



Los Angeles County Department of Health Services

Policy & Procedure Title:		Accounting of Disclosures	
Category:	300-399 Operation Policy	Policy No.:	361.21
Effective Date:	4/14/2003	Update (U)/Revision (R):	09/01/2019 (U)
DHS Division/Unit of Origin:		Patient Safety, Risk Management, Privacy, and Compliance	
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Distribution: DHS-wide <input checked="" type="checkbox"/>		If not DHS-wide, other distribution:	

PURPOSE:

The purpose of this policy is to describe the process for responding to a patient's (individual's) request for an accounting of disclosures of his/her Protected Health Information (PHI).

DEFINITIONS:

Disclose or Disclosure means, with respect to PHI, the release of, transfer of, provision of access to, or divulging in any manner of PHI outside of DHS' internal operations or to other than a member of its workforce.

Protected Health Information (PHI) is identifiable information relating to the past, present, or future physical or mental health condition of an individual, provision of health care to an individual, or the past, present, or future payment for health care provided to an individual, and that identifies, or for which there is a reasonable basis to believe the information can be used to identify an individual. Identifiable information includes, but is not limited to, patient name; medical record number (MRN); financial identification number (FIN); date of birth, Social Security Number; and phone number. PHI does not include employment records maintained by DHS in its role as employer.

Workforce or Workforce Member includes employees, contract staff, affiliates, volunteers, trainees, students, and other persons whose conduct, in the performance of work for DHS, is under its direct control, whether or not they receive compensation from the County.

POLICY:

The mission of the Los Angeles County Department of Health Services is to ensure access to high-quality, patient-centered, cost-effective health care to Los Angeles County residents through direct services at DHS facilities and through collaboration with community and university partners.

Revision/Review Dates: 04/14/2003 11/20/2008R 10/08/2014 09/01/2019

Department Head/Designee Approval:

The DHS Workforce and Business Associates will document, track, and retain all records pertaining to the disclosure of Protected Health Information. Patients may request an Accounting of Disclosures of their PHI from the facility Health Information Management Department, who will respond in accordance with Federal and California privacy laws and DHS's Privacy policies and procedures that pertain to the Health Insurance Portability and Accountability Act (HIPAA).

PROCEDURES:

I. Individual's Right to an Accounting of Disclosures of PHI

- A. **General Right to Request an Accounting of Disclosures.** Upon a written request by the patient or the patient's Personal Representative, using the ***Request for Accounting of Disclosures*** form (Attachment A), DHS will provide the requestor with an accounting of all disclosures of PHI about the patient made by DHS or a business associate of DHS on or after April 14, 2003 in accordance with Sections I.B. and I.C below. The patient is entitled to receive an accounting of disclosures of PHI made during the six (6) year period immediately prior to the date of the request for an accounting, but the accounting period is not retroactive prior to April 14, 2003. The content of the accounting will comply with Section II of this policy.
- B. **Disclosures Requiring an Authorization.** DHS must account for disclosures made without a patient authorization, except as set forth in Section I.C. below. Generally, these disclosures fall into the following categories: (1) certain disclosures of PHI related to research; and (2) public policy disclosures. DHS also must account for inadvertent or erroneous disclosures of PHI.
1. Disclosures of PHI for Research. DHS must account for the following disclosures of PHI for research purposes:
 - Pursuant to IRB approved waiver of the HIPAA authorization
 - Pursuant to an Investigator certification that the use of PHI is "preparatory to research"
 - Pursuant to an Investigator certification that he/she is conducting decedent research
 2. IRB Waiver Exception. For research protocols that have received an IRB approved waiver of the HIPAA authorization and require disclosure of PHI maintained by DHS for fifty (50) individuals or more, DHS may instead provide the following accounting for those records:
 - The name of the protocol or other research activity;

- 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;
- A brief description of the type of PHI that was disclosed;
- The date or period of time during which such disclosures occurred, or may have occurred, including the date of the last such disclosure during the accounting period;
- The name address, and telephone number of the entity that sponsored the research and of the researcher to whom the information was disclosed; and
- A statement that the PHI of the individual may or may not have been disclosed for a particular protocol or other research activity.

