



**HIPAA Privacy Procedure #11**

Effective Date: April 14, 2003  
 Reviewed Date: February, 2011  
 Revised Date: February, 2011  
 Scope: Radiation Oncology

**Minimum Necessary Request, Use or Disclosure of Protected Health Information**

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**Policy Expectation:**

Washington University (WU) has adopted a “Minimum Necessary” policy related to Protected Health Information (“PHI”) to ensure that requests, Uses internally, or Disclosures externally, are only for the “minimum necessary” PHI to accomplish an intended purpose.

This “Minimum Necessary” PHI Policy applies to all requests for PHI, all Uses of PHI and all Disclosures of PHI.

**Why is this important?**

- Compliance with all HIPAA privacy regulations is required of all Radiation Oncology Divisions that create or receive PHI for or on behalf of Individuals.
- Failure to comply may result in being liable for civil and criminal penalties.

**What do you need?**

- Copy of HIPAA Policy on Minimum Necessary Request, Use or Disclosure of Protected Health Information.
- Glossary of HIPAA Terms
- List of data elements included in the definition of PHI

Steps:	Additional Information
<b>REQUESTS for PHI from Medical Center Providers</b>	Medical Center is defined as WU, BJH and SLCH
1. All requests for PHI required for Treatment: <ul style="list-style-type: none"> <li>• Minimum necessary rule is not applicable.</li> <li>• All PHI requested by treating providers assumed to be necessary as long as the requesting provider is involved in the active treatment of the individual.</li> </ul>	This does not supersede the need for a release of patient information. <b>Note: Radiation Oncology Medical Records are owned by Barnes-Jewish Hospital.</b> The requesting provider shall supply a reason for the requested PHI to assure that the request is truly for Treatment purposes.

2. All requests for PHI required for purposes **other than Treatment:**

- Request shall only include the minimum amount of PHI that is reasonably required to accomplish the specific purpose for which the PHI is requested.
- Direct any questions to the Radiation Oncology Privacy Liaison

3. The BJH Medical Records office will respond to requests for PHI from the patient’s paper medical records.

4. WU Physician Billing Services will respond to requests for PHI from the patient’s billing records.

Examples include payment, health care operations and research.

Research that includes treatment (i.e. clinical trials) fall under the request of PHI for treatment and the minimum necessary rule does **NOT** apply.

**Internal USES of PHI**

**Internal use of PHI is defined as uses by the Radiation Oncology workforce.**

1. Identify the level of internal access that each staff member in the Radiation Oncology will require to perform his or her job (i.e., full access, limited access).

Refer to **Exhibit A** (Use of Minimum Necessary PHI According to Position Title/Job Classification)

2. Direct any questions to the Radiation Oncology Privacy Liaison.

For persons functioning under multiple job descriptions, the minimum necessary rule applies to the particular job represented in the use of PHI.

3. When an individual changes job functions, the Radiation Oncology personnel office will notify the IS Computer Security Officer to modify access to PHI electronic records as appropriate.

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4. Radiation Oncology employees having “limited access” will be assigned appropriate computer access to electronic files containing PHI and will not be given key access to PHI storage areas.

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5. A written letter agreement, establishing the training relationship, and Confidentiality Statement will be obtained from visitors with their signature and will be retained on file for 6 years. In addition, a condensed copy of the Radiation Oncology HIPAA Privacy Policies will be given to each visitor.

<p><b>External <u>DISCLOSURES</u> of PHI</b></p>	<p>External disclosures are defined as the forwarding of PHI to a requesting party outside the covered entity.</p>
<p>1. All external disclosures of PHI for <b><u>treatment:</u></b></p> <ul style="list-style-type: none"> <li>• Minimum necessary rule is not applicable</li> <li>• All PHI requested by treating providers of any kind may be assumed to be necessary as long as the requesting provider is involved in the active treatment of the individual.</li> </ul> <p>2. All external Disclosures of PHI for purposes <b><u>other than treatment:</u></b></p> <ul style="list-style-type: none"> <li>• Disclosure shall only include the minimum amount of PHI that is reasonably required to accomplish the specific purpose for which the PHI is requested.</li> <li>• Before any PHI disclosure, always ask yourself the question, “Is an authorization required before I share the PHI?” As a general rule, rely upon the scope of a requested disclosure as being the minimum necessary for the stated purpose.</li> <li>• All disclosures to attorneys, law enforcement officials, Secretary of Health and Human Services and for purposes of ensuring compliance with the HIPAA regulations do not fall under this rule.</li> <li>• All disclosures to Individuals are not subject to this minimum necessary rule.</li> <li>• 3. Use Exhibit B (Guidelines for Disclosures of PHI Based on Purpose of Disclosure) to identify the person or entity requesting the PHI and follow the instructions regarding amount of PHI to be disclosed.</li> </ul>	<p>Examples include correspondence to referring physicians or transcription service from a contracted agent.</p> <p>However, the requesting provider shall supply a reason for the requested PHI to assure that the request is truly for treatment purposes.</p> <p>Examples include payment, health care Operations and research.</p> <p>Research that includes treatment (i.e. clinical trials) fall under the disclosure of PHI for treatment and the minimum necessary rule does <b>NOT</b> apply.</p> <p>Response to any subpoenas should be evaluated by Risk Management.</p> <p>See policies on Permitted and Required Disclosures.</p> <p>See policies on Access to PHI by Individuals, Accounting for Uses or Disclosures of PHI to Individuals.</p>

## Exhibit A

### Internal Use by WU of PHI According to Position Title/Job Classification For Department of Radiation Oncology

<b>Direct Patient Care Positions</b>	<b>Accessible PHI</b>	<b>WU or BJH Employee</b>	<b>Limitations and Restrictions (unless authorization Overrides)</b>
Workforce members directly involved in providing treatment to the Individual including but not limited to the following:	Full Access		Workforce members in this category should only access an Individual's PHI to the extent such information is necessary to enable that member to perform his or her job function in providing treatment to the individual.
1. Treating physicians, clinical physicists, MD residents, physics residents, dietitians, interns, fellows, medical students, teaching physicists, dosimetry students	Full Access	W/B	None
2. Nursing Staff, Nurse Practitioners, Medical Assistants	Full Access	B	None
3. Therapists / Dosimetrists / Simulator	Full Access	B	None
4. Technicians (i.e. laboratory/radiology)	Full Access	B	None
5. Referral/Precertification Coordinators	Full Access	B	None
6. Clinical Receptionists	Limited Access	B	To extent necessary to carry out assignment.
7. Medical Records / Outcome Analysis	Full Access	W/B	None
8. Research Personnel (where research includes treatment)	Full Access	W	As defined by Research Policy
9. Research personnel (where research does not include treatment)	No Access	W	See Security Policy
<b><u>In-Direct Patient Care Positions</u></b> Workforce members indirectly involved in providing <b>Treatment</b> to the individual, including, but not limited to the following:			Access only to PHI to the extent such PHI is necessary for the Workforce member to perform his or her authorized job functions that support treatment, payment or health care operations.
1. Department Administration (Chairman, Chairman's Secretary, Executive Director, Department Director)	Full Access	W/B	None
2. Information Systems Staff (programmers)	Full Access	W/B	None
3. Compliance Officer/Auditor	Full Access	W/B	None
4. Schedulers	Limited Access	B	PHI in IDX required for scheduling
5. Quality Improvement	Full Access	W/B	None
6. Couriers / hospital transporters.	No Access	W/B	See Security Policy

7. Business staff (Directors, Finance Managers, Accounts Payable)	Limited Access	W/B	Minimum to carry out assignment
8. Clinical Academic Secretaries, Receptionists	Limited Access	W	Minimum to carry out assignment
9. Non-clinical office	No Access	W	See Security Policy
10. Physician Billing	Limited Access	W	PHI in IDX system and medical record information related to specific date of service
11. Billing Staff	Limited Access	W	PHI in IDX system and medical record information related to specific date of service
12. Patient Service Representatives (front desk staff)	Limited Access	B	PHI in IDX system and medical record information related to specific date of service
13. Transcriptionists	Limited Access	B	Contents of cassette tapes sent for transcription
14. Payroll/personnel	Limited Access	W	To extent required to carry out task.
15. Support Services	No Access	W/B	See Security Policy
16. Gifts	No Access	W	See Security Policy
17. Grants	No Access	W	See Security Policy
18. Purchasing	No Access	W/B	See Security Policy
19. Residency Coordinator	No Access	W	See Security Policy
20. Social Worker	Limited Access	B	To extent required to carry out task.
21. Research Physicists (e.g., reviewing records as defense of litigation or OCHA HCO/QA)	Full Access	W	None
22. Block Maker	Limited Access	B	To extent required to carry out assignment.
23. Clinical Engineering	No Access	B	See Security Policy
24. PC Support Staff	No Access	W	See Security Policy
25. Custodians / housekeeping / building maintenance	No Access	W/B	See Security Policy
26. Visitors, Physicians and Residents	Full Access	W/B	Written agreement required between visitor, BJH, WU, establishing training relationship. If none, must de-identify data.
27. Visitors, looking at equipment/software	No Access	W/B	Must de-identify data or set up simulation with de-identified data.

## Exhibit B

### Guidelines for Disclosures of PHI By the Department of Radiation Oncology

#### Requesting Person Entity

Type of Disclosure	Purpose	Amount of PHI to be disclosed	Comments/Exceptions
Individual (i.e., the patient)	Permitted or required disclosure	All PHI requested by the individual	See Policies on Access of Individuals to own PHI; Accounting Disclosure of Psychotherapy Notes
Parents/Guardians	Permitted or required disclosure	All PHI requested by the individual	See policies on Required Authorization, Verbal/Inferred Agreement, Research
Health Care Providers: 1. Physicians 2. Hospitals 3. Student Health 4. EAP	Treatment	All PHI requested by health care provider for treatment	
Researchers	Research	To extent allowed by IRB if request is for other than treatment; or de-identified	
Dept. Health and Human Services	Compliance and enforcement	All PHI requested by the Secretary	
CDC	Compliance and enforcement	PHI specifically requested by agency	
CMS (formerly HCFA)	Payment	Date of service requested.	
Courts, correctional facilities	Treatment	Diagnostic evaluations	See policies on Permitted and Required disclosures. Refer all subpoenas to Risk Management
Determination of Disability		All requested PHI within the disclosed scope of the investigation.	
Division of Children and Family Services (DCFS)	Domestic violence investigation	All requested PHI within the disclosed scope of the investigation or individual's authorization.	
HEDIS, NCQA, and Illinois Hospital Cost Containment (IHCC)	Health Care operations	Date of service requested.	

HIDI	Statistical reporting	Diagnosis, procedure, DRG codes and demographic information	
Illinois Department of Public Health	Statistical reporting	Diagnosis and demographic information concerning patients diagnosed with STDs.	
Insurance Companies/Third Party Payers	Payment / Health care Operations	Date of service requested; all other within scope of individual's authorization	
Mid-America Transplant Organization	Organ donation	All PHI necessary to accommodate organ donation.	
Missouri Cancer Registry	Statistical Reporting	Diagnosis and demographic information concerning newly diagnosed cancer patients.	
Missouri Department of Health	Accrediting for Medicare and Medicaid	All relevant PHI requested during an onsite visit	
Missouri Head and Spinal Cord Trauma Registry	Statistical Reporting	Diagnosis and demographic information concerning patients with head and spinal cord injuries.	
Missouri Patient Care Review Foundation/Dynkepro	Review of patient care and proper billing	All PHI necessary for the audit.	
Workers' Compensation	Payment	All PHI related only to Workers' Comp covered treatment.	
Business Associates	Health care Operations	All PHI required to act on behalf of WU	
Subpoenas			See policies on Permitted and Required disclosures. Refer all subpoenas to Risk Management
Attorney	Litigation	PHI within scope of subpoena or individual's authorization	
Disclosures otherwise required by law	Various	All requested PHI necessary to comply with/enforce the relevant law.	
JACHO	Accreditation of health care facilities	Any PHI necessary to respond.	
Law enforcement officials	Investigation	All requested PHI within the scope of the individual's authorization, subpoena, or court order.	

