

DEPARTMENT: Information Protection and Security	POLICY DESCRIPTION: Accounting of Disclosures
PAGE: 1 of 4	REPLACES POLICY DATED: 4/14/03, 3/1/08, 9/23/13
EFFECTIVE DATE: February 1, 2019	REFERENCE NUMBER: IP.PRI.009 (formerly HIM.PRI.009)
APPROVED BY: Ethics and Compliance Policy Committee	

SCOPE: All Company-affiliated facilities including, but not limited to, hospitals, ambulatory surgery centers, imaging and oncology centers, physician practices, shared services centers, and each entities' respective departments.

PURPOSE: To ensure that each Company-affiliated facility, and their respective departments, understands the requirement to populate and provide an Accounting of Disclosures of Protected Health Information to all patients as required by the Health Insurance Portability and Accountability Act (HIPAA), Standards for Privacy of Individually Identifiable Health Information (Privacy Standards), 45 CFR Parts 160 and 164, the Health Information Technology for Economic and Clinical Health Act (HITECH) component of the American Recovery and Reinvestment Act of 2009 (ARRA), and any and all other Federal regulations and interpretive guidelines promulgated thereunder.

POLICY: Each Company-affiliated facility must provide a written accounting of disclosures (AOD) of protected health information (PHI) to individuals that a facility has made during the six years prior to the date on which the accounting is requested. AODs do not need to be provided for any disclosures on or prior to April 13, 2003. Requests for an AOD must be made in writing or the verbal request must be documented.

A system must be in place for all departments (including but not limited to: Radiology, Quality, Emergency Room, and Health Information Management) within the facility to accurately and completely track all disclosures and have such information available for a minimum of six (6) years as required by the HIPAA Privacy Standards and this policy.

The right to request an AOD and the process for making a request must be outlined in the Notice of Privacy Practices.

PROCEDURE:

An individual has a right to receive an accounting of disclosures of PHI made by a facility in the six (6) years prior to the date on which the accounting is requested, **except for the following disclosures** (the HIPAA Privacy Standards Section is included after each exception):

1. To carry out treatment, payment and health care operations (§164.506);
2. To individuals of PHI about them (§164.502);
3. Pursuant to an authorization (§164.508);
4. For the facility's directory or to persons involved in the individual's care or other notification purposes (§164.510);
5. For national security or intelligence purposes (§164.512(K)(2));
6. To correctional institutions or law enforcement agencies that have lawful custody of an inmate (§164.512(K)(2));
7. As part of a limited data set (§164.514(e));
8. That occurred prior to the compliance date for the covered entity; or
9. Incident to a use or disclosure otherwise permitted or required (§164.502).

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The accounting must include the following for each disclosure:

1. The date of the disclosure;
2. The name of the entity or person who received the PHI and, if known, the address of such entity or person;
3. A brief description of the PHI disclosed; and
4. A brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure; or, in lieu of such statement, a copy of a written request for a disclosure.

Research

If the covered entity has made disclosures of PHI for a particular research purpose in accordance with the HIPAA Privacy Standards §164.512(i) (specifically under the provisions for Waiver of Authorization by an Institutional Review Board or Privacy Board, Reviews Preparatory To Research or Research on Decedent's Information) for 50 or more individuals, the accounting may provide:

1. The name of the protocol or other research activity;
2. A description, in plain language, of the research protocol or other research activity, including the purpose of the research and the criteria for selecting particular records;
3. A brief description of the type of PHI that was disclosed;
4. The date or period of time during which such disclosure occurred, or may have occurred, including the date of the last such disclosure during the accounting period;
5. The name, address, and telephone number of the entity that sponsored the research and of the researcher to whom the information was disclosed; and
6. A statement that the PHI of the individual may or may not have been disclosed for a particular research protocol or other research activity.

If the covered entity provides an accounting for research disclosures in accordance with the Research section noted above and at the request of the individual, the covered entity may assist in contacting the entity that sponsored the research and the researcher if it is reasonably likely that the PHI of the individual was disclosed for research protocol or activity.