If DHS provides an accounting for research-related Disclosures, and if it is reasonably likely that the individual's PHI was disclosed for a research protocol or activity DHS shall, upon the individual's request, assist in contacting the researcher and sponsoring organization.

3. Public Policy Disclosures. DHS must account for the following disclosures of PHI that may be made without a HIPAA authorization

- (a) Public Health Activities. To a public health authority that is authorized by law to collect information for the purpose of preventing or controlling disease, injury, or disability.
- (b) Child Abuse Reporting. To a public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect.
- (c) Elder and Dependent Abuse Reporting. To a governmental authority authorized by law to receive reports of elder and dependent abuse reporting.
- (d) Injuries by Firearms. Assaultive or Abusive Conduct. To local law enforcement agencies, when treating persons with injuries believed to be caused by firearms, assaultive or abusive conduct.
- (e) FDA Reporting. To a person subject to the jurisdiction of the Food and Drug Administration.
- (f) Communicable Disease Exposure Notification. To a person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or

condition, if the covered entity or public health authority is authorized by law to notify such person as necessary in the conduct of a public health intervention or investigation.

- (g) Employment-Related Disclosure. To an employer, about an patient who is a member of the workforce of the employer, in connection with a legal action or claim in which employer and employee are parties and the employee has placed medical history, treatment or condition in issue or to describe functional limitations of the employee relating to medical leave or the employee's fitness to perform a particular job.
- (h) Health Oversight Activities. To a health oversight agency for oversight activities authorized by law, including audits; civil, administrative or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative or criminal proceedings or actions; or other activities necessary for appropriate oversight of: (i) the health care system; (ii) government benefit programs for which health information is relevant to beneficiary eligibility; (iii) entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; or (iv) entities subject to civil rights laws for which health information is necessary for determining compliance.
- (i) Judicial and Administrative Proceedings. In the course of any judicial or administrative order of a court, subpoena or discovery request.
- (j) Law Enforcement. To a law enforcement official pursuant to a judicial or administrative order or search warrant.
- (k) Coroner or Medical Examiner. To a coroner or medical examiner to assist such official in authorized duties.
- (l) Funeral Directors. To a funeral director to assist such individual in carrying out his or her duties.
- (m) Organ and Tissue Procurement. To an organ procurement organization for organ, eye or tissue donation purposes.
- (n) Threat to Health or Safety. To a third party to prevent serious threat to health or safety.
- (o) Military and Veterans Activities. To appropriate U.S. or foreign military command authorities regarding an individual who is a member of U.S. or foreign armed forces.

- (p) Protective Services. To authorized federal government officials for the provision of protective services to the President of the United States, foreign heads of state and certain other government officials and to conduct investigations related to such protective services.
- (g) Workers' Compensation. As authorized by and to comply with workers' compensations laws (i.e., laws that provide compensation for work-related injuries and illnesses regardless of fault).
- (r) Licensing Purposes. To a third party private or public body responsible for licensing of a health care provider or health plan.
- (s) Breach. The result of a Breach of PHI, as described in DHS Policy 361.11, "Investigation of Privacy-Related Complaints Involving Alleged Violations or Breaches of Protected Health Information (PHI)."
- (t) Required By Law. As required by law as described in DHS Policy 361.3, "Use and Disclosure of Protected Health Information (PHI) Without Authorization."

C. Exceptions from Accounting Requirement. DHS is not required to provide an accounting of Disclosures of PHI that were made for the following purposes:

1. To carry out Treatment, Payment, and Health Care Operations;
2. To the patient;
3. For the facility directory, to persons involved in the individual's care, or other notification purposes (e.g., disaster relief assistance) permitted under law;
4. Pursuant to the individual's authorization;
5. To a family member, caregiver or personal representative for purposes related to treatment, payment or health care operations;
6. For national security or intelligence purposes;
7. To correctional institutions or law enforcement officials having lawful custody of an inmate or other individual protected health information about such inmate or other individual, provided the use or disclosure is for the provision of health care, health and safety of the individual or other inmates or personnel responsible for transporting inmates, for law enforcement on the premises and for maintaining the good order of the correctional institution;
8. That are incidental to Uses and Disclosures permitted by the HIPAA Privacy Rule;
9. As part of a limited data set, as described in the DHS Policy No. 361.19, "De-Identification and Re-Identification of Protected Health Information/Limited Data Sets;" and
10. Any disclosure that occurred prior to April 14, 2003.

