



POLICY TITLE: 305.00 Minimum Necessary – Accessing, Using & Disclosing Patient Information using the Minimum Necessary Standard

Responsible Department: Corporate Privacy Office

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SUBMITTED BY (AUTHOR): Mercedes del Rey

Title: Assistant Vice President, Chief Privacy Officer

APPROVED BY: Janette Sanchez

Title: Vice President, Finance

APPROVED BY: Matthew Arsenault

Title: Executive Vice President & Chief Financial Officer

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SUMMARY & PURPOSE:

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule provides Federal privacy protections for individually identifiable health information, called protected health information or PHI, held by most health care providers and health plans and their business associates. The HIPAA Privacy Rule protects all "*individually identifiable health information*" held or transmitted by a Baptist Health or its business associate, in any form or media, whether electronic, paper, or oral. The Privacy Rule sets out how and with whom PHI may be shared.

POLICY:

It is the policy of Baptist Health South Florida, Inc. ("BHSF" or "Baptist Health") to comply with applicable state and federal laws, including those protecting the confidentiality of patient health information and establishing certain individual privacy rights. It is our policy to implement these laws in a way that supports our primary mission to the community regarding the delivery of quality health care in an efficient manner.

This policy establishes that, when using or disclosing PHI or when requesting PHI from another covered entity, Baptist Health South Florida will make reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request **in accordance with applicable laws.**

SCOPE/APPLICABILITY:

This policy applies to Baptist Health, its affiliates, all workforce members, and others as described below that use disclose or request patient information in the course of their duties at a Baptist Health facility or activities related to their office treatment to obtain payment from patients, health plans, and others for services rendered by Baptist Health.

- **Workforce members.** Workforce members means employees, volunteers, trainees, temporary staff, and contractors/consultants who are not independent contractors under *Human Resources Policy 1150 - Independent Contractors*.

- **Medical staff members.** Medical staff members are treated as members of an organized health care arrangement with Baptist Health South Florida and must comply with this policy as if they are workforce members pursuant to their applicable medical staff bylaws.
- **Students.** Employed students are treated as workforce members. Non-employed students (fellows, residents, students) must comply with this policy as if they are workforce members pursuant to the terms of their applicable academic agreements.
- **Independent Contractors and Others.** Independent Contractors and others who have agreed to comply with Baptist Health's policies and procedures as a condition of receiving access to Protected Health Information (PHI) must comply with this policy as if they are workforce members.

DEFINITIONS:

1. Protected Health Information:

- a. Information that relates to the individual's past, present, or future physical or mental health or condition; to the provision of health care to an individual; or to past, present, or future payment for the provision of health care to the individual; and
- b. Either identifies the individual, or for which there is a reasonable basis to believe it can be used to identify the individual; and
- c. Exists in Oral, Written, and Electronic Formats.
PHI excludes individually identifiable health information in education records covered by the Family Educational Right and Privacy Act (FERPA) (records described in 20 USC 1232g(a)(4)(B)(iv)) and employment records held by a covered entity in its role as employer. PHI also excludes information related to individuals who have been deceased for more than 50 years.

2. Minimum Necessary

- a. Refers to reasonable efforts made to limit use, disclosure, or requests for PHI to the minimum necessary to accomplish the intended purpose.

3. Key Confidential Patient Identifiers (KCPI's)

- a. KCPI's are a subset of Protected Health Information. These include:
 - i. patient full social security number; or
 - ii. patient name; or
 - iii. patient complete address.

PROCEDURES TO ENSURE COMPLIANCE:

When accessing, using, or disclosing PHI, reasonable efforts must be made to limit PHI to the minimum necessary to accomplish the intended purpose

Baptist Health has a longstanding commitment to maintaining the highest standards of clinical and service excellence. As part of that commitment, we recognize the importance of maintaining and protecting the privacy of our patients in every aspect of the care and services we provide.

- 1. Privacy and Confidentiality at Baptist Health is one of our service excellence standards. As Individuals involved in the delivery of health care, anyone covered by this policy must:
 - a. Safeguard protected health information as part of their job at Baptist Health.
 - b. Be responsible for maintaining protected health information confidential, and only using it for treatment, payment and health care operations as set forth in the Privacy Rule.

