



Harris County Hospital District

POLICY AND REGULATIONS MANUAL HIPAA ADMINISTRATIVE POLICY

Accounting of Disclosures
of Protected Health
Information

Policy No: 3.11.304
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Effective Date: 041403
Board Motion No:

**TITLE: ACCOUNTING OF DISCLOSURES OF PROTECTED
HEALTH INFORMATION**

PURPOSE:

The purpose of this policy is to provide guidance on documenting the Disclosure of Protected Health Information (PHI) and responding to a Request for an Accounting of Disclosures from patients or their Personal Representative.

This policy supports Harris County Hospital District's HIPAA policy and may require development of department specific procedures.

[Key Words: Accounting, Designated Record Set, Disclosure, Protected Health Information (PHI), Record Custodian, Tracking]

POLICY STATEMENT:

The employees and Business Associates of Harris County Hospital District will document, track, and retain all records pertaining to the Disclosure of Protected Health Information. Patients may request an Accounting of Disclosures of their Protected Health Information from the Privacy Officer, who will respond in accordance with the Federal and state privacy laws and Harris County Hospital District's privacy policies and procedures.

POLICY ELABORATION:

I. DEFINITIONS

- A. Designated Record Set - means a group of records maintained by or for the facility that is:
- (1) The medical and billing records about patients,
 - (2) The enrollment, payment, claims adjudication and case or medical management record systems maintained by or for a health plan, or



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- (3) Used, in whole or part, by or for the facility to make decisions about patients.

For purposes of this definition, the term “record” means any item, collection or grouping of information that includes PHI and is maintained, collected, used or disseminated by or for the facility; the term “record” includes (a) patient information originated by another healthcare provider and used by the facility to make decisions about the patient, and (b) tracings, photographs, videotapes, digital and other images that may be recorded to document care of the patient.

- B. Disclosure - is the release of information outside the facility.
- C. Protected Health Information (PHI) - is individually identifiable patient health information in any form that is created or received by a healthcare provider, and relates to the patient’s healthcare condition, provision of healthcare, or payment for the provision of healthcare.
- D. Record Custodian - is an individual designated by the Hospital District to be responsible for the safekeeping, maintenance, and release of PHI.

II. PROCEDURE

- A. The patient’s or Personal Representative’s request for an Accounting of Disclosure of PHI must be in writing and specify the period of time the accounting includes, but covering no more than six (6) years from the date of the request with a begin date of no earlier than April 14, 2003.



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- B. The request for an Accounting of Disclosure of PHI should be submitted to the Privacy Officer (or other designated person), as stated in the HCHD's Notice of Privacy Practices.
- C. The Privacy Officer will verify that no health oversight agency or law enforcement official has submitted a written (or oral) statement preventing the facility from providing the accounting. A written statement from one of these agencies should include:
1. The reason why the Disclosure would impede the activities of the agency, and indicate the time frame the suspension is required.
 2. If the statement is made orally, should the recipient document the reason for suspension and document for suspension and document the identity of the person, or agency, making the statement.
 3. If this type of statement (written or oral) has been received, the facility will temporarily suspend the patient's right to receive an Accounting of Disclosure for the time indicated in the written statement or for up to 30 days for an oral statement.
- D. If the request for an accounting of Disclosures of PHI is made by the patient's Personal Representative, and a licensed health care professional, by professional judgment, has determined that provision of an accounting of Disclosures is reasonably likely to cause harm to the patient or another person, HCHD has the discretion to decline the



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request (See HCHD policy on dealing with abuse, neglect, and endangerment situations for further clarifications).

- E. If no temporary suspension of the patient's right to an Accounting of Disclosures is in place, and no other reason for denying the request has been identified (such as in paragraph D above, the Privacy Officer will route the request for an Accounting of Disclosure of PHI to:
1. All Record Custodians,
 2. Business Associates that maintain PHI that is part of the HCHD's designated record set and is held only by the Business Associate. Business Associates need not track Disclosures of PHI for purposes of treatment, payment, or health care operations, or any other exempt purpose listed in paragraph G below.
- F. All Record Custodian(s) will compile an accounting of Disclosure of the records under their care and submit the document to the Privacy Officer.
1. The accounting includes all methods of release: hard copy, verbal, and electronic.
 2. The accounting includes Disclosures of PHI to Business Associates (except for treatment, payment, or healthcare operations) or any other exempt purpose listed in paragraph G below;
 3. The accounting includes Disclosures of PHI by HCHD's Business Associates except for treatment, payment, or health care operations or any other exempt purpose listed in paragraph G below. As outlined in HCHD's Business Associate Agreement, the Business Associate is required by contract to



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provide to HCHD the information (listed in paragraph H below) applicable to the Agreement.