D. DHS will temporarily suspend an individual's right to receive an accounting of disclosures if a health oversight agency or law enforcement official provides a written statement that such accounting may impede their activities. The written statement must also specify the amount of time for which such a suspension of rights is required. If a health care oversight or law enforcement official provides such request orally, DHS must (1) document the statement and the identity of the agency or individual making the request; (2) temporarily suspend the individual's right to accounting; and (3) limit the suspension to 30 day, unless a written statement is submitted during that time period.

II. **Content Requirements:** The written accounting must meet the following requirements:

A. Other than as excepted above, the accounting must include disclosures of PHI that occurred during the six (6) years (or shorter time period as specified in the request) prior to the date of the request, including disclosures by or to business associates.

B. The accounting for each disclosure must include:

- Date of disclosures;
- Name of entity or person who received the PHI, and, if known, the address of such entity or person;
- A brief description of the PHI disclosed;
- A brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or in lieu thereof, a copy of the individual's authorization or the request for a disclosure;

C. If, during the time period for the accounting, multiple disclosures have been made to the same entity or person for single purpose, or pursuant to a single authorization, DHS may provide the individual with (1) the information as set forth above for the first disclosure during the accounting period (2) the frequency, periodicity, or number of disclosures made during the accounting period; and (3) the date of the last such disclosure during the accounting period.

III. **Provision of the Accounting of Disclosures**

A. DHS must respond to an individual's request for an accounting of disclosures using the ***Response to Request for Accounting of Disclosures*** form (Attachment B), subject to the exceptions set forth in Section I(C) above, within 60 days after receipt of the request.

In instances in which DHS is a Business Associate of a Covered Entity, DHS shall comply with the timeframes documented in the signed Business Associate Agreement with the Covered Entity.

- B. If the DHS facility is unable to provide the accounting within the initial 60-day period, it may extend the period by no more than 30 days provided that:
1. DHS, within the initial 60 days, send the individual a written statement of the reason(s) for the delay and the date by which the accounting will be provided; and
 2. Only one extension period is applied.
- C. The first accounting of disclosures in any 12-month period must be provided to the individual without charge.
- D. A reasonable fee may be charged for additional accountings within the same 12-month period provided the individual:
1. Is informed in advance of the fee, **and**
 2. Is provided the opportunity to withdraw or modify the request so as to avoid or reduce the fee.

IV. Documentation Requirements for an Accounting of Disclosures

- A. DHS will maintain a record of all accounting of disclosures requests and the disposition of those requests and will document such in written or electronic form and retain the following:
1. All information listed above in Section II that is required to be included in an accounting;
 2. The written accounting provided to an individual pursuant to the individual's request for an accounting of disclosures;
 3. The titles of the persons or offices responsible for receiving and processing requests for an accounting by individuals.
- B. Each DHS facility identifies the process for receiving and processing requests for accounting of disclosures. The necessary elements to identify includes the title of the person or office responsible for receiving and processing the request for accounting of disclosures and documentation will be retained in written and/or electronic format for a minimum of six (6) years.

ATTACHMENTS/FORMS:

- Request for Accounting of Disclosures (Attachment A)
- Response to Request for Accounting of Disclosures (Attachment B)

REFERENCES/AUTHORITY:

Code of Federal Register 45, Part 160 and 164; Section 164.528 "Accounting of Disclosures of Protected Health Information."

DHS Policies:

361.3, "Use and Disclosure of Protected Health Information (PHI) Without Authorization"

361.11, "Investigation of Privacy-Related Complaints Involving Alleged Violations or Breaches of Protected Health Information (PHI)"

361.19, "De-Identification and Re-Identification of Protected Health Information/Limited Data Set"