

Incidental Uses and Disclosures of Protected Health Information

1. SCOPE

- 1.1. System-wide
- 1.2. Facilities and departments included in the scope are further defined in the [Scope Definitions Resource Guide](#) if not specifically outlined above.

2. DEFINITIONS & EXPLANATIONS OF TERMS

- 2.1. Abbreviations
 - HIPAA: Health Insurance Portability and Accountability Act
 - MCHS: Marshfield Clinic Health System
 - PHI: Protected Health Information
- 2.2. Definitions
 - Patient: All references to the "patient" in this policy mean the patient or her/his Personal Representative as defined in the [Personal Representatives of Patients](#) policy.
 - Incidental Uses or Disclosures: Secondary uses or disclosures that cannot reasonably be prevented, are limited in nature, and occur as a by-product of otherwise permitted uses or disclosures (examples of incidental uses or disclosures appear in Section 3.3 below).
 - Protected Health Information (PHI): The Privacy Rule protects all "*individually identifiable health information*" held or transmitted by a covered entity or its business associate, in any form or media, whether electronic, paper, or oral. The Privacy Rule calls this information Protected Health Information.
 - ◊ Individually identifiable health information: information, including demographic data, that relates to:
 - the individual's past, present, or future physical or mental health or condition; **or**
 - the provision of health care to the individual; **or**
 - the past, present, or future payment for the provision of health care to the individual; **and**
 - that identifies the individual or for which there is a reasonable basis to believe it can be used to identify the individual (e.g., name, address, birth date, Social Security Number).

3. POLICY BODY

Purpose Statement: The purpose of this policy is to establish guidelines to limit incidental uses and disclosures of Protected Health Information (PHI). It is the policy of Marshfield Clinic Health System to reasonably safeguard PHI in order to limit incidental uses or disclosures of PHI.

It is also MCHS policy to encourage its physicians and staff to use due care in limiting inadvertent disclosures and to use caution and common sense when handling PHI. However, incidental disclosures of highly confidential information such as HIV test results, AODA information, or Psychotherapy Notes are not permitted by state or federal law or MCHS policy.

3.1. General Rule

- a. MCHS physicians and staff may use or disclose PHI which is the result of, or incidental to, otherwise permissible uses or disclosures under MCHS's policies if:
 - MCHS has implemented reasonable administrative, technical, and physical safeguards to limit incidental uses and disclosures (see Section 3.3 below for examples); and
 - MCHS has complied with the minimum necessary requirements set forth in the [Limiting the Uses and Disclosures of Protected Health Information to Minimum Necessary](#) policy.

3.2. Exception to Accounting Requirement

- a. Incidental uses and disclosures made by MCHS in accordance with this policy are not required to be part of an accounting under the Privacy Rule.

3.3. Examples of Incidental Uses or Disclosures and Reasonable Safeguards

- a. Using patient sign-in sheets or calling out a patient's name in a waiting room, as long as the information disclosed is appropriately limited (i.e., first and last name only).
- b. Discussing laboratory results with a patient in a joint treatment area (unless the results are of a highly confidential nature such as HIV test results).
- c. Discussing patient information in a group therapy or treatment setting if it is reasonable to infer from the circumstances that the patient does not object to such a disclosure.
- d. A physician may discuss a patient's condition or treatment regimen in the patient's semi-private room.

- 3.4. In these circumstances, reasonable safeguards or precautions could include using lowered voices or talking apart from others when sharing PHI. However, in an emergency situation, in a loud emergency room, or where a patient is hearing impaired, such precautions may not be practical.

4. ADDITIONAL RESOURCES

4.1. References:

- HIPAA Regulations 45 CFR §§ 164.502(a)(1)(iii), 164.530(c)(2)(ii)
- Wis. Stat. § 146.816
- [Limiting the Uses and Disclosures of Protected Health Information to Minimum Necessary](#)

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POLICY

5. DOCUMENT HISTORY

Version No.	Revision Description
1.0	Policy #2212 converted to the new Document Control System
2.0	Annual Review. Updated Scope, Logo, MC to MCHS, and add definition for PHI.
3.0	Updated Scope and added reference link. Updated setting metadata field, removed logo, updated header and scope, added abbreviations, updated formatting
4.0	Annual review. No changes.
5.0	Annual review. No changes.
6.0	Annual review (12/2021) with no changes.
7-8	See version history
9.0	DCS Checklist, AO to republish

6. DOCUMENT PROPERTIES

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