- G. The accounting must include all Disclosures of PHI, except for the following Disclosures:
1. To carry out Treatment, Payment or Health Care Operations;
 2. To the patient;
 3. That are incidental Disclosures to another permissible or required use or Disclosure of PHI (as long as reasonable safeguards and minimum necessary standards have been observed for the underlying communication);
 4. Pursuant to a valid Authorization as specified in HCHD's policies on Use and Disclosure of PHI, (See Policy 3.11.300, Authorization for Use and Disclosure of Protected Health Information for Purposes Other Than Treatment, Payment and Health Care Operations; Policy 3.11.301, Use and Disclosure of Psychotherapy Notes; Policy 3.11.601, Use and Disclosure of Protected Health Information for Marketing; and Policy 3.11.700, Use and Disclosure of Protected Health Information for Research).
 5. For HCHD's Facility Directory;
 6. To persons involved in the patient's care;
 7. For notification purposes such as identifying or locating a family member, or Personal Representative to inform them of the patient's location, general condition or death;



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8. For national security or intelligence purposes as provided in Policy, Release of Information without Authorization;
 9. To correctional facilities or law enforcement facilities as provided in Policy, Release of Information without Authorization;
 10. Requests submitted for periods of time prior to the HIPAA compliance date of April 14, 2003.
 11. As part of a Limited Data Set in accordance with Policy, Use and Disclosure of PHI in a Limited Data Set.
- H. The content of the Accounting of Disclosures of PHI must be written, and include all Disclosures during the six (6) years prior to the date of the request beginning with the Privacy Compliance date of April 14, 2003, or less if specified by the requestor , including Disclosures to or by Business Associates of HCHD. The Accounting must include:
1. The date of the Disclosure;
 2. The name of the entity or person who received the PHI, and if known, the address of the 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 patient of the basis for the Disclosure; or (in place of such statement):
 - a A copy of the patient or Personal Representative's written authorization; o
 - b A copy of a written request for a Disclosure when required by the Secretary of DHHS to investigate or determine HCHD's compliance



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with the HIPAA regulations, or written request as outlined in Policy, Release of Information without Authorization.

- c If, during the period covered, HCHD made multiple Disclosures of PHI to the same person or entity for a single purpose, or pursuant to a single authorization, the accounting may, with respect to the multiple Disclosures, provide:
- (1) The information listed in G. 1. - 4. above;
 - (2) The frequency or number of the Disclosures made during the accounting period; and
 - (3) The date of the last Disclosure in the accounting period.
- d If, during the period covered by the accounting, HCHD has made Disclosures of PHI for a particular research purpose for 50 or more individuals, in accordance with an Institutional Review Board (IRB) or Privacy Board waiver of the patient's authorization, to a researcher in preparatory work for research, and research on decedents as described in Use and Disclosure of PHI for Research, the accounting may, with respect to such Disclosures for which the PHI about the patient may have been included, provide:
- (1) The name of the protocol or other research activity;
 - (2) A description, in plain language, of the research protocol or other research



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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 Disclosures 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 patient may or may not have been disclosed for a particular protocol or other research activity.

See Attachment B – Accounting of Disclosures - Research.

5. If HCHD provides an accounting for research Disclosures, in accordance with paragraph H. 4. d. (6) above of this document, and if it is reasonably likely that the PHI of the patient was disclosed for such research protocol or activity, HCHD shall, at the request of the patient, assist in contacting the entity that sponsored the research and the researcher.



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NOTE: When an IRB or Privacy Board waives the need for a patient's authorization for Disclosure of PHI for a research protocol or activity, HCHD may:

1. Choose to provide the individual with information on all research protocols occurring during the accounting period; or
2. Use certain criteria (such as age and gender) to determine which research protocols, occurring during the accounting period, to include in the accounting of Disclosures.

III. TIMEFRAME FOR PROVIDING AN ACCOