

ALLINA HOSPITALS & CLINICS
System-wide Policy

Department: Corporate Compliance – Privacy & Security Compliance	Policy Title: Minimum Necessary Standards for Information Disclosure
Page: 1 of 6	Effective Date: January 1, 2005
Approved by: Ethics & Compliance Oversight Committee	Review Date: August 2006
Reference Number: PSC302	Revised: December 2, 2002; March 26, 2003; July 2004

Scope:

This policy applies to disclosure of protected health information by, for and between Allina Business Units. However, it does not apply to disclosures:

- to a health care provider for purposes of current treatment (i.e., provision, coordination, or management of health care, consultation between providers, or referral of a patient from one provider to another)
- to the individual who is the subject of the information
- specifically authorized by the individual
- required for compliance with the standardized HIPAA transactions
- to the Department of Health and Human Services when required for enforcement purposes
- that are required by other law

This policy is not intended nor should it be construed in any way to require restrictions that impair communications in treatment settings which are necessary to enable quick, effective, high-quality care.

The requirements of this policy are in addition to any requirement for patient authorization or other form of permission that must be obtained before disclosing protected health information. For more information on requirements for authorization or other permission to disclose, see Privacy and Security Compliance Policy PSC304, "Use and Disclosure of Protected Health Information."

Purpose:

To state the policy of Allina Hospitals & Clinics concerning the minimum necessary or “need-to-know” limitations on Allina’s disclosures of protected health information. Privacy regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) establishes minimum necessary standards for disclosure of protected health information. These restrictions require an entity to take reasonable steps to limit its disclosures of protected health information to the “minimum necessary” to accomplish the intended purpose of that disclosure.

Policy:

It is Allina’s policy to abide by all state and federal regulatory requirements for minimum necessary or “need-to-know” restrictions relating to protected health information. Except as this policy permits otherwise, Allina Business Units will limit their disclosures of protected health information to the minimum necessary for the intended purpose, as described below.

Definitions:

Disclosure of protected health information means the release, transfer, provision of access to or divulging of such information outside of the entity holding the information.

Protected health information (PHI) means, generally, health information that is individually identifiable (i.e., patient-specific) and that is created, maintained, used or disclosed by or for an Allina Business Unit. More specifically, the term refers to information that:

- (i) identifies or could reasonably be used to identify the individual
- (ii) relates to:
 - (a) an individual’s physical or mental health or condition
 - (b) the provision of health care to an individual
 - (c) payment for health care provided to an individual

For example, protected health information includes information that identifies an individual as an Allina patient, or that associates condition, treatment or payment-related information (diagnosis codes, dates of service, charge data, etc.) to information that could be used to identify the individual (name, other demographics, medical record number, images, etc.).

Electronic protected health information (ePHI) is PHI maintained or transmitted in electronic form. The HIPAA Privacy and Security Regulations do not distinguish between electronic forms of information. Some examples of ePHI are patient information stored on magnetic tapes or disks, optical disks, hard drives, and servers. Examples of transmission media include Internet and extranet technology, leased lines, private networks, and removable media such as disks.

Recurring disclosure means a disclosure of protected health information that the relevant Business Unit makes regularly or on a recurring basis as a part of its ordinary business.

Workforce means employees, volunteers, trainees, and other persons whose work for an Allina Business Unit is under Allina's direct control, regardless of whether they are paid by Allina. "Workforce" excludes individuals who perform no work under Allina's direct control, such as independent medical staff physicians who do not provide administrative, management, consulting or other services to or for Allina. On-site independent contractors who perform a substantial part of their work on Allina's behalf may be treated as workforce members or as business associates, at a Business Unit's discretion.

