

**MINIMUM NECESSARY STANDARD FOR ACCESS, USE, DISCLOSURE, AND
REQUESTS FOR PROTECTED HEALTH INFORMATION**

1. PURPOSE: This Veterans Health Administration (VHA) directive updates the policy for determining the minimum necessary amount of Protected Health Information (PHI) that VHA personnel may access, use, disclose or request and requires the assignment of Functional Categories to VHA personnel.

2. SUMMARY OF MAJOR CHANGES: This directive revises, consolidates, and updates existing policy involving the minimum necessary PHI for paper and electronic data.

3. RELATED ISSUES: VHA Directive 1605, VHA Privacy Program, dated September 1, 2017; and VHA Directive 1605.01, Privacy and Release of Information, dated August 31, 2016.

4. RESPONSIBLE OFFICE: The VHA Office of Health Informatics, Information Access and Privacy Office (10A7B), is responsible for the content of this directive. Questions may be referred to the VHA Privacy Officer at 704-245-2492.

5. RESCISSION: VHA Handbook 1605.02, Minimum Necessary Standard for Protected Health Information, dated January 23, 2013, is rescinded.

6. RECERTIFICATION: This directive is scheduled for recertification on or before the last working day of April 2024. This VHA directive will continue to serve as national VHA policy until it is recertified or rescinded.

CERTIFIED BY:

/s/ Steven Lieberman, MD, MBA, FACHE
Acting Principal Deputy Under
Secretary for Health

**BY THE DIRECTION OF THE UNDER
SECRETARY FOR HEALTH:**

/s/ Steven Lieberman, MD, MBA, FACHE
Acting Principal Deputy Under
Secretary for Health

NOTE: All references herein to VA and VHA documents incorporate by reference subsequent VA and VHA documents on the same or similar subject matter.

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MINIMUM NECESSARY STANDARD FOR ACCESS, USE, DISCLOSURE, AND REQUESTS FOR PROTECTED HEALTH INFORMATION

1. PURPOSE

a. This Veterans Health Administration (VHA) directive updates the policy for determining the minimum necessary amount of Protected Health Information (PHI), including paper and electronic data, that VHA personnel may access, use, disclose, or request. Additionally, this directive establishes the policy to assign Functional Categories for VHA personnel to understand and be aware of their obligation to only access the minimum data necessary to conduct their official job duties. Functional Categories are not synonymous with access controls or menu assignment trees. Functional Categories are specific definitions of types of job functions and the corresponding minimum amount of PHI data necessary to perform that function.

b. The responsibilities in this directive comply with the minimum necessary standard for Privacy of Individually-Identifiable Health Information, promulgated pursuant to the Health Insurance Portability and Accountability Act (HIPAA). **AUTHORITY:** Title 45 Code of Federal Regulations (CFR) 160 and 164.

2. BACKGROUND

As required by the provisions of the Standards for Privacy of Individually-Identifiable Health Information, 45 CFR 160 and 164 (HIPAA Privacy Rule), VHA must establish policy on the minimum necessary standard for using, disclosing, and requesting PHI. VHA, as a HIPAA-covered entity, is required to apply the minimum necessary standard to PHI under the HIPAA Privacy Rule. This standard is derived from confidentiality codes and practices in common use today and is based on the regulatory requirement that PHI must not be used, accessed, disclosed, or requested by a covered entity, except when it is necessary to satisfy a purpose to or carry out a function, treatment, payment, or health care operations. The HIPAA Privacy Rule's minimum necessary standard requires covered entities, such as VHA, to evaluate its practices and, in accordance with the Privacy Rule standard, establish policies and procedures to limit the use or disclosure of, and requests for, PHI to the minimum amount necessary to accomplish the intended purpose of its use.

3. DEFINITIONS

For definitions see Appendix A. **NOTE:** *Where this directive uses terms defined in Federal statutes or regulations, the terms in this directive have the same definitions as the statutory or regulatory definitions.*

4. POLICY

It is VHA policy that all VHA personnel will make reasonable efforts to limit requests for, use of, or disclosure of PHI to the minimum necessary to accomplish the intended purpose of the request, use, or disclosure. It is also VHA policy that all VHA personnel

will be assigned a functional category to limit access to the minimum necessary required.

5. RESPONSIBILITIES

a. **Under Secretary for Health.** The Under Secretary for Health is responsible for ensuring overall compliance with this directive.

b. **Deputy Under Secretary for Health for Operations and Management.** The Deputy Under Secretary for Operations and Management is responsible for:

(1) Communicating the contents of this directive to each of the Veterans Integrated Service Networks (VISNs) and VA medical facilities.

