


# Minimum Necessary Information

	<b>Louisiana Department of Health (LDH)</b>	
	<b>Policy Number</b>	22.1
	<b>Effective Date</b>	April 14, 2003
	<b>Inquiries to</b>	Office of the Secretary Bureau of Legal Services P.O. Box 3836 Baton Rouge, Louisiana 70821-3836 (225) 342-1112 FAX (225) 342-2232

LDH is committed to fostering, cultivating and preserving a culture of equity, diversity and inclusion. Our human capital is the most valuable asset we have. The collective sum of the individual differences, life experiences, knowledge, inventiveness, innovation, self-expression, unique capabilities and talent that our employees invest in their work represents a significant part of not only our culture, but our Department’s reputation and achievement as well.

If there is a discrepancy between an LDH Policy and a Program Office or facility policy, the LDH policy shall govern/override/supersede the conflicting section within the Program Office or facility policy.

## I. PURPOSE

The intention of the LDH Minimum Necessary Information Policy is to:

- A. Improve the privacy of confidential information that is used or disclosed by LDH workforce in the course of their work; and
- B. Ensure that LDH workforce have access to the information they require to accomplish the LDH’s mission, goals and objectives.

LDH staff and workforce members should refer to LDH Policy #72 (Public Information) prior to any use or disclosure of Protected Health Information (PHI). If the workforce member determines that there is a conflict between that policy and LDH HIPAA Privacy Policies, the workforce member must contact their supervisor prior to the use or disclosure. The supervisor shall then consult with the Privacy Officer and other appropriate LDH executive management.

## **II. APPLICABILITY**

LDH's HIPAA Privacy Policies are applicable to LDH's workforce and its Business Associates.

## **III. EFFECTIVE DATE**

The implementation date of these policies is April 14, 2003.

## **IV. DEFINITIONS**

The definitions are included in the body of these policies.

## **V. RESPONSIBILITIES**

LDH's workforce and its business associates are responsible for assuring that LDH's HIPAA Privacy Policies are followed. The LDH Privacy Officer and the Program Privacy Officers are responsible for the implementation, resolution and enforcement of all aspects related to LDH HIPAA Privacy Policies.

## **VI. EXCEPTIONS**

The exceptions are listed in the policies.

## **VII. POLICY: MINIMUM NECESSARY INFORMATION**

- A. LDH will use or disclose only the minimum amount of information necessary to provide services and benefits to clients and when managing information on participants, and only to the extent provided in LDH policies and procedures.
- B. This policy does not apply to:
  - 1. Disclosures to or requests by a health care provider for treatment;
  - 2. Disclosures made to the client or participant or their Personal Representative about his or her own Individually Identifiable Health Information (IIHI);
  - 3. Uses or disclosures authorized by the client or participant or their Personal Representative authorized by law that is within the scope of the authorization;
  - 4. Disclosures made to the United States Department of Health and Human Services (DHHS), Office for Civil Rights, in accordance with subpart C of part 160 of the HIPAA Privacy Rule;
  - 5. Uses or disclosures that are required by law; and

6. Uses or disclosures that are required for compliance with the HIPAA Transaction Rule. The minimum necessary standard does not apply to the required and situational optional data elements specified in the implementation guides under the Transaction Rule.

C. Minimum Necessary Information

1. When LDH policy permits use or disclosure of a client or participant's information to another entity, or when LDH requests an individual's information from another entity, LDH workforce must make reasonable efforts to limit the amount of PHI to the minimum necessary needed to accomplish the intended purpose of the use, disclosure, or request.
2. If LDH policy permits making a particular disclosure to another entity, LDH workforce may rely on a requested disclosure as being the minimum necessary for the stated purpose when:
  - a. Making disclosures to public officials that are permitted under 45 CFR 164.512, and as stated in LDH Policy #19, "Uses and Disclosures of Client or Participant Information," if the public official represents the information requested is the minimum necessary for the stated purpose(s). A "public official" is any employee of a government agency who is authorized to act on behalf of that agency in performing the lawful duties and responsibilities of that agency.
  - b. The information is requested by another entity that is a "covered entity" under the HIPAA Privacy rules. A "covered entity" is a health plan, a health care provider who conducts electronic transactions, or a health care clearinghouse, if that entity represents that the information requested is the minimum necessary for the stated purpose(s);
  - c. The information is requested by a professional who is a member of the workforce of a "covered entity" or is a business associate of the "covered entity" 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(s); or
  - d. Documentation or representations that comply with the applicable requirements of LDH Policy #21, "Uses and Disclosures for Research

Purposes and Waivers" have been provided by a person requesting the information for research purposes.