Procedures:

1. Recurring Disclosures of Protected Health Information

Each Business Unit will:

- develop procedures that identify and document the types of recurring disclosures that it makes of protected health information
- develop procedures that identify and document, for each type of recurring disclosure, the types of protected health information reasonably necessary to meet the purpose of the disclosure
- develop, document and implement standard protocols that limit the protected health information disclosed to the minimum necessary for that type recurring disclosure

For example, a hospital may regularly disclose patient information to an affiliated medical transportation service for billing purposes. Because the disclosure is made regularly as an ordinary part of the hospital's business, it would be identified as a recurring disclosure. To comply with this policy, the hospital would:

- document the types of information needed to meet the purpose of the request (assume this consists only of patient demographic and insurance data for this example)

- implement protocols (procedures or other controls) to prevent its staff from disclosing information other than patient demographic and insurance data

2. Other Disclosures of Protected Health Information

Other disclosures (i.e., non-recurring disclosures) of protected health information must be reviewed individually to ensure that the information sought is limited to that needed for the purpose of the disclosure.

Each Business Unit will develop, document and implement procedures for reviewing these non-recurring disclosures against the following criteria:

1. *Does the protected health information to be disclosed help to meet the purpose(s) of the disclosure?*

If “no,” the disclosure does not meet the minimum necessary standard and should be modified to align the scope of the disclosure to the purpose(s). If “yes,” proceed to the next question.

2. *Could less protected health information, or information that is not protected health information, satisfy the purpose of the disclosure without imposing an unreasonable burden?*

If “yes,” the disclosure should be modified accordingly. If “no,” then the disclosure may be made as planned.

For example, a clinic may be asked to disclose information about a patient to a health plan as part of a fraud prevention effort. If this is not a disclosure the clinic would make regularly (i.e., a recurring request), then before making the disclosure, the clinic would evaluate the disclosure against the above two criteria. Depending on the outcome of that evaluation, the clinic may either make the disclosure as planned or modify it by limiting the information that is disclosed.

Questions about the application of these criteria should be referred to the relevant Compliance Program Director.

3. Disclosure of the Entire Medical Record

In the case of disclosures of an individual’s entire medical record (as defined by the Business Unit), Allina is required to specifically identify the need for such disclosure and state a justification. Except where a Business Unit policy or procedure states otherwise, Allina considers disclosure of an individual’s entire medical record to be reasonably necessary for at least the following activities:

Purpose	Justification(s) for Access to Entire Record
Treatment of the individual	Enables quality care, promotes patient safety
Activities relating to documentation concerning treatment of the individual or payment for care provided to the individual	Ensures accurate and complete documentation, facilitates treatment and payment, facilitates timely response to patient requests
Training of students in an accredited healthcare training program	Allows for effective training of clinical staff
Accreditation activities	Permits full response to requests for records in accreditation reviews
Quality activities, including credentialing and peer review	Enables robust and comprehensive quality program activities
Supervision of workforce involved with treatment or documentation	Allows for comprehensive oversight of workforce
Regulatory compliance activities (monitoring, auditing, etc.)	Permits comprehensive compliance oversight
Internal investigations	Permits sufficiently comprehensive reviews of reported incidents, complaints or concerns
Legal review and representation, risk management	Enables attorneys and risk managers to adequately represent Allina's interests or manage the organization's risk relating to actual or potential claims

For other circumstances in which disclosure of the entire medical record is necessary, Business Unit policies and/or procedures will state that fact and include a justification.

4. Reliance on a Request for Disclosure

In some situations, a disclosure may be made without first making the minimum necessary or "need-to-know" judgment described above. This is true where the information is requested:

- by a health plan, a health care clearinghouse, or a health care provider who is subject to HIPAA
- by a professional who is a member of the Business Unit's workforce or is a business associate of Allina 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

- by a public official, if the disclosure does not require patient authorization and the public official represents that the information requested is the minimum necessary for the stated purpose
- by a person requesting the information for research purposes, if appropriate documentation or representations have been provided (see Privacy & Security Compliance Policy PSC 311, Use and Disclosure of PHI for Research)

In these instances, Allina may rely on the request as meeting these minimum necessary or "need-to-know" requirements unless for some reason it is unreasonable to do so. Even where such reliance is allowed, however, authority for a disclosure must exist as described in Privacy & Security Compliance Policy PSC 304, "Use and Disclosure of Protected Health Information."

References:

Policy Cross – Reference

PSC304, Use and Disclosure of Protected Health Information
PSC311, Use and Disclosure of PHI for Research

Regulatory Reference

45 C.F.R. 164.502(b), .514(d) (2001)