(2) Ensuring that each VISN Director has the sufficient resources to implement this directive in all VA medical facilities within that VISN; and

(3) Providing oversight of VISNs to assure compliance with this directive, relevant standards, and applicable regulations.

c. **The Assistant Deputy Under Secretary for Health, Office of Health Informatics.** The Assistant Deputy Under Secretary for Health, Office of Health Informatics is responsible for:

(1) Ensuring that VHA-wide privacy policies including VHA Directive 1605, VHA Privacy Program, dated September 1, 2017; VHA Directive 1605.01, VHA Privacy and Release of Information, dated August 31, 2016; VHA Handbook 1605.03, Privacy Compliance Assurance Program and Privacy Compliance Monitoring, dated April 13, 2009; VHA Handbook 1605.04, Notice of Privacy Practices, dated October 7, 2015; and VHA Handbook 1605.05, Business Associate Agreements, dated July 22, 2014; and privacy procedures are implemented through the VHA Privacy Program.

(2) Ensuring the VHA Privacy Program mission and vision are accomplished by supporting resources, funding, and staffing.

d. **Veterans Integrated Service Network Director.** Each Veterans Integrated Service Network (VISN) Director is responsible for ensuring all VHA health care facilities within the VISN comply with this directive.

e. **Veterans Integrated Service Network Privacy Officer.** Each VISN Privacy Officer (PO) is responsible for:

(1) Implementing the requirements of this directive as it applies to their respective VISN.

(2) Ensuring that all VISN personnel are classified into at least one designated functional category for their primary job function and that they are classified into all applicable functional categories for other additional job duties.

f. **VA Medical Facility Director.** The VA medical facility Director is responsible for:

(1) Ensuring that all VHA personnel within their VA medical facility are classified into at least one designated functional category for their primary job function and that they are classed into all applicable functional categories for other additional job duties.

(2) Ensuring that VHA personnel within their facility have access to PHI, including electronic and paper records, to the extent necessary to perform job functions, but not to exceed the defined limits in Appendix B.

(3) Ensuring supervisors and managers are aware of their subordinate's functional categories and PHI access limitations, that each subordinate has signed an acknowledgement of their functional category, and that a copy of each acknowledgement is maintained in the employee's competency folder.

g. **VA Medical Facility Privacy Officer.** The VA medical facility Privacy Officer is responsible for:

(1) Ensuring that there is authority under all applicable federal privacy laws and regulations for disclosing VHA PHI for a routine disclosure (i.e., a customary or regular occurring request).

(2) Limiting the PHI disclosed to the minimum that is necessary for that particular type of disclosure.

(3) Establishing a documented process for supervisors and managers to notify their employees of their functional categories and ensure they understand the requirement to only access and use the minimum necessary amount of information in order to perform their official job functions.

(4) Establishing local VA medical facility procedure for monitoring the accuracy of the functional category assignments to include the assignment, staff awareness of their assigned category, and training provided on the minimum access standard. Monitoring requirements for functional categories and minimum access is contained in VHA Directive 1605.03, Privacy Compliance Assurance Program and Privacy Compliance Monitoring, dated April 13, 2009.

(5) Determining non-routine disclosures of PHI and limiting disclosure to only the minimum amount of PHI necessary to accomplish the purpose of the non-routine disclosure (see paragraph 7).

(6) Determining routine and recurring requests for PHI and developing standard protocols to limit the information requested (see paragraph 8).

h. **VHA Health Care Supervisors and Managers.** VHA Health Care Supervisors and Managers are responsible for:

(1) Identifying the classes of personnel under their supervision who need access to PHI, the types of PHI needed, and conditions for appropriate access to carry out their official job duties. The initial assignment of job duties must be completed when the employee first enters a job role and must be completed before access is granted to PHI.

(2) Assigning menu options for accessing applications that contain PHI based on the employee's role and their functional category (e.g. radiology technician versus administrative support).

(3) Requesting menu options to be removed when positions change (e.g. radiology technician versus administrative support).

(4) Specifying when access to the entire health record is necessary, when limited access is required, and when there is no need for access. Case-by-case review of each use of the entire health record is not required. If employees have job roles that require different functional categories then more than one functional category may be assigned; however, the assignment of functional categories must at a minimum reflect the primacy access necessary for the job role by having one box checked that is relevant for their primary job roles.

(5) Reviewing functional categories on an annual basis or when job duties change for each employee.

(6) Ensuring that the employee signs and dates VA Form 10-0539, Assignment of Functional Category (see paragraph 9).

(7) Maintaining the documentation of the assignment of functional categories and the employee's signed acknowledgement in the employees' Competency Folder or the Volunteer's training folder.

NOTE: *Failure to be assigned a functional category does not mean that VHA personnel are prohibited from accessing PHI required to perform official duties for treatment, payment, or health care operations.*

i. **VHA Personnel:** VHA personnel are responsible for:

(1) Accessing, using, disclosing, or requesting PHI in only the minimum amount required to perform their specific job functions and to accomplish the intended purposes of the access, use, disclosure, or request.

(2) Knowing the types and limits of their access to PHI for each of their job functions.

(3) Accessing information that does not exceed the limits of access of PHI for their functional category as defined in Appendix B.

(4) Accessing only the PHI needed to perform their official job duties even if the functional category to which they have been assigned allows for greater access.

(5) Acknowledging in writing by signing and dating VA Form 10-0539 on an annual basis (see paragraph 9).