If the covered entity has made disclosures of PHI for a particular research purpose in accordance with the HIPAA Privacy Standards §164.512(i) for less than 50 individuals, an AOD is required for each patient that includes the date of the disclosure; the name of the entity or person who received the PHI and, if known, the address of such entity or person; a brief description of the PHI disclosed; and a brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure; or, in lieu of such statement, a copy of a written request for a disclosure.

Provision of the accounting

1. The facility must act on the individual's request for an accounting, no later than 60 days after receipt of such a request, as follows:
 - a. The facility must provide the individual with the accounting requested; or
 - b. If the facility is unable to provide the accounting within the time required then the facility may extend the time to provide the accounting by no more than 30 days, provided that:

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- i. The facility, within the time limit set provides the individual with a written statement of the reasons for the delay and the date by which the facility will provide the accounting; and
 - ii. The facility may have only one such extension of time for action on a request for an accounting.
2. The facility must provide the first accounting in any 12 month period to an individual free of charge. The facility may impose a reasonable, cost-based fee for each subsequent request for an accounting by the same individual within the 12 month period, provided that the facility informs the individual in advance of the fee and provides the individual with an opportunity to withdraw or modify the request for a subsequent accounting in order to avoid or reduce the fee.

Documentation

A facility must document the following and retain the documentation for six years:

1. The information required to be included in an accounting;
2. The written accounting that is provided to the individual which should be stored with the designated record set; and
3. The titles of the persons or offices responsible for receiving and processing requests for an accounting by individuals.

Suspend right of accounting to health oversight or law enforcement

The facility must temporarily suspend an individual's right to receive an accounting of disclosures to a health oversight agency or law enforcement for the time specified by such agency or official, if such agency or official provides the facility with a written statement that such an accounting to the individual would be reasonably likely to impede the agency's activities and specifying the time for which such a suspension is required.

If the agency or official statement is made orally, the facility must:

- a. Document the statement, including the identity of the agency or official making the statement;
- b. Temporarily suspend the individual's right to an accounting of disclosures subject to the statement;
and
- c. Limit the temporary suspension to no longer than 30 days from the date of the oral statement, unless a written statement pursuant to above paragraph is submitted during that time.

List of Types of Disclosures that must be tracked for the purposes of accounting

1. Required by law
2. Public health activities
3. Victims of abuse, neglect, or domestic violence unless the Covered Entity (CE), in exercising professional judgment, believes informing the individual may cause serious harm or if the CE believes the individual is responsible for the abuse, neglect, or injury.
4. Health oversight activities
5. Judicial and administrative proceedings
6. Law enforcement purposes
7. Decedents:
 - Coroners and medical examiners
 - Funeral directors

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8. Cadaveric organ, eye, or tissue donation purposes
9. Research purposes where a waiver of authorization was provided by the Institutional Review Board or Privacy Board, preparatory reviews for research purposes and/or research on decedent's information
10. In order to avert a serious threat to health or safety
11. Specialized government functions:
 - Military and veterans activities
 - Protective services for the President and others
12. Worker's compensation disclosures necessary to comply with laws relating to worker's compensation programs (**not** including disclosures related to payment).
13. Inappropriate disclosures (e.g., the incorrect PHI being provided to the wrong patient, the incorrect PHI being provided to an attorney)

Attachments

- [Attachment A previous](#) is a list of examples of the type of disclosures that must be tracked in the Accounting of Disclosures.
- [Attachment B previous](#) is a list of examples of the type of disclosures that do **NOT** need to be tracked in the Accounting of Disclosures.
- [Attachment C previous](#) is a sample Patient Request for Accounting form.
- [Attachment D previous](#) is a sample cover letter to include when providing the patient with the Accounting of Disclosures.

