

Operational Policy

Policy title:	HIPAA: Minimum Necessary Requirements		
Policy number:	ODHS OHA 100-008		
Original date:	07/22/2014 (OHA only)	Last update:	(Joint ODHS OHA) 01/24/2022
Approved:	Kris Kautz, OHA Deputy Director Don Erickson, ODHS Chief Administrative Officer		

Purpose

This Health Insurance Portability and Accountability Act (HIPAA) policy is one of a series that outlines Oregon Department of Human Services (ODHS) and Oregon Health Authority (OHA) expectations for the necessary collection, use, and disclosure of protected health information (PHI) about individuals in order to provide services and benefits while maintaining reasonable safeguards to protect the privacy of their information.

ODHS|OHA staff should review all ODHS|OHA privacy policies to be sure they understand how these policies work together to protect individual privacy.

Description

This policy describes the responsibility of the ODHS|OHA staff to maintain the privacy of an individual’s PHI by using, disclosing, or requesting only the minimum amount of information necessary to complete the task for which the information is being used, disclosed, or requested.

Applicability

This policy applies to all OHA staff (see OAR 943-914-9915) and ODHS staff working in Business Associate programs (see ODHS 100-013) including employees, volunteers, interns, and contractors. This definition of staff aligns with the HIPAA definition of workforce.

As keepers of the public trust, ODHS|OHA staff has a responsibility to comply with state and ODHS|OHA policies, administrative rule, and state and federal law. ODHS|OHA take this responsibility seriously and failure to fulfill this responsibility is not treated lightly. Staff who fail to comply with state or agency policy, administrative rule, or state and federal law may face progressive discipline, up to and including dismissal from state service.

Policy

1. When using, disclosing, or requesting PHI, ODHS|OHA shall use reasonable efforts to limit the use, disclosure, or request of PHI for the intended purposes only (the “Minimum Necessary Standard”) and only to the extent provided by federal and state statutes, federal and state rules, and ODHS|OHA policies.
2. The minimum necessary standard does not apply to:

- a. Disclosures to or requests by a health care provider made for treatment purposes.
 - b. Disclosures made to the individual who is the subject of the information.
 - c. Uses or disclosures made pursuant to an individual's authorization.
 - d. Uses or disclosures required for compliance with the Health Insurance Portability and Accountability Act (HIPAA).
 - e. Disclosures made to the United States Department of Health and Human Services (HHS) when disclosure is required under the Privacy Rule for enforcement purposes.
 - A. When requests are received from HHS Office for Civil Rights (OCR), the ODHS|OHA Privacy Compliance Officer shall be contacted immediately.
 - B. The ODHS|OHA Privacy Compliance Officer or a designee will lead and coordinate investigations or requests from OCR.
 - f. Uses or disclosures that are required by any other law.
3. All ODHS|OHA staff shall report any suspected violation of the minimum necessary standard to the Information Security and Privacy Office (ISPO) immediately.
 4. A routine and recurring disclosure is the ongoing release of specific and agreed upon PHI, to a single and specific requester in an established schedule or interval.
 5. ODHS|OHA may designate the release of an agreed amount of PHI as a routine and recurring disclosure to a single individual or entity.
 - a. ODHS|OHA is not required to conduct a full review for each routine and recurring disclosure to the same requester.
 - b. The ODHS|OHA staff making the disclosure should confirm that the type and amount of PHI disclosed is consistent with the determination made during the initial review.
 6. Requests for the disclosure of PHI that have not been approved as routine and recurring shall be reviewed on an individual basis to determine whether the information is subject to disclosure under federal and state statute and rule, ODHS|OHA policy, and applicable program requirements.
 7. Disclosures of PHI that are required by law have been designated by OHA as routine and recurring uses, including:
 - a. Mandatory Medicaid reports.
 - b. Records necessary to carry out audit or oversight of ODHS|OHA programs or activities when the records are requested by federal or state agencies including the Department of Health and Human Services Office for Civil Rights and the Office of the Inspector General; Center for Medicaid Services; or the State of Oregon Medicaid Fraud Unit or Secretary of State.
 8. Release of an approved PHI data set to a requester for whom the initial release was authorized is not a routine and recurring disclosure. These requests are new requests.
 9. If ODHS|OHA deems it necessary or appropriate, ODHS|OHA may disclose PHI as a routine and recurring use to the Oregon Department of Justice to obtain advice and legal services.
 10. ODHS|OHA shall not disclose an individual's entire medical record, unless the entire medical record is specifically justified as the amount reasonably necessary to accomplish the purpose of the disclosure, or the disclosure is not subject to the minimum necessary standard.
 11. When ODHS|OHA requests an individual's PHI from another entity, authorized ODHS|OHA staff members shall review the request and ensure that it meets the minimum necessary standard.
 - a. To determine the minimum necessary amount of PHI to request, ODHS|OHA shall:
 - A. Determine the purpose of the request; and
 - B. Identify the data elements that are reasonably necessary to fulfill the request.
 - b. ODHS|OHA shall not request an individual's entire medical record unless ODHS|OHA can specifically justify the need for the entire medical record.

12. If ODHS|OHA policy conflicts with federal or state statute or rule, that statute or rule supersedes unless the ODHS|OHA policy provides more protection.

References

[45 CFR 160 General Administrative Requirements](#)

[45 CFR 164 Security and Privacy](#)

[Oregon Revised Statutes \(ORS\) 192 Public Records Policy](#)

[Oregon Administrative Rules \(OAR\) 943-014-0000 to 943-014-0320 Privacy and Confidentiality](#)

[National Institute of Standards and Technology \(NIST\) Special Publications \(SP\) 800-53 Rev. 5](#)

[Oregon Department of Human Services Office of Equity and Multicultural Services REALD AND Data Equity](#)

[Oregon Health Authority Office of Equity and Inclusion HB 2134-Race, Ethnicity, Language, and Disability \(REALD\) Implementation](#)

Forms

[MSC 2093 Request for Access to Records](#)

[MSC 3010 Authorization for Disclosure, Sharing and Use of Individual Information](#)

Policies

[DHS 100-003 Uses and Disclosures of Individual Information](#)

Contact

Information Security and Privacy Office (ISPO)

Phone: 503-945-5780 (Privacy)

dhs.privacyhelp@dhsosha.state.or.us

U. S. Department of Health and Human Services, Office for Civil Rights

Medical Privacy, Complaint Division

200 Independence Avenue, SW

Washington, D.C. 20201

Toll free Phone: 877-696-6775

Phone: 866-627-7748

TTY: 886-788-4989

Email: <mailto:OCRCComplaint@hhs.gov>

Policy History

Version 1.0 OHA 100-008 established 09/20/2013

Version 2.0 Reviewed 10/03/2016

Version 3.0 ODHS|OHA 100-008 established 01/24/2022

Keywords

Access, authorization, disclose, Health Insurance Portability and Accountability Act, HIPAA, individual information, minimum necessary, records, release

This document can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request this document in

another format or language, contact the Publications and Design Section at 503-378-3486, 7-1-1 for TTY, or email dhs-oha.publicationrequest@state.or.us.