NOTE: *Minimum necessary standard must be followed even if the VHA personnel has not been assigned a functional category.*

6. USE OF PROTECTED HEALTH INFORMATION

Access and use that are authorized by the individual with whom the information is associated are exempt from the minimum necessary standards. The authorization must meet the requirements of VHA Directive 1605.01, Privacy and Release of Information, dated August 31, 2016, and 45 CFR 164.508. **NOTE:** *For other exempt categories under minimum necessary, see paragraph 7(d) below.*

7. DISCLOSURE OF PROTECTED HEALTH INFORMATION

a. **Reasonable Reliance.** In certain circumstances, VHA personnel may rely on the statement by the party requesting the disclosure of PHI that the information requested is the minimum amount of information necessary to meet their requirements regardless of whether the disclosure is routine, recurring, or non-routine. Such reliance must be reasonable under the circumstances of the disclosure. A summary of circumstances when Reasonable Reliance is permitted is provided below. **NOTE:** *For complete text, see 45 CFR 164.514(d).* Reasonable reliance is permitted when the disclosure request is made by:

(1) A public official or agency who states that the information requested is the minimum necessary for a purpose which the official requested the information under 45 CFR 164.512, such as for public health purposes as found in 45 CFR 164.512(b);

(2) Another covered entity, such as a health plan (e.g., Blue Cross and Blue Shield);

(3) A VHA Privacy Officer, who is a VA workforce member or business associate of VHA and who states that the information requested is the minimum necessary for the stated purpose; or

(4) A researcher with appropriate documentation from an Institutional Review Board (IRB) or Privacy Board.

NOTE: *VHA retains discretion to make its own minimum necessary determination for any disclosures to which paragraph 7.a. applies.*

b. **Routine and Recurring Disclosures.** VHA standardizes policies (including VHA Directive 1605, VHA Directive 1605.01, VHA Handbook 1605.03, VHA Handbook 1605.04, and VHA Handbook 1605.05) and procedures for routine and recurring disclosures and limits PHI disclosed to the minimum necessary for the disclosure (see

Appendix C). Individual review by a VHA Privacy Officer of routine and recurring disclosure is not required. (For complete text, see 45 CFR 164.514(d)(3)). **NOTE:** *There is a difference between a routine disclosure and a routine use. A routine use under the Privacy Act system of records gives authority to make disclosures without the written authorization of the individual to whom the record pertains.*

c. **Non-Routine Disclosures.** VHA determines and limits disclosure to only the minimum amount of PHI necessary to accomplish the purpose of a non-routine disclosure. (For complete text, see 45 CFR 164.514(d)(3)).

(1) Non-routine disclosures must be individually reviewed in accordance with these criteria and limited accordingly. (For complete text, see 45 CFR 164.514(d)(3)). VHA must:

(2) Determine the authority for making the disclosure (see VHA Directive 1605.01) to see if the minimum necessary standard exemptions as described in paragraph 7.c.(2) can be used;

(3) Determine who is requesting the disclosure of PHI to see if reasonable reliance as described in paragraph 7.a. can be used; and

(4) Review the purpose for the requested disclosure and use professional judgment to determine if the amount of information requested is the minimum amount necessary to meet the intended purpose for the information. **NOTE:** *Authority to disclose PHI must be established before any disclosure of PHI is made outside of VHA regardless of the amount of information being requested. If it is determined that the disclosure of the requested PHI would exceed the minimum amount necessary, the VA medical facility privacy officer must notify the requester.*

(5) VHA may not disclose an entire health record (i.e., all data in VHA Privacy Act systems of records), except when the entire health record is specifically justified as the amount of information that is reasonably necessary to accomplish the purpose of the disclosure, or the disclosure is not subject to the minimum necessary standard and is permitted under all applicable laws, regulations and VHA policy. (For complete text, see 45 CFR 164.54(d)(3)). This directive does not eliminate the requirements to meet all restrictions related to disclosures as outlined in all applicable federal privacy statutes, regulations, or other VA or VHA policies including VHA Directive 1605, VHA Directive 1605.01, VHA Handbook 1605.03, VHA Handbook 1605.04, and VHA Handbook 1605.05.

(6) If VHA does not agree that the amount of information requested is reasonably necessary for the requesting Covered Entity, then VHA must negotiate a resolution as to the amount of information needed. It is permissible to use Reasonable Reliance as to the minimum necessary request of another Covered Entity if VHA cannot determine what would constitute the minimum necessary amount. (For complete text, see 45 CFR 164.514(d)(3)).

d. **When Minimum Necessary Does Not Apply.** The minimum necessary standard does not apply to the following (for complete text, see 45 CFR 164.502(b)(2)):

(1) Disclosures to, or requests by, a health care provider for treatment purposes.

(2) Disclosures to the individual who is the subject of the information.

(3) Uses or disclosures made pursuant to an individual's authorization.