D. Access and Uses of Information

LDH will establish role-based categories or other acceptable methods that identify types of information necessary for employees to do their jobs. LDH program areas will identify the category of information needed for persons, or classes of persons, in their respective workforces to carry out their duties, and will further identify any conditions appropriate to such access. categories will include all information, such as information accessible by computer, kept in files, or other forms of information consistent with LDH Policy #24, "Administrative, Technical and Physical Safeguards."

E. Routine and Recurring Disclosure of a Client or Participant's Information

1. For the purposes of this policy, a "routine and recurring" disclosure means the disclosure of records outside LDH, without the authorization of the individual, for a purpose that is compatible with the purpose for which the information was collected. The following identifies several examples of uses and disclosures that LDH has determined to be compatible with the purposes for which information is collected.
2. Routine and recurring uses include disclosures required by law.
3. If LDH deems it desirable or necessary, LDH may disclose information as routine and recurring use to the Louisiana Department of Justice for the purpose of obtaining its advice and legal services.
4. When Federal or State agencies, such as the DHHS Office for Civil Rights, the DHHS Office of Inspector General, the State of Louisiana Medicaid Fraud Control Unit, Louisiana Division of Administration, Louisiana Inspector General's Office, the Louisiana Legislative Auditor or other similar governmental agency have the legal authority to require LDH to produce records necessary to carry out audit or oversight of LDH programs or activities, LDH will make such records available as a routine and recurring use.
5. LDH will not disclose an individual's entire record unless the request specifically justifies why the entire record is needed, and applicable laws and policy permit the disclosure of all the information in the record to the requestor.

F. Non-Routine Disclosure of Client or Participant's Information

1. For the purpose of this policy, "non-routine disclosure" means the disclosure of records outside LDH that is not for a purpose for which it was collected.
2. For non-routine disclosures, LDH program areas will:
  - a. Implement procedures to limit the information disclosed to only the minimum amount of information necessary to accomplish the purpose for which the disclosure is sought, and
  - b. Review requests for non-routine disclosures on an individual basis.
- G. LDH will not disclose an individual's entire record unless the request specifically justifies why the entire record is needed, and applicable laws and policy permit the disclosure of all the information in the record to the requestor.
- H. LDH Request for an Individual's Information from Another Entity

When requesting information about an individual from another entity, LDH workforce members must limit requests to those that are reasonably necessary to accomplish the purpose for which the request is made.

1. LDH will not request an individual's entire medical record unless LDH can specifically justify why the entire medical record is needed.
2. LDH will only request the minimum necessary information to accomplish the purpose of each request for an individual's information.
3. LDH program areas will:
  - a. Implement procedures to limit the request for an individual's information to only the minimum amount of information necessary to accomplish the purpose for which the disclosure is sought; and
  - b. Review such requests on an individual basis in accordance with such procedures.

**Policies:**

LDH Policy #17 - "General Privacy Policy"

LDH Policy #18 - "Client and Participant Privacy Rights"

LDH Policy #19 - "Use and Disclosures of Client or Participant Information"

LDH Policy #20 - "De-identification of Client and Participant Information and Use of Limited Data Sets"

LDH Policy #21 - "Uses and Disclosures for External Research Requests, Internal Research Needs and Waiver of Privacy Rights for Research Purposes"

LDH Policy #23 - "LDH Business Associate Relationships"

LDH Policy #24 - "Administrative, Technical, and Physical Safeguards"

LDH Policy #25 - "Enforcement, Sanctions, and Penalties for Violations of LDH HIPAA Privacy Policies"

**Form(s):**

LDH HIPAA Privacy form #401P – “Authorization to Release or Obtain Health Information for Eligibility in Program Enrollment”

LDH HIPAA Privacy form #402P - “Authorization to Release or Obtain Health Information” (Other than Eligibility in Program Enrollment)

LDH HIPAA Privacy form #701P - “Accounting of Disclosures Request Form”

**Reference(s):**

45 CFR Parts 160 and 164

**Contacts:**

State of Louisiana

The Department of Health

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Privacy Office

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**VIII. REVISION HISTORY**

<b>Date</b>	<b>Revision</b>
April 14, 2003	Policy created
August 8, 2017	Policy reviewed
June 5, 2019	Policy reviewed