



# HIPPA Privacy Rule Policies

<b>Policies and Procedures</b>	Policy # 5	
<b>MINIMUM NECESSARY:USES, DISCLOSURES AND REQUESTS</b>		
APPROVED BY:	ADOPTED:	
	REVISED: 07122017	
SUPERCEDES POLICY: NEW	REVIEWED: 07122017	

## Purpose

To describe the circumstances under which the minimum necessary amount of Protected Health Information (PHI) will be used, disclosed or requested in accordance with state and federal privacy laws, HIPAA Regulations and LifeMed ID's contracts with its customers.

## Policy

It is the policy of LifeMed ID to protect PHI by developing and implementing policies and procedures to reasonably limit uses, disclosures and requests of PHI to the minimum necessary to carry out the purpose of the use, disclosure, or request.

All workforce members must comply with this policy. Violations of this policy will result in disciplinary action based on the seriousness of the offense or other factors. Disciplinary action may include written warning, suspension, or termination.

## Definitions

"Customer" is an entity from which LifeMed ID receives PHI subject to a Business Associate Agreement (or other written agreement with the entity) in compliance with the HIPAA Regulations and approved by LifeMed ID's legal counsel.

"Data Classification", in the context of Information Security, is the classification of data based on its level of sensitivity and the impact should that data be disclosed, altered or destroyed without authorization.

For definitions of other capitalized terms or phrases, please refer to: *HIPAA-HITECH Privacy and Security Glossary*.

## Procedures

1. Minimum Necessary Information. Unless an exception applies (see Section 2 below), uses, disclosures of, and requests for PHI will be limited to information consisting of the minimum amount of information to meet the intended purpose. This means that reasonable efforts will be made to not use, disclose, or request information that is not relevant, exceeds the amount requested, or is not needed to accomplish the purpose of the contemplated use or disclosure.





2. Exceptions. The “minimum necessary” limitations do NOT apply to PHI being requested by or disclosed to any of the following: (a) a Health Care Provider for Treatment, (b) the individual or the individual’s authorized representative, (c) a person or entity named in a valid Authorization, (d) the Secretary of the DHHS (or designee), or (e) an official or agency as required by law, as determined and communicated by LifeMed ID’s customer. Refer to: *Privacy Policy #14: Overview of Required and Permissible Disclosures*.
3. Access by LifeMed ID’s Workforce Members. LifeMed ID’s workforce members will only be allowed access to those portions of an individual’s PHI reasonably needed in order to perform their job functions.
  - a. If a workforce member performs functions within LifeMed ID that require access to all PHI, the workforce member may be granted such access.
  - b. To the extent reasonably practicable, LifeMed ID will use technological controls to limit access to PHI to the amount necessary for workforce members to perform their job functions.
  - c. LifeMed ID will identify workforce members or groups of workforce members that require access to PHI, determine the access required for assigned responsibilities, and assign the appropriate access to those workforce members. A documented process for changing access or for changing workforce members (for promotions, demotions, new hires or terminations) will be developed and implemented to ensure appropriate access changes to protect PHI.
  - d. To the extent consistent with the services being provided to LifeMed ID’s customers, especially sensitive information, such as mental health information or test results for sexually transmitted diseases, will be stored, maintained and transmitted separately from the rest of the PHI in an individual’s medical record in order to limit unauthorized access.
  - e. Supervisors are responsible for assigning appropriate access to PHI to each workforce member and submitting a signed change in responsibility form to the designated manager whenever a workforce member is newly hired, changes job responsibilities or is terminated.
  - f. The designated manager is responsible for ensuring that appropriate and timely changes are made for any and all workforce members who experience a change in responsibility in order to ensure that appropriate access to personal health information is maintained.
  - g. Licensed practitioners who are involved in an individual’s treatment may be given access to all portions of the individual’s medical record.
4. Routine Requests and Disclosures by Others. LifeMed ID’s Privacy Officer will identify those persons and entities to which routine disclosures are made, and determine the categories of PHI reasonably needed to carry out the purpose for which the disclosure is made.



5. Routine Requests for Information by LifeMed ID If LifeMed ID routinely requests PHI from other entities, LifeMed ID will request only the minimum amount of information necessary to carry out the purposes for which the information is requested. LifeMed ID's Privacy Officer will identify types of routine requests and the categories of PHI reasonably needed for LifeMed ID to carry out the purpose of each type of request.
6. Non-Routine Requests and Disclosures by Others. Non-routine requests for, and disclosures of, PHI (i.e. those that are not made on a recurring basis and for which LifeMed ID has not established policies and procedures) will be reviewed on a case-by-case basis by the LifeMed ID's Privacy Officer to determine the minimum necessary amount of information that may be disclosed. In making this determination, the Privacy Officer will consider, among other things, the following criteria:
  - a. The purpose of the request or disclosure,
  - b. The relevance of the information being requested or disclosed,
  - c. The importance of the request or disclosure, including the likelihood that harm could occur if the information were not disclosed, and
  - d. The potential for accomplishing the purpose using de-identified information.
7. Non-Routine Requests and Disclosures by LifeMed ID workforce members of LifeMed ID requesting PHI from other entities will request only the minimum amount of information necessary to carry out the purposes for which the information is requested. Non-routine requests will be approved by the Privacy Officer to ensure that only the minimum necessary information is requested based on the criteria listed under section 6 above and is provided to a workforce member with the appropriate access to PHI.
8. Reliance on Certain Requests for Disclosure. Unless otherwise indicated by the circumstances, LifeMed ID's Privacy Officer may assume that the PHI requested by LifeMed ID's customer for any of the following purposes has been limited to the minimum necessary for the stated purpose:
  - a. Disclosures requested by public officials for public health purposes, health oversight, law enforcement, or other permitted disclosures, if the requesting official represents that the information requested is the minimum necessary for the stated purpose,
  - b. Disclosures requested by customers that conduct standard transactions electronically,
  - c. Disclosures requested by a professional who is either (i) a workforce member of LifeMed ID with appropriate access to PHI, or (ii) a Subcontractor providing professional services and who has executed a valid Business Associate Agreement or addendum that includes representations that he or she will only request the minimum necessary information required for the professional to provide such services, and