(4) Uses or disclosures required for compliance with the HIPAA Administrative Simplification Rules, including uses and disclosures for electronic transactions. VHA has established Privacy and Security rules to protect individuals' electronic personal health information that is created, received, used, and maintained for use by VHA and other approved entities. The Privacy Rule requires appropriate safeguards to protect the privacy of personal health information and sets limits and conditions on the uses and disclosures that may be made of such information without patient authorization. The Security Rule requires appropriate administrative, physical, and technical safeguards to ensure the confidentiality, integrity, and security of electronic PHI.

(5) Disclosures to the Department of Health and Human Services (HHS) Office for Civil Rights (OCR) when disclosure of information is required under the Privacy Rule for compliance and enforcement purposes such as for Breach notification.

(6) Disclosures to a health care oversight committee or office for purposes of oversight (i.e. Office of Medical Inspector, Office of Inspector General).

(7) Uses or disclosures that are required by other law, if the use or disclosure meets the requirements of the other law such as Public Health Authorities, Law Enforcement, etc. **NOTE:** For other examples see Appendix C.

(8) De-identified information as defined in VHA Directive 1605.01 (e.g. sharing de-identified patient information in formal health education processes with academic affiliates).

8. REQUESTS FOR PROTECTED HEALTH INFORMATION BY VETERANS HEALTH ADMINISTRATION

a. **Routine and Recurring Requests.** For routine and recurring requests by VHA of PHI applicable policy and procedures must limit PHI requested to that which are minimally necessary for that particular type of request. Individual review of each request is not required. (For complete text, see 45 CFR 164.514d(4)).

b. Non-Routine and Non-Recurring Requests.

(1) When requesting PHI from another health care provider, health plan, or health care clearinghouse, except when requesting information as a health care provider in order to treat a patient, VHA must limit any request to that which is reasonably

necessary to accomplish the purpose for which the request is made. (For complete text, see 45 CFR 164.514d(4)).

(2) Requests by VHA for PHI, as a health care provider, for treatment purposes are explicitly exempted from the minimum necessary standards (see paragraph 7.c.). However, VHA 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. (For complete text, see 45 CFR 164.514d(5)).

9. FUNCTIONAL CATEGORY DOCUMENTATION (VA FORM 10-0539)

a. VA Form 10-0539, Assignment of Functional Categories, must be used to document the assignment of functional categories to VHA personnel on an annual basis.

b. The type of PHI designated under a functional category as outlined in Appendix B is the maximum allowable for a required business need access.

c. More than one functional category may be assigned; however, the assignment of functional categories must reflect the primary access necessary for the job role by having one box checked that is relevant for their primary job roles.

NOTE: Please visit the VA Forms Web site for the current VA Form 10-0539 at: <http://vawww.va.gov/vaforms/medical/pdf/vha-10-0539-fill.pdf>. **NOTE:** This is an internal VA Web site and is not available to the public.

10. TRAINING

There are no formal training requirements associated with this directive.

11. RECORDS MANAGEMENT

All records regardless of format (e.g., paper, electronic, electronic systems) created by this directive shall be managed per the National Archives and Records Administration (NARA) approved records schedules found in VA Records Control Schedule 10-1. Questions regarding any aspect of records management should be addressed to the appropriate Records Manager or Records Liaison.

12. REFERENCES

- a. 5 U.S.C. 552 and 552a.
- b. 38 U.S.C. 5701, 5705, and 7332.
- c. 45 CFR 160 and 164.
- d. VHA Directive 1605, VHA Privacy Program, dated September 1, 2017.

e. VHA Directive 1605.01 Privacy and Release of Information, dated August 31, 2016.

f. VHA Directive 6300, Records Management, dated July 10, 2012

g. VHA Handbook 1605.03 Privacy Compliance Assurance Program and Privacy Compliance Monitoring, dated April 13, 2009.

h. VHA Handbook 1605.04 Notice of Privacy Practices, dated October 7, 2015.

i. VHA Handbook 1605.05 Business Associate Agreements, dated July 22, 2014.

DEFINITIONS

1. ACCESS. For the purpose of this directive, access means obtaining or using information electronically, on paper, or other medium for the purpose of performing an official function.

2. COMPETENCY FOLDER. For the purpose of this directive, competency folder is a place where supervisors maintain copies of employees' position descriptions, current verification of licensure, initial competency assessment and documentation, performance evaluations, ongoing competency assessments, and ongoing education records.

3. COVERED ENTITY. For the purpose of this directive, a Covered Entity is a:

- a. Health plan,
- b. Health care provider who transmits any health information in electronic form in connection with a transaction covered by 45 CFR Parts 160 and 162, or
- c. Health care clearinghouse.

NOTE: *For the purposes of definition of Covered Entities as it relates to Department of Veterans Affairs (VA), the programs within Veterans Health Administration (VHA) are the Covered Entity for VA. Other Administrations and Staff Offices in VA are not Covered Entities per the definition in this section.*

4. DISCLOSURE. Disclosure is the release, transfer, provision of, access to, or divulging in any other manner of information outside VHA.

5. ENTIRE HEALTH RECORD. For the purpose of this directive, the term entire health record refers to all information about an individual in all VHA Privacy Act systems of records listed in Appendix B, in some cases including research records.

