



Health Current Minimum Necessary Standard Procedure

I. Purpose

This Procedure is intended to help ensure that Health Current, its Participants and their Business Associates use, request and disclose only the minimum amount of PHI necessary for accomplishing the intended Permitted Use. This is the “minimum necessary standard.” This Procedure describes when the “minimum necessary standard” applies and how to satisfy its requirements.

II. Definitions

Unless otherwise defined in this Procedure, all capitalized terms will have the same meaning as provided in the Health Current Permitted Use Policy, as provided under HIPAA, or in the Health Current Participation Agreement, all as amended from time to time.

HHS means the United States Department of Health and Human Services.

Workforce Members means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for Health Current, is under the direct control of Health Current.

III. Applicability

This Procedure does not apply to the following:

- Disclosures to or requests from Healthcare Providers for Treatment;
- Disclosures to the individual who is the subject of the PHI;
- Disclosures made pursuant to a HIPAA Authorization;
- Disclosures required by law; and
- Uses or disclosures required for compliance with HIPAA, including to HHS for investigations or compliance audits.

All other uses, disclosures and requests for PHI are subject to the “minimum necessary standard.”

IV. Procedure

A. Participant and Business Associate Uses, Disclosures or Requests of PHI

Participants and their Business Associates will comply with their own “minimum necessary standard” policies and procedures, as well as any other restrictions set forth in Health Current’s Permitted Use Policy and this Procedure, when using, disclosing or requesting PHI from the HIE.

If a Participant or Business Associate wishes to access Data for a Permitted Use that exceeds the time period or types of data that may be accessed for that particular Permitted Use as set forth in Health Current’s Permitted Use Policy, the Participant or Business Associate must submit a request

in writing to its designated Account Manager. Health Current will treat the request as a request for a nonroutine disclosure under this Procedure and respond accordingly.

B. Health Current's Uses, Disclosures or Requests of PHI

1. Health Current Internal Uses of PHI

Health Current will limit its internal access and use of PHI to its Workforce Members who require access to carry out their job responsibilities. Workforce Members will internally use the minimum amount of PHI necessary for the particular Permitted Use.

2. Health Current Routine Disclosures or Requests of PHI

The majority of disclosures or requests of PHI that Health Current makes are part of providing routine services to Participants and their Business Associates. For example, disclosures or requests of PHI for the following Permitted Uses are considered routine:

- Care coordination, care or case management, and transition of care planning;
- Population Health;
- Payment;
- Conducting quality assessment and improvement activities, developing clinical guidelines and protocols, and conducting patient safety activities;
- Otherwise taking action as necessary for Health Current to perform services under the Participation Agreement and to assist Participants and their Business Associates in the Permitted Uses;
- Taking action as directed in writing by a Data Supplier that has provided the PHI;
- Providing services to Healthcare Providers participating in the Practice Innovation Institute, including (but not limited to) reporting required in contracts or grants;
- Conducting public health reporting, including (but not limited to) reporting of immunization data to the State of Arizona Immunization Registry; and
- Any other Permitted Use set forth in Health Current's Permitted Use Policy, as amended from time to time.

3. Reasonable Reliance

Health Current may reasonably rely on representations from the following categories of individuals and entities that only the minimum necessary amount of PHI has been requested for routine and non-routine disclosures for Permitted Uses:

- A public official¹ who represents that the PHI requested is the minimum necessary for the official's purpose. If the public official makes this representation orally, Health Current will document this representation and retain such documentation in accordance with its record retention policy or procedure. Health Current Workforce Members will also verify the identity and authority of the public official.
- A Participant who is required to comply with HIPAA.
- A Business Associate who provides services to a Participant and who represents that the PHI requested is the minimum amount necessary.

- A subcontractor of Health Current that assists Health Current in the performance of services for, or on behalf of, Participants or their Business Associates, and who represents that the PHI requested is the minimum amount necessary.
- An individual or entity seeking PHI for research purposes that meets the federal and state requirements for research.

Participants, their Business Associates and subcontractors of Health Current may make such representations orally, in writing or through their conduct, including (but not limited to) accessing the HIE, subscribing to alerts and so on.

Health Current will not rely on such a representation if it has independent knowledge that the request or disclosure would not meet the minimum necessary standard.

4. Health Current Nonroutine Disclosures or Requests of PHI

If Health Current receives a request for PHI or it needs to request PHI for a nonroutine purpose, Health Current will designate a Workforce Member to consult the Permitted Use Policy and underlying agreements to determine if the disclosure or request is permitted. In the event that the nonroutine disclosure or request is permissible, the designated Workforce Member will make an individual determination of what amount of PHI meets the minimum necessary standard in accordance with the requirements of the Permitted Use Policy, underlying agreements, HIPAA and this Procedure.

For nonroutine **disclosures**, the designated Workforce Member will consider such factors as:

- The requestor's purpose in seeking PHI;
- The specificity of the request (*e.g.*, designating particular parts of an individual's medical record);
- Whether less PHI, a Limited Data Set or de-identified PHI would satisfy the purpose of the requestor; and
- Whether the requestor is an individual or entity upon which Health Current may rely, as set forth above.

For nonroutine **requests**, the designated Workforce Member will consider such factors as:

- Health Current's purpose in seeking the PHI and whether the request is sufficiently specific as to scope of the PHI being sought (*e.g.*, designating particular parts of a patient's medical record); and
- Whether less PHI, a Limited Data Set or de-identified PHI would meet the purpose for the request.

The designated Workforce Member's determination will be documented and retained in accordance with Health Current's record retention policy or procedure.

5. Entire Medical Record

If permitted as set forth above in Section IV.B.3 of this Procedure, Health Current may reasonably rely on a requestor's representation that the entire medical record is specifically justified as the amount that is reasonably necessary to accomplish the Permitted Use. If a Health Current

Workforce Member makes an independent determination that it is necessary to use, disclose or request an entire medical record for a Permitted Use subject to this Procedure, that Workforce Member will document the specific justification and retain a copy of the justification in accordance with Health Current's record retention policy and procedures.

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ⁱA public official is “a person elected or appointed to carry out some portion of a government's sovereign powers.” Black's Law Dictionary (10th ed. 2014). For example, an employee or agent of a public health authority, like the Arizona Department of Health Services, is a public official. A “public health authority” is “an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate.” 45 C.F.R. § 164.501.