- d. Disclosures for research purposes to a person or entity that provides appropriate documentation in accordance with 45 C.F.R. §164.512(i) and provided the customer contract permits the disclosure for research purposes.
9. Complete Record. Unless specifically justified as being the minimum amount necessary for the purpose, an individual's complete medical record will not be requested or disclosed.

## Documentation

This version of the policy, together with any forms and other documentation created or obtained in accordance with the policy, will be retained by LifeMed ID for a period of at least 6 years plus the current year from the date of creation or the date when last in effect, whichever is later.



## Regulatory Authority

### 45 C.F.R. §164.500 Applicability.

(c) Where provided, the standards, requirements, and implementation specifications adopted under this

### 45 C.F.R. §164.500 Applicability.

(c) Where provided, the standards, requirements, and implementation specifications adopted under this subpart apply to a business associate with respect to the protected health information of a covered entity.

### 45 C.F.R. §164.502 Uses and disclosures of protected health information: general rules.

#### (b) Standard: Minimum necessary

(1) 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.

(2) Minimum necessary does not apply. This requirement does not apply to:

(i) Disclosures to or requests by a health care provider for treatment;

(ii) Uses or disclosures made to the individual, as permitted under paragraph

(a)(1)(i) of this section or as required by paragraph (a)(2)(i) of this section; (iii)

Uses or disclosures made pursuant to an authorization under §164.508;

(iv) Disclosures made to the Secretary in accordance with subpart C of part 160 of this subchapter;

(v) Uses or disclosures that are required by law, as described by §164.512(a); and

(vi) Uses or disclosures that are required for compliance with applicable requirements of this subchapter.

(c) Standard: Uses and disclosures of protected health information subject to an agreed upon restriction. A covered entity that has agreed to a restriction pursuant to §164.522(a)(1) may not use or disclose the protected health information covered by the restriction in violation of such restriction, except as otherwise provided in §164.522(a).

### 45 C.F.R. §164.514 Other requirements relating to uses and disclosures of protected health information.

(d) (1) Standard: minimum necessary requirements. In order to comply with §164.502(b) and this section, a covered entity must meet the requirements of paragraphs (d)(2) through (d)(5) of this section with respect to a request for, or the use and disclosure of, protected health information.

(2) Implementation specifications: minimum necessary uses of protected health information.

(i) A covered entity must identify:

(A) Those persons or classes of persons, as appropriate, in its workforce who need access to protected health information to carry out their duties; and

(B) For each such person or class of persons, the category or categories of protected health information to which access is needed and any conditions appropriate to such access.



(ii) A covered entity must make reasonable efforts to limit the access of such persons or classes identified in paragraph (d)(2)(i)(A) of this section to protected health information consistent with paragraph (d)(2)(i)(B) of this section.

**(3) Implementation specification:** Minimum necessary disclosures of protected health information.

(i) For any type of disclosure that it makes on a routine and recurring basis, a covered entity must implement policies and procedures (which may be standard protocols) that limit the protected health information disclosed to the amount reasonably necessary to achieve the purpose of the disclosure.

(ii) For all other disclosures, a covered entity must:

(A) Develop criteria designed to limit the protected health information disclosed to the information reasonably necessary to accomplish the purpose for which disclosure is sought; and

(B) Review requests for disclosure on an individual basis in accordance with such criteria.

(iii) A covered entity may rely, if such reliance is reasonable under the circumstances, on a requested disclosure as the minimum necessary for the stated purpose when:

(A) Making disclosures to public officials that are permitted under §164.512, 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 by a professional who is a member of its workforce or is a business associate of the covered entity for the purpose of providing professional services to the covered entity, if the professional represents that the information requested is the minimum necessary for the stated purpose(s); or

(D) Documentation or representations that comply with the applicable requirements of §164.512(i) have been provided by a person requesting the information for research purposes.

**(4) Implementation specifications:** Minimum necessary requests for protected health information.

(i) A covered entity must limit any request for protected health information to that which is reasonably necessary to accomplish the purpose for which the request is made, when requesting such information from other covered entities.

(ii) For a request that is made on a routine and recurring basis, a covered entity must implement policies and procedures (which may be standard protocols) that limit the protected health information requested to the amount reasonably necessary to accomplish the purpose for which the request is made.

(iii) For all other requests, a covered entity must:

(A) Develop criteria designed to limit the request for protected health information to the information reasonably necessary to accomplish the purpose for which the request is made; and

(B) Review requests for disclosure on an individual basis in accordance with such criteria.

**(5) Implementation specification:** Other content requirement. For all uses, disclosures, or requests to which the requirements in paragraph (d) of this section apply, a covered entity 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.



## References

### Internal

1. Privacy Policy #14, Required and Permissible Uses and Disclosures

### External

1. Omnibus Final Rule: <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=a1031c979126e6440b522063b7bba578&rgn=div5&view=text&node=45:1.0.1.3.78&idno=45%20>