

# Policy on Minimum Necessary Information

## Cardiac Surgery Associates, SC

**Date:** April 14, 2003

**Authority:** Executive Management Committee, Drs. Bakhos, Blakeman, Bonilla, and Foy; M. Budzynski

**Responsibility:** Office Manager

It is crucial that every staff member understands the minimum necessary policy for use, disclosure and request of protected health information.

Healthcare providers and staff are entitled to use PHI consistent with their roles in this organization. Each staff member must also understand that with this right comes certain responsibilities such as limiting the viewing, use, disclosure and requesting to only that data necessary for patient treatment, reimbursement for treatment and healthcare operations. It is considered a breach of policy and the patient's trust to seek information beyond what is appropriate for the staff role and the patient needs.

In the event of an emergency, the strict limits of access may be breached when appropriate for the benefit of the patient, specifically when the potential benefit to the patient is judged to outweigh the risk to patient privacy.

### **Purpose:**

The purpose of this policy is to comply with the requirements of the Health Insurance Portability and Accountability Act (HIPAA) and to ensure our patients' rights to the minimum necessary use and disclosure of their protected health information.

### **General Policy:**

1. When using or disclosing protected health information or when requesting protected health information from another covered entity, each staff member of Cardiac Surgery Associates, SC must make reasonable efforts to limit protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.

This requirement does not apply to disclosures to a health care provider for treatment, uses or disclosures made to the individual, uses or disclosures made pursuant to an authorization for release signed by the patient or the patient's representative, disclosures made to the Secretary of Health and Human Services, disclosures that are required by law (as described by Sec. 164.512(a) of the Privacy Regulation) and uses or disclosures that are required for compliance with the Privacy Regulation.

2. It is necessary that the different roles in Cardiac Surgery Associates, SC be defined so that each staff member understands their own rights and responsibilities.

### **Office Role Categories:**

**Direct Healthcare Provider** - A licensed healthcare professional who provides direct or indirect patient care or consulting services.

**Technical Staff** - Staff who provide patient care at the request of a direct healthcare provider.

**Direct Support Staff** - Staff who work within the office providing a variety of professional and direct administrative support that involves the delivery of patient care or billing operations.

**Indirect Support Staff** - Staff who work within the office providing administrative support.

#### **Data Access Categories:**

**Full Health Information Access** - Access to full health information as needed for health or payment operations. Staff in this category may access and read all appropriate information.

**Summary Data Access** - Access to summary data with treatment or diagnostic codes as needed to function. Staff in this category should confine the use of protected health information to the absolute minimum required and should not access or read full medical records.

**Minimum Information Access** - Access to patient demographic data with only minimum reference to treatment or diagnostic information as needed to function.

**Emergency Information Access** - Access to any individually identifiable health information should not be granted except in emergency situations.

#### **Usage Assignments:**

Data Access Categories are assigned in accordance with the operational requirements for minimum necessary use.

Direct Healthcare Providers have access to full health information with the clear understanding that access and reading is limited to need for treatment, reimbursement or operations.

Technical Staff have access to full health information with the clear understanding that access and reading is limited to need for treatment, reimbursement or operations.

Direct Support Staff have access to full health information with the clear understanding that access and reading is limited to need for treatment, reimbursement or operations.

Indirect Support Staff have access to full health information with the clear understanding that access and reading is limited to need for treatment, reimbursement or operations.

Cardiac Surgery Associates, SC will maintain a current office role directory that lists every defined position within the office. This will ensure that each position will be granted the correct access authorization as defined in the Usage Assignments section of this policy.

It is incumbent on every staff member to report any observed violation of these usage rules to the Chief Financial Officer or another senior staff member. Every staff member must be trained in their roles and responsibilities with reference to the minimum use and access to patient data.

It is considered a breach of organization policies and the patient's trust to seek information beyond what is appropriate for the staff role and the patient needs.

In the event of an emergency, the strict limits of access may be breached when appropriate for the benefit of the patient, specifically when the potential benefit to the patient is judged to outweigh the risk to patient privacy.

#### **Disclosures for Treatment, Payment or Health Operations:**

The regulations establish that routine and recurring disclosures of protected health information can be made for treatment, payment or health operations without specific patient authorization.

The minimum necessary requirements still pertain to all of these disclosures.

Minimum necessary determinations will be made for all routine and recurring disclosures for all categories (other than those that are excepted); these categories will include, for example, additional medical information for medical necessity determination, sample records for accreditation and audits, records review for protocol adherence, patient information for participation in a clinical trial, paper claims, phone referral certification information and other categories as determined necessary.

