosed, only the information that is needed for the immediate use or disclosure should be made available by the covered entity.



POLICY:

When using or disclosing PHI, THN will make reasonable efforts to limit the PHI used, disclosed, or requested to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request. Full disclosure of all patient information is allowed for treatment purposes.

PROCEDURE:

A. The Minimum Necessary Requirement does *not* apply to:

1. Disclosures to or requests by a health care provider for treatment purposes;
2. Uses or disclosures made to the individual who is the subject of the patient information (with possible exception of psychotherapy notes);
3. Uses or disclosures made pursuant to a valid and HIPAA-compliant authorization;
4. Disclosures requested by the individual or the individual's legal representative;
5. Disclosures made to the U. S. Department of Health and Human Services (DHHS) when disclosure of information is required for enforcement purposes (e.g., in response to a complaint filed with the Secretary of DHHS); and
6. Uses and disclosures that are required by law (e.g., victims of abuse, neglect or domestic violence; judicial administrative proceeding; and law enforcement purposes).

B. Use of Patient Information

1. THN will identify the classes of persons or job titles within the THN workforce who need access to PHI to carry out their job duties and responsibilities described in the THN job descriptions.
2. THN will authorize access to computerized health information. Use of this information will be limited based on reasonable determination regarding an individual's position and/or department.
3. An individual's access will be controlled via ID and password. The sharing of logon IDs and passwords is prohibited.

C. Routine or Recurring Requests and Disclosures for Patient Information

1. Requests for patient information made on a routine or recurring basis shall be limited to the minimum amount of patient information necessary to meet the needs of the request/disclosure.
2. Minimum necessary definitions and standard protocols will be established for routine and recurring requests/disclosures (e.g., patient information that is routinely disclosed to a medical transcription service).
3. Individual review of the request will *not* be required for requests/disclosures made on a routine or recurring basis where standard protocols have been developed; however, periodic review should be made for routine or recurring requests to ensure the requests are still valid and necessary.

D. Non routine Requests for Disclosure of Patient Information

1. Non routine requests for patient information will be reviewed on an individual basis to limit the patient information requested/disclosed to the minimum amount necessary to accomplish the purpose of the request/disclosure.
2. Such requests will be reviewed on an individual basis *unless* the request/disclosure is to a health care provider for treatment purposes.



3. Disclosures/requests authorized by the patient or the patient’s legal representative will not be subject to the Minimum Necessary Standard but are subject to the terms of the authorization.
4. THN may not use/disclose an entire medical record if it is determined, after conversation with the requestor or by established protocol, that the entire medical record is not justified as the amount that is reasonably necessary to accomplish the purpose of the use/disclosure.

E. Reasonable Reliance

1. Triad HealthCare Network may rely on the judgement of the party requesting the disclosure as to the minimum amount of patient information reasonably necessary for the stated purpose, when:
 - a. Making permitted disclosures to public officials, if the public official presents that the patient information is the minimum necessary for the stated purpose(s);
 - b. The patient information is requested by another covered entity (i.e., health care provider, health plan or health care clearinghouse);
 - c. The patient information requested is the minimum necessary for the stated purpose *and* requested by a professional who is requesting patient information for the purpose of providing professional services to THN (e.g., member of THN workforce or business associate of THN); or
 - d. The documentation or representations comply with the applicable provisions for using/disclosing patient information for research purposes and have been provided by a person requesting the patient information for such purposes (e.g., appropriate documentation from the Institutional Review Board).
2. Triad HealthCare Network workforce members should exercise judgement/discretion when making determinations about disclosures and limit the disclosure to the amount of patient information necessary to satisfy the purpose of the request.

F. Restrictions

1. Use/disclosure of patient information will be subject to any agreed upon patient restriction(s) entered into by THN with the patient or the patient’s legal representative.
2. Requests for restrictions that have been agreed to by THN should be placed in a designated area of the medical record. This area should be checked for restrictions prior to using/disclosing patient information.
3. Patient information may not be used/disclosed without proper consent or authorization.

G. When Requesting Patient Information

1. When requesting patient information from covered entities, THN will limit any request for patient information to that which is reasonably necessary to accomplish the purpose for which the request is made.

REFERENCE DOCUMENTS:

1. HIPAA Privacy Regulations, C.F.R. 45 § 164.514(d)
2. CONE HEALTH OP-ACD-2016-215

PREVIOUS REVISION/REVIEW DATES:

| <i>Date</i> | <i>Reviewed</i> | <i>Revised</i> | <i>Notes</i> |
|----------------|-----------------|----------------|--------------------------|
| August 3, 2016 | | | Original effective date. |



| <i>Date</i> | <i>Reviewed</i> | <i>Revised</i> | <i>Notes</i> |
|---------------|-----------------|----------------|--|
| July 10, 2016 | | Yes | THN C&I adopted Cone Health policy with revisions. |