6. FUNCTIONAL CATEGORIES. For the purpose of this directive, the term functional categories refers to a grouping (into classes) of individuals based upon VHA personnel duties and responsibilities with a corresponding minimum standard for the need to access and use protected health information (PHI) to conduct their official job duties. All VHA personnel must be categorized into at least one functional category. Individuals that fit into more than one functional category will be assigned a functional category for each appropriate job function and given access to the minimum necessary information needed to complete all job duties, but the employee must be informed by their supervisor to only access VHA data based on the functional category related to the job they are doing at a given time.

7. HEALTH CARE FACILITY. For the purpose of this directive, the term health care facility encompasses all staff and facilities, including but not limited to: VA Central Office, Veterans Integrated Service Networks (VISNs), VA medical facilities, VHA

Health Care Systems, Community-based Outpatient Clinics (CBOCs), Readjustment Counseling Centers (Vet Centers), and VHA Research Centers of Excellence.

8. HEALTH CARE OPERATIONS. Health care operations are any of the following activities: conducting quality assessment and improvement activities; population-based activities relating to improving health or reducing health care costs, protocol development or case management; reviewing competence or qualifications of health care professionals, evaluating practitioner performance, health plan performance, conducting training programs, and certification, licensing, or credentialing activities; conducting medical reviews, legal services, and auditing functions; business planning and development; and business management and general administrative activities including, but not limited to: management, customer service, and the resolution of internal grievances.

9. HEALTH INFORMATION. Health information is any information created or received by a health care provider or health plan that relates to: the past, present, or future physical or mental health condition of an individual; the provision of health care to an individual; or payment for the provision of health care to an individual. Health Information includes information pertaining to examination, medical history, diagnosis, findings or treatment, including such information as: laboratory examinations, X-rays, microscopic slides, photographs, and prescriptions.

10. INDIVIDUALLY-IDENTIFIABLE HEALTH INFORMATION. Individually-Identifiable Health Information (IIHI) is a subset of health information, including demographic information collected from an individual, which:

- a. Is created or received by a health care provider, health plan, or health care clearinghouse;
- b. Is related to the past, present, or future condition of an individual and provision of, or payment for health care; and
- c. Identifies the individual or a reasonable basis exists to believe the information can be used to identify the individual.

NOTE: *IIHI does not have to be retrieved by name or other unique identifier to be covered by this directive.*

11. LIMITED HEALTH RECORD. For the purpose of this directive, the term limited health record means a subset of the entire health record. The functional category determines the subset (See Appendix B). VHA personnel have limited access to PHI data contained in the VHA systems of records according to the functional category. Access is granted based on specific conditions related to the performance and completion of the VHA personnel's responsibilities.

12. MENU ASSIGNMENT. For the purpose of this directive, the term menu assignment means the access level within VHA software applications (e.g., Veterans Information

Systems and Technology Architecture (VistA) and Computerized Patient Record System (CPRS)). Menus are the software applications in which each individual is given access to specific sets of data in order to complete their official job duties. Menu Options are usually assigned by the supervisor, clinical application coordinator (CAC), automated data package application coordinator (ADPAC). CACs and ADPACs also remove access to software applications when the employee's responsibilities change, such as a transfer of position, retirement, resignation, or termination.

13. MINIMUM NECESSARY. For purposes of this directive the term minimum necessary is defined as the minimum amount of PHI required for VHA personnel to carry out their official job duties. Minimum necessary does not apply for treatment purposes.

14. NEED TO KNOW. For the purpose of this directive, the term need to know is defined as a requirement of a VHA health care employee to obtain access to or possess PHI that is needed to carry out official job duties in relation to treatment, payment, or health care operations (TPO). Need to know is considered the same as a required business need which is defined below.

15. PAYMENT. A payment is an activity undertaken by a health plan to obtain premiums, to determine its responsibility for coverage, or to provide reimbursement for the provision of health care including, but not limited to, eligibility, enrollment, and authorization for services. Activities undertaken by a health care provider to obtain reimbursement for the provision of health care, including but not limited to, pre-certification and utilization review, and are considered payment. VHA is both a health plan and a health care provider.

16. PROTECTED HEALTH INFORMATION. PHI is IHI maintained in any form or medium. *NOTE: PHI excludes employment records held by a Covered Entity in its role as an employer.*

17. REASONABLE RELIANCE. Reasonable reliance is used in certain circumstances when a Covered Entity relies on the judgment of the party requesting the disclosure as to the minimum amount of information needed by the requester. Such reliance must be reasonable under the particular circumstances of the request and VHA may be required to obtain documentation or representations from the specific requester if there are questions as to the minimum amount of information that is being requested.

18. REQUIRED BUSINESS NEED. For the purposes of this directive, the term required business need is defined as a requirement of a VHA health care employee to obtain access to or possess PHI that is needed to carry out official job duties in relation to treatment, payment, or health care operations (TPO). Required business need is considered the same as need-to-know to know which is defined above.