Full health information will be provided to routine and recurring requests from:

- 1)Health Plans
- 2)Healthcare Providers
- 3)Patients
- 4)Family Members involved in care
- 5)Workers' Compensation Providers
- 6)Insurers
- 7)Transcription Services

Summary data with treatment and or diagnostic codes will be provided to routine and recurring requests from:

- 1)Billing Services
- 2)Clearinghouses
- 3)Medicare
- 4)Blue Shield
- 5)Collection Agency
- 6)Answering Service

Minimum information - patient demographic data with only minimum reference to treatment or diagnostic information - will be provided to routine and recurring requests from:

Every effort will be made to comply with these disclosure categories except where the cost of extracting information is not reasonable and the risk of breach of patient privacy is considered low. In all situations, the requestor will be informed of their responsibilities towards this data and appropriate agreements entered into.

All non-routine and/or non-recurring requests will be considered on a case-by-case basis and determination of the level of response will be based on criteria that take into account the minimum necessary requirements.

**Requests for Information:**

The regulation establishes that for routine and recurring requests the responsibility for determining the minimum necessary data falls on the requestor, in all situations where data are requested, staff members must ensure that minimum necessary evaluation is made. In situations where the determination has not been made, questions should be directed first to the Chief Financial Officer and then to the Controller.

Minimum necessary determinations will be made for all routine and recurring requests for all categories; these categories will include, for example:

Reason for visit

Vital medical stats

Medical records for referral

Referral authorization, if non-standard

Test results

Patient messages from an answering service

# Office Role Directory

## Cardiac Surgery Associates, SC

The following is a current list of all positions currently defined for Cardiac Surgery Associates, SC. They are listed according to the Office Role Category (as defined in the Policy on Minimum Necessary Information) to which they belong. The Office Role Category determines the type of information access each position requires to function.

### Direct Healthcare Providers:

- 1)Physician
- 2)Nurse
- 3)Physician Assistant
- 4)Surgical Assistant

### Technical Staff:

- 1)Perfusionist

### Direct Support Staff:

- 1)Office Manager
- 2)Office Support Staff
- 3)Coders/Billers
- 4)Reimbursement Specialists
- 5)Managed Care Coordinator
- 6)Financial Analyst/Payment Poster
- 7)Controller
- 8)Chief Financial Officer

### Indirect Support Staff:

- 1)Filer
- 2)Receptionist

# State Law Information for Minimum Necessary Information

## Cardiac Surgery Associates, SC

State: IL

Your state's laws regarding Protected Health Information must be considered along with the HIPAA Privacy Regulation when updating your organization's policies and procedures. We are providing the information below as a guide to what those other considerations may be. Consult your state's laws to make sure you are meeting all of the requirements.

### Summary

Illinois statutes have a great impact on the minimum necessary policy. Though there are no provisions on the actual process for minimum necessary control, there are many restrictions on Treatment, Payment and Healthcare Operations. Carefully read each state provision and our "Expected Impact" and then incorporate appropriate language into your policy. Seek outside counsel if anything is unclear.

### General Policy Issues

According to the HIPAA Privacy Regulation, a healthcare provider must make reasonable effort to limit the amount of information released. The state statutes may differ either in definition or requirement.

### Disclosures for Treatment, Payment, or Healthcare Operations

The HIPAA Privacy Regulation establishes that routine and recurring disclosures of the minimum necessary PHI can be made for treatment, payment, or healthcare operations. State law may have different provisions as to what may be disclosed and what information is deemed minimum necessary. Look at the state law, compare it to the policy and incorporate the state law as necessary.

#### *Treatment*

#### **Expected Impact [High]**

The federal regulation allows nonconsensual disclosures for treatment. State law has no definition for "those parties directly involved with providing treatment". The scope of treatment disclosures under state law may be narrower than under the federal regulation.

NOTE: Non-consensual disclosures for treatment are permitted under both state law and the federal regulation. The narrower state law should be followed.

#### **State Law Citation**

410 ILCS 50/3(d)

#### **Highlight of State Provision**

A covered entity cannot disclose information about the services provided to a patient, unless this information is disclosed to parties directly involved with providing treatment to the patient or when required by law.

### ***Payment***

#### **Expected Impact [High]**

The federal regulation allows for nonconsensual disclosures for payment. State law has no definition for "those parties directly involved with processing the payment for that treatment". The scope of payment disclosures under state law may be narrower than under the federal regulation.

NOTE: Non-consensual disclosures for treatment permitted in the past under state law may continue to be made under the federal regulation.

#### **State Law Citation**

410 ILCS 50/3(d)

#### **Highlight of State Provision**

A covered entity cannot disclose information about the services provided to a patient, unless this information is disclosed to parties directly involved with processing payment for that treatment or when required by law.

### ***Healthcare Operations***

#### **Expected Impact [High]**

The federal definition of *healthcare operations* appears to be more expansive than the state law. The narrower state law authority appears to be applicable for *disclosures* in connection with activities identified in the federal regulation as healthcare operations.

NOTE: Follow the narrower state law standard for healthcare operations disclosures.

#### **State Law Citation**

410 ILCS 50/3(d)

#### **Highlight of State Provision**

A covered entity cannot disclose information about the services provided to a patient, unless this information is disclosed to parties responsible for peer review, utilization review and quality assurance, or when required by law.