REFERENCES:

1. Patient Privacy Program Requirements Policy, [IP.PRI.001](#)
2. Privacy Official Policy, [IP.PRI.002 previous](#)
3. Records Management Policy, [EC.014](#)
4. Health Insurance Portability and Accountability Act (HIPAA), Standards for Privacy of Individually Identifiable Health Information (45 CFR Parts 160 and 164)
5. American Recovery and Reinvestment Act of 2009, Title XIII, Subtitles A& D

Accounting of Disclosure (AOD) Examples

A. Disclosures to be included/tracked in the AOD:

Type of Disclosure	Tracked in AOD	Clarification (if needed)	Examples (not an inclusive list)
1. Required by Law	Yes	<p>“Required by law” means: “a mandate contained in law that compels a covered entity to make a use or disclosure of protected health information and that is enforceable in a court of law. Required by law includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.”</p>	<p>The following types of disclosures are often required by state or federal law:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Cancer registry state reporting <input type="checkbox"/> State reporting <input type="checkbox"/> Court Orders and Subpoenas <input type="checkbox"/> Organ donor services chart review <input type="checkbox"/> Peer review organizations- DRG/Utilization chart reviews <input type="checkbox"/> Office for Civil Rights – investigation/inquiry of a privacy complaint.
2. Public Health Activities	Yes	<p>To a “public health authority”* that is authorized by federal, state, local law to collect or receive such information for the purpose of</p> <ul style="list-style-type: none"> <input type="checkbox"/> preventing or controlling disease; <input type="checkbox"/> reporting of disease or injury; <input type="checkbox"/> vital events such as birth or death; <input type="checkbox"/> the conduct of public health surveillance, public health investigations, and public health interventions; <input type="checkbox"/> at the direction of a public health authority, to an official of a foreign government agency that is acting in collaboration with a public health authority. <p>*“public health authority” is defined as: “an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Communicable/infectious disease <input type="checkbox"/> Head Injury/Trauma reporting <input type="checkbox"/> Medical Device reporting <input type="checkbox"/> Birth certificate (mother and baby) and death certificate tracking <input type="checkbox"/> Sentinel event chart reviews <input type="checkbox"/> FDA-regulated product or activities (adverse events, product defects, etc.)

Accounting of Disclosure (AOD) Examples

A. Disclosures to be included/tracked in the AOD:

Type of Disclosure	Tracked in AOD	Clarification (if needed)	Examples (not an inclusive list)
		granted authority, that is responsible for public health matters as part of its official mandate.”	
3. Victims of abuse, neglect, or domestic violence	Yes		<input type="checkbox"/> Child abuse, neglect, or domestic violence reporting to Social Services or Protective Services agencies--unless the CE professional judgment believes informing the individual may cause serious harm or if the CE believes he/she is responsible for the abuse, neglect, or injury.
4. Health oversight activities	Yes	<p>“Health oversight agency” is defined as:</p> <p>“an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant.”</p>	<input type="checkbox"/> State health professional licensure agencies <input type="checkbox"/> HHS Office of Inspector General <input type="checkbox"/> U.S. Dept. of Justice <input type="checkbox"/> State Medicaid Fraud Units <input type="checkbox"/> HHS Office of Civil Rights <input type="checkbox"/> Food and Drug Administration <input type="checkbox"/> CMS – Medicare surveyor chart reviews <input type="checkbox"/> State surveyor chart reviews <input type="checkbox"/> Licensure and disciplinary actions (e.g., disclosures to state licensing boards)
5. Judicial and administrative proceedings	Yes		<input type="checkbox"/> Court orders <input type="checkbox"/> Subpoenas where authorization is not present (i.e., for copies of bills and medical records)
6. Law enforcement (unless a request has been made to temporarily suspend an accounting of disclosure)	Yes		<input type="checkbox"/> Court order or court-ordered warrant <input type="checkbox"/> Grand jury subpoenas <input type="checkbox"/> Victims of a crime <input type="checkbox"/> Crime on premises <input type="checkbox"/> Reporting crime in emergencies