19. ROUTINE AND RECURRING DISCLOSURE. For the purpose of this directive, the term routine and recurring disclosure is a disclosure of PHI maintained by VHA to a requester or for a purpose consistent with normal health care functions on a frequent or

recurrent basis (e.g., disclosure of health information to insurance carriers for reimbursement of services). **NOTE:** See Appendix C for a list of Routine and Recurring Disclosures.

20. ROUTINE AND RECURRING REQUEST. For the purpose of this directive, the term routine and recurring request is a request by VHA for PHI from an individual or organization for a purpose consistent with normal health care functions on a frequent or recurrent basis; for example, a request for health information from Veterans for a satisfaction survey. **NOTE:** Internal use and sharing of PHI by VHA personnel within and among health care facilities is not a routine and recurring request.

21. SYSTEM OF RECORDS. System of records is a group of Privacy Act covered records that contains personal information about an individual from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying assigned to an individual. A notice defining a system of records, known as a System of Records Notice (SORN) must be published in the *Federal Register*. A system of records is also a designated record set.

22. TREATMENT. Treatment is the provision, coordination, or management of health care or related services by one or more health care providers. This includes, but is not limited to: the coordination of health care by a health care provider with a third party, consultation between providers relating to a patient, and the referral of a patient for health care from one health care provider to another.

23. USE. Use is the sharing, employment, application, utilization, examination, or analysis of information within VHA.

24. VHA PERSONNEL. For the purpose of this directive, the term VHA personnel also includes without compensation (WOC); contractors; medical students, and other trainees; and uncompensated services rendered by volunteer workers, excluding patient volunteers; providing a service at the direction of VHA staff. **NOTE:** *Compensated Work Therapy (CWT) workers are not VHA personnel; they are patients receiving active treatment or therapy. CWT workers do not have access to PHI as part of their work duties.*

FUNCTIONAL CATEGORIES IDENTIFYING APPROPRIATE LEVELS OF ACCESS TO PROTECTED HEALTH INFORMATION

NOTE: The examples listed under each Functional Category are not an exhaustive list and are only representative of some of the positions covered. For System of Record Notices (SORNs) that that would allow access to entire health record please refer to the Veterans Health Administration (VHA) Privacy Office SharePoint site at the following Web site address:

<https://vaww.vets.vaco.portal.va.gov/sites/privacy/vhapo/Pages/SystemofRecords.aspx>.

NOTE: This is an internal VA Web site and is not available to the public.

Functional Categories (Class of Persons)	Type of Protected Health Information Accessible	Allowable Systems of Records Notice (SORN) for Limited Access	Primary Conditions for Access to Protected Health Information
Direct Care (e.g., Physicians, Nurses, Psychologists, Dieticians, Therapists, Clinical Pharmacists Social Workers and Health Professional Trainees)	Entire Health Record Access		Treatment of Individuals.
Department of Veterans Affairs (VA) Researchers	Entire Health Record Access including research records		Activities and Access as approved by an Institutional Review Board or Privacy Board; Preparatory to research.
Indirect Care Providers (e.g., Pharmacists, Pharmacy Technicians, Lab Technicians, X-ray Technicians and Health Professional Trainees)	Entire Health Record Access		In support of treatment of individuals.
Care-Related Committee Members (e.g., Disruptive Behavior Committee (DBC); Ethics Committee, Medical Record Committee, Narcotics Review Committee etc.)	Entire Health Record Access		Treatment of Individuals and health care operations in compliance with charter responsibilities.

Functional Categories (Class of Persons)	Type of Protected Health Information Accessible	Allowable Systems of Records Notice (SORN) for Limited Access	Primary Conditions for Access to Protected Health Information
Administrative Support, (e.g. MHV Coordinator, Bio-Medical, Administrator of the Day (AOD), Equal Opportunity (EEO), Public Affairs Officer, Call Center Support, Program Support staff, Mail Room staff, Food Prep staff, Union Steward)	Limited Health Record Access when necessary to complete the task.	Any Privacy Act SORN related to the task.	Administrative, public, and employee support.
Occupational Health	Limited Health Record, when necessary to complete task	Any Privacy Act SORN related to the task.	Treatment of employees.
Community Care Office and Purchased Care Office Administrative staff	Entire Health Record Access		For oversight functions such as reimbursement, payment, income verification, eligibility benefits and financial services.
Health Information Support Staff (e.g., Health Unit Coordinators, Medical Support Assistants, Medical Records Administrators/Technicians, Patient Advocate Billing and Coding Specialists, Tumor Registrar Transcriptionists, Release of Information Specialists, Enrollment and Eligibility staff)	Entire Health Record Access		Assigning codes, billing, transcription, filing, scanning, release of information, patient look up, providing or inputting registry data, insurance and eligibility verification, storing and retiring records and patient complaints and resolution.

Functional Categories (Class of Persons)	Type of Protected Health Information Accessible	Allowable Systems of Records Notice (SORN) for Limited Access	Primary Conditions for Access to Protected Health Information
Quality, Oversight and Investigations (e.g., Quality Management, Risk Management, Infection Control, Utilization Review, Radiation and Environmental Safety Officer, Peer Reviewers, Narcotics Inspections)	Entire Health Record including research records		Medical Inspections, investigations, quality reviews, patient and employee safety reviews, compliance reviews and congressional response.
Regulatory Support Positions (e.g., Veteran Integrated Service Network (VISN) Privacy Officer (PO), VISN Compliance, VISN Information Systems Security Officer (ISSO), Facility ISSOs, Facility POs, Records Control Officer, Records Manager, Compliance Officers, Research Compliance Officers, Freedom of Information Act (FOIA) Officers,)	Entire Health Record including research records		Monitoring and tracking of security, records control, privacy, research compliance and FOIA requests patient concerns.
Operations and Environmental Support (e.g., Acquisitions, Contracting, Human Resources, Employee Education Service, Library, Medical Media, Telecommunications Groundskeepers, Building Management)	No need for access to PHI		Internal support.

Functional Categories (Class of Persons)	Type of Protected Health Information Accessible	Allowable Systems of Records Notice (SORN) for Limited Access	Primary Conditions for Access to Protected Health Information
Facility and VISN Leadership and Management	Limited Health Record, when necessary to complete task	Any Privacy Act SORN related to the task.	Overseeing of operation and management, executive decisions for health care operations
Police Dispatchers	Limited Health Record when necessary to complete the task.	Any Privacy Act SORN necessary to complete the task.	Performing security related functions that require access to patient contact information. (e.g., Parking infractions, warrants, security actions - validating presence on VA grounds, correspondence).
Chief of VA Police, Assistant Chief of Police	Limited Health Record, when necessary to complete task	Any Privacy Act SORN necessary to complete the task.	Performing security related functions that require access to patient contact information (e.g., parking infractions, warrants, security actions - validating presence on VA grounds, correspondence).
VA Police Staff, Contracted Security Police	No Need for Access to PHI		Law enforcement functions.

Functional Categories (Class of Persons)	Type of Protected Health Information Accessible	Allowable Systems of Records Notice (SORN) for Limited Access	Primary Conditions for Access to Protected Health Information
Information Technology, Clinical Applications Coordinators (CAC's), Automated Data Processing Application Coordinators (ADPACS), Decision Support Staff, Area Managers, Chief Medical Information Officers (CMIOs), Chief Health Informatics Officer, OI&T staff	Limited Health Record when necessary to complete task	Any Privacy Act SORN related to the task	Maintenance and support of computer systems, employee computer support.
Veterans Canteen Service, Cafeteria, Retail Store	No need for access to PHI		Retail and food services for employees and Veterans.
VHA Program Office, VHACO leadership (e.g., Office of Medical Inspector,)	Limited access, when necessary to complete task	Any Privacy Act SORN related to the task.	Overseeing of health care operations, budget and management, executive decisions for VHA Central Office, health care oversight, complaint or inquiry resolution.
Volunteer Services (e.g., Reception Desk, Facility Escorts, Transportation Drivers)	Limited Health Record Access, when necessary to complete task.	Any Privacy Act SORN related to the task.	Transportation of patients with vehicle, information desk support and escorting to appointments.

ROUTINE AND RECURRING DISCLOSURES

	PURPOSE	ENTITY	ADDITIONAL INFORMATION FOR DISCLOSURE	MINIMUM AMOUNT OF PHI
1.	Health Care Operations (Legal Advice)	Office of General Counsel (OGC), Department of Justice (DoJ)	VHA Directive 1605.01, Privacy and Release of Information, paragraph 16, dated August 31, 2016.	Health information necessary to provide the legal support requested.
2.	Health Care Oversight	Department of Veterans Affairs (VA) Inspector General (IG)	VHA Directive 1605.01, paragraph 16.	Not Applicable (see paragraph 7.c. of this directive)
3.	Required by Law, i.e. Compliance with Equal Employment Opportunity Requirements	Office of Resolution Management (ORM)	VHA Directive 1605.01, paragraph 16.	Health information necessary to meet the legal requirements. Consult District Counsel.
4.	Eligibility and Entitlement to Benefits	Veterans Benefits Administration (VBA); Social Security Administration (SSA)	VHA Directive 1605.01, paragraph 16.	Health information needed to determine eligibility for benefits.
5.	Adjudication of Claim	VBA	VHA Directive 1605.01, paragraph 16.	Health information related to the claim submitted by the veteran.
6.	Eligibility for or Entitlement to Benefits	Board of Veterans Appeals (BVA)	VHA Directive 1605.01, paragraph 16.	Health information related to the claim being appealed.