2. Baptist Health South Florida will use, disclose, or request the PHI that is reasonably necessary to accomplish the purpose of the use, disclosure, or request, except with respect to the following uses and disclosures:
 - a. HIPAA's minimum necessary requirements do not apply to:
 - i. Disclosures to or requests by a health care provider for treatment.
 - ii. Uses or disclosures made to the individual or the individual's personal representative.
 - iii. Uses or disclosures made pursuant to an authorization signed by the individual or the individual's personal representative.
 - iv. Disclosures made to the Secretary of Health and Human Services to determine BHSF's compliance with the Privacy Rule.
 - v. Uses or disclosures that are required by law.
 - vi. Uses or disclosures that are required for compliance with HIPAA regulations.
3. Minimum Necessary Uses
 - a. Role-based access protocols and criteria will be applied to ensure that members of the workforce limit their access to PHI to that which is needed to carry out their duties. These protocols and criteria will be followed whether there are access controls in place in the information systems or whether access is to PHI in any other form.
 - b. Supervisors should identify the role based access category appropriate for their staff members that use PHI in performing their job
 - c. Any member of the workforce who accesses PHI for purposes not consistent with their access privileges or not necessary to accomplish their duties is subject to disciplinary action up to and including termination.
 - d. For users requesting to add KCPI's to any report
 - i. Prior to adding these three fields to any report, users must submit a justification.
 - ii. The justification will be reviewed by T&D and/or Privacy.
4. Minimum Necessary Disclosures
 - a. For any type of disclosure that is made on a routine and recurring basis, Baptist Health South Florida will limit the PHI disclosed to what is reasonably necessary to achieve the purpose of the disclosures.
 - b. For all other disclosures, Baptist Health South Florida limit the PHI disclosed to the information reasonably necessary to accomplish the purpose for which disclosure is sought. The criteria will be applied as a general set of guidelines, recognizing that the context in which the disclosures may be requested will vary significantly. When the extent of PHI needed is in question, the disclosure request should be forwarded to the appropriate BHSF Privacy Officer who will perform the application of the criteria.
5. Baptist Health may reasonably rely on a requested disclosure as the minimum necessary for the stated purpose when:
 - a. Making disclosures to public officials as permitted by HIPAA, if the public official represents that the information requested is the minimum necessary for the stated purpose(s);
 - b. The information is requested by another covered entity;
 - c. The information is requested:
 - i. by a professional who is a member of the BHSF workforce or is a business associate of BHSF for the purpose of providing professional services to BHSF, if the professional represents that the information requested is the minimum necessary for the stated purpose(s); or
 - ii. Documentation or representations that comply with the applicable requirements of reviews preparatory to research, research on the PHI of decedents, or research pursuant to an IRB waiver of authorization have been provided by a person requesting the information for research purposes.
6. Minimum Necessary Requests
 - a. Baptist Health must limit its request for PHI to that which is reasonably necessary to accomplish the purpose for which the request is made.
7. Uses, Disclosures, and Requests for an Entire Medical Record

All references to Policies must go to the BHSF Master Copy on the BHSF Intranet; do not rely on other versions / copies of the Policy.

- a. For all uses, disclosures, or requests to which this policy applies, BHSF may not use, disclose, or request an entire medical record, except when the entire medical record is specifically justified as the amount that is reasonably necessary to accomplish the purpose of the use, disclosure, or request.
8. Responding to Requests for PHI
 - a. **Ask:** "For what purposes will you use the information?"
 - b. **Determine** if purpose of use is permissible under HIPAA
 - c. **Verify** that amount of PHI disclosed is minimum necessary to accomplish purpose
 - d. **Document** information released and specific description of stated use
 - e. **Verify** what service area is to be included in the report.
 9. Information Subject to Enhanced Privacy Protection
 - a. No employee, volunteer, or contractor may transmit or disclose any information that is subject to enhanced privacy protection to a health plan, or other person or entity for payment purposes.
 - b. When information is marked as being restricted, anyone covered by this policy shall consult the Corporate Privacy Office prior to any disclosure of the information. The Corporate Privacy Office shall notify each designated record set custodian of all granted enhanced privacy requests.
 - c. Minimum Necessary
 - i. When using or disclosing protected health information or when requesting protected health information from another covered entity or business associate, Baptist Health and its 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.
 - 1) Baptist Health must implement reasonable minimum necessary policies and procedures that limit how much protected health information is used, disclosed, and requested for certain purpose.
 - 2) These minimum necessary policies and procedures also must limit who within the entity has access to protected health information, and under what conditions, based on the job responsibilities and the nature of the business.
 - 3) BHSF Employees may only access, use and share as much information as is necessary for accomplishing the intended purpose.
 10. Deceased individuals
 - a. Baptist Health must comply with the requirements of this policy with respect to the protected health information of a deceased individual for a period of 50 years following the death of the individual.

SUPPORTING/REFERENCE DOCUMENTATION:

- Health Insurance Portability and Accountability Act of 1996 as amended from time to time and including any regulations promulgated thereunder (collectively, "HIPAA")
- Applicable Florida State Laws

RELATED POLICIES, PROCEDURES AND ASSOCIATED FORMS:

- Corporate HIPAA Privacy Policies
- BHSF-74220-001.00 Unified Corporate Privacy Policy on HIPAA Compliance

ENFORCEMENT & SANCTIONS:

1. Reference: Corporate HIPAA Privacy Policy BHSF-74220-605.20 Sanctions for Privacy Violations
2. Violations of this policy will be determined by the Chief Privacy Officer in consultation with the appropriate levels of department leadership and appropriate Human Resources management level. Reference: HR policies 5250 Employee Conduct and 5300 Corrective Action.

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3. Violations of this policy may lead to disciplinary action up to and including termination.
4. Enforcement of this policy will be performed by Baptist Health South Florida's Privacy Office in conjunction with Human Resources, as circumstances may dictate.