Accounting of Disclosure (AOD) Examples

A. Disclosures to be included/tracked in the AOD:

Type of Disclosure	Tracked in AOD	Clarification (if needed)	Examples (not an inclusive list)
7. Decedents	Yes		<ul style="list-style-type: none"> <input type="checkbox"/> Coroners or medical examiners to ID a deceased person, determine cause of death, or other duties by law. <input type="checkbox"/> Funeral directors to carry out lawful duties.
8. Cadaveric organ, eye or tissue donation	Yes		<ul style="list-style-type: none"> <input type="checkbox"/> Organ procurement organizations or other entities engaged in procurement, banking, or transplantation (donor only).
9. Research purposes	Yes		<ul style="list-style-type: none"> <input type="checkbox"/> IRB or Privacy Board issues a waiver of authorization for research studies with less than 50 individuals. <input type="checkbox"/> IRB or Privacy Board issues a waiver of authorization for research studies with 50 or more individuals. A limited AOD option is available in lieu of accounting for each disclosure individually.
10. To avert a serious threat to health or safety	Yes		<ul style="list-style-type: none"> <input type="checkbox"/> FDA inquiries <input type="checkbox"/> Terrorism alerts-medical or safety threats. <input type="checkbox"/> Communicable disease organizations
11. Specialized government functions	Yes	* <u>See</u> Attachment B, item 7. Disclosures for National Security/Intelligence activities exempted from the AOD requirements	<ul style="list-style-type: none"> <input type="checkbox"/> Military and veterans activities. <input type="checkbox"/> Protective Services for the President and Others.
12. Workers' Compensation	Yes		<ul style="list-style-type: none"> <input type="checkbox"/> Worker's compensation disclosures necessary to comply with the law (not including disclosures related to payment).
13. Inappropriate Disclosures	Yes		<ul style="list-style-type: none"> <input type="checkbox"/> PHI faxed to incorrect external (non workforce member or business associate) fax number. <input type="checkbox"/> PHI mailed to an incorrect address and is returned opened

DO NOT Include These Examples in the AOD

B. Disclosures that DO NOT need to be included/tracked in the AOD:

Type of Disclosure	Tracked in AOD	Clarification (if needed)	Examples (not an inclusive list)
1. Treatment	No	As the provision, coordination, or management of health care by a health care provider.	<ul style="list-style-type: none"> <input type="checkbox"/> Consultants and referrals between healthcare providers. <input type="checkbox"/> Verbal, written, and electronic communication between health care providers, ancillary staff, and allied health staff to treat the patient. <input type="checkbox"/> Recipient of organ or tissue donation.
2. Payment	No	Efforts to get premium and financial reimbursements for providing health care-related products or services.	<ul style="list-style-type: none"> <input type="checkbox"/> Claims Management to obtain payment for facility services. <input type="checkbox"/> Utilization Review to follow up on a utilization letter from the QIO <input type="checkbox"/> Determination of insurance eligibility <input type="checkbox"/> Health plans review for medical necessity. <input type="checkbox"/> Disclosures to worker's compensation carriers for claims processing/payment activities.
3. Health Care Operations	No	General administrative and business functions necessary for a health care organization to remain a viable business.	<ul style="list-style-type: none"> <input type="checkbox"/> Case Management/UR chart reviews performed by internal facility department and external agencies to facilitate home care and/or treatment after patient discharge. <input type="checkbox"/> Medical and billing chart reviews for internal facility operations such as: Quality Assessment/Improvement, revenue recovery auditing, supply chain auditing, CPCS auditing. <input type="checkbox"/> Training, reviewing competency, and peer review of health care providers. <input type="checkbox"/> Arranging legal services <input type="checkbox"/> Business Planning <input type="checkbox"/> Performing Customer Service <input type="checkbox"/> Marketing – communication regarding new hospital services, hospital newsletters <input type="checkbox"/> Accreditation organizations (e.g., The Joint Commission, CARF, ACOS, AHCA) <input type="checkbox"/> Facility licensing and certificate of need activities
4. Individual Authorization	No		<ul style="list-style-type: none"> <input type="checkbox"/> A patient signs an authorization form to obtain copies of his/her medical records to take them to another physician.