	PURPOSE	ENTITY	ADDITIONAL INFORMATION FOR DISCLOSURE	MINIMUM AMOUNT OF PHI
7.	Eligibility for or Entitlement to Burial Benefits	National Cemetery Administration (NCA)	VHA Directive 1605.01, paragraph 16.	Health information necessary to bury a deceased veteran or provide survivor benefits.
8.	Required by Law, i.e. Compliance with Requirements	Office of Employment Discrimination, Complaints and Adjudication (OEDCA)	VHA Directive 1605.01, paragraph 16.	Health information necessary to meet the legal requirements. Consult District Counsel.
9.	Member and Organization Representation	Unions	VHA Directive 1605.01, paragraph 16.	Health information necessary to provide the Union representation
10.	Non-VHA Research Studies	Non-VA Researchers	VHA Directive 1605.01, paragraph 16.	Health information authorized by the Institutional Review Board. (See paragraph 7.a. of this directive)
11.	Law Enforcement - Location and Identification of Suspects, Criminals, and Others under Investigation; Location of Missing Persons; etc.	Law Enforcement Entities	VHA Directive 1605.01, paragraph 21.	Eight data elements listed in VHA Directive 1605.01, paragraph 21.

	PURPOSE	ENTITY	ADDITIONAL INFORMATION FOR DISCLOSURE	MINIMUM AMOUNT OF PHI
12.	Audits and Evaluations	Government Accountability Office (GAO)	VHA Directive 1605.01, paragraph 16.	Not applicable (See paragraph 7.c. of this directive)
13.	Health Care Oversight	Congressional Oversight Committees	VHA Directive 1605.01, paragraph 18.	Not applicable (See paragraph 7.c. of this directive)
14.	Complaint of Veteran	Congress person, Department of Health and Human Services (HHS), Office for Civil Rights (OCR)	VHA Directive 1605.01, paragraph 18	Not applicable (See paragraph 7.c. of this directive)
15.	Payment of Claims	Insurance Company or Health Plan	VHA Directive 1605.01, paragraph 22.	Health information necessary to obtain reimbursement for services being billed or to provide payment information on claims processed by VHA.
16.	Reporting Debt (e.g., co-payment debt of veteran)	Consumer Reporting Agency	VHA Directive 1605.01, paragraphs 19 and 22.	Health information required by the consumer reporting agency to report the individual's debt owed to VA.
17.	Legal Processing and Litigation	Courts, Judicial Body, or Attorney; DoJ	VHA Directive 1605.01, paragraph 20. (Court Order provided)	Health information required by the Court Order or Discovery Request.

	PURPOSE	ENTITY	ADDITIONAL INFORMATION FOR DISCLOSURE	MINIMUM AMOUNT OF PHI
18.	Inquiry Regarding a Patient Hospitalized	Individuals Rights	VHA Directive 1605.01, paragraphs. 5 and 23. (Individual must be in the Facility or Patient Directory)	Only patient location and general condition may be provided.
19.	Inquiry Regarding a Patient's Condition and Care	Next-of-Kin, Family, and Others with a Significant Relationship Who are Involved in the Veteran's Care	VHA Directive 1605.01, paragraph 23. (Only applies if no other authority exists, e.g., Power of Attorney (POA))	Health information determined appropriate for involvement in care and treatment of the veteran based on good medical ethical judgment of provider.
20.	Treatment of Patients	Non-VA Health Care Providers including Physicians, Hospital and Nursing Homes	VHA Directive 1605.01, paragraph 24.	Not applicable (See paragraph 7.c. of this directive)
21.	Determining suitability of Organs or Tissues for Donation	Organ Procurement Organizations (OPO)	VHA Directive 1605.01, paragraph 25.	Health information the OPO indicates is necessary to determine suitability.
22.	Reporting Communicable Diseases or other Reportable Diseases	Public Health Authorities, Center for Disease Control (CDC)	VHA Directive 1605.01, paragraph 27.	Health information requested. (See paragraphs 7.a. and 7.c. of this directive)

	PURPOSE	ENTITY	ADDITIONAL INFORMATION FOR DISCLOSURE	MINIMUM AMOUNT OF PHI
23.	Reporting for Cancer Follow-up	State and Local Registries	VHA Directive 1605.01, paragraph 28	Health information requested. (See paragraph 7.a. of this directive)
24.	Making Funeral Arrangements	Coroner, Funeral Homes	VHA Directive 1605.01, paragraph 34	Only health information required to make funeral arrangements.
25.	Accreditation and Evaluation	Joint Commission, American College of Surgeons, College of American Pathologists, American Association of Blood Banks, etc.	VHA Directive 1605.01, paragraphs 12 and 37.	Only health information required for Accreditation or Evaluation
26.	Workers Compensation	Workers Compensation Office; Workers Compensation Board	VHA Directive 1605.01, paragraph 12	Only health information required for Workers Compensation claim
27	Child or Elder Abuse Reporting	State Agencies	VHA Directive 1605.01, paragraph 21	Only health information required to make report.
28.	HIPAA Compliance Reviews	HHS OCR	VHA Directive 1605.01, paragraph 18.	Not applicable (See paragraph 7.c. of this directive)
29.	Coordination of Government Benefit Programs	DoD, Centers for Medicare and Medicaid (CMS), Census Bureau and other Federal Agencies	VHA Directive 1605.01, paragraph 26	Only health information required for coordination efforts