DO NOT Include These Examples in the AOD

B. Disclosures that DO NOT need to be included/tracked in the AOD:

Type of Disclosure	Tracked in AOD	Clarification (if needed)	Examples (not an inclusive list)
5. Incidental Disclosure	No		<input type="checkbox"/> PHI overheard by another patient in Emergency Department registration area. (Provided reasonable safeguards had been made by facility).
6. Facility Directory	No		<input type="checkbox"/> PBX operator communicates with family regarding patients' location, including clergy listings.
7. National Security Intelligence	No		<input type="checkbox"/> PHI information was requested by the FBI, CIA, Homeland Security, or other official governmental intelligence agency to track possible terrorists.
8. Correctional Institutions or Law Enforcement Officials	No		<input type="checkbox"/> PHI disclosed to a correctional facility for an inmate who had surgery at a medical facility.
9. Limited data set	No		<input type="checkbox"/> Information with limited identifiers disclosed under a Data Use Agreement for health care operations, including Business Associates, public health, and research activities

Abbreviations:

ACOS - American College of Surgeons
AHCA - Agency for Healthcare Administration
AOD - Accounting of Disclosures
CARF - Commission of Accreditation of Rehab Facilities
CIA - Central Intelligence Agency
CMS - Centers for Medicare and Medicaid Services
DRG - Diagnosis Related Groups
FBI - Federal Bureau of Investigation
FDA - Food and Drug Administration
HHS - Health and Human Services
IRB - Institutional Review Board
PHI - Protected Health Information
QIO - Quality Improvement Organization
UR - Utilization Review

REQUEST FOR AN ACCOUNTING OF DISCLOSURES	Add Facility Logo Here
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1. PATIENT INFORMATION

Date of Request:	Med Record Number:
Name:	Date of Birth:
Telephone Number:	
Address:	
Address to send Accounting of Disclosure (if different than above):	

2. DATES REQUESTED

I would like an accounting of all disclosures for the following time frame. *Please note:* the maximum time frame that can be requested is six years prior to the date of your request, and the health care entity is not required to account for disclosures that occurred before April 14, 2003.

From: _____ To: _____

3. FEES

There is no charge for the first request for an accounting in a 12-month period. For subsequent requests in the same 12-month period, the charge is (insert cost-based fee). I understand that there is (check one):

- ☐ No fee for this request.
- ☐ A fee for this request in the amount of \$ (insert cost-based fee), and I wish to proceed.

4. RESPONSE TIME

I understand that the accounting I have requested will be provided to me within 60 days unless I am notified in writing that an extension of up to 30 days is needed.

Signature of patient or
Legal representative _____ Date _____

5. THIS SECTION FOR HEALTH CARE ORGANIZATION USE ONLY

Date request received: _____ Date accounting sent: _____

Requestor verified by which method? _____

Extension requested: ☐ no ☐ yes

If yes, give reason: _____

Patient notified in writing on this date: _____

Staff member processing request: _____

ROI

ROI

This completed form will be permanently maintained with the designated record set

SAMPLE COVER LETTER TO SEND WITH PATIENTS REQUESTED
ACCOUNTING OF DISCLOSURE

Add Facility Logo Here	
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<Patient Name>
<Patient Address>

RE: Requested Accounting of Disclosure

Dear (patient name):

At (name of facility) we are committed to providing quality patient care that is sensitive, compassionate, promptly delivered, and cost effective, as reflected in the Commitment to Our Patients. The privacy of patient information is second only in importance to patient care itself. We are committed to complying with the Health Insurance Portability and Accountability Act, Standards for Privacy of Individually Identifiable Health Information, 45 CFR Parts 160 and 1654 (HIPAA Standards of Privacy).

At (facility name) each patient is provided the right to an Accounting of Disclosures of his/her protected health information. Please find attached your Accounting of Disclosure. Please note the maximum time frame that can be requested is six years prior to the date of your request, and we are not required to account for disclosures that occurred before April 14, 2003.

There is no charge for the first request for an accounting in a 12-month period. For subsequent requests in the same 12-month period, the charge is (insert cost-based fee).

Please contact me at (phone number) with questions or concerns.

Sincerely,

Facility Privacy Official
(Facility Name)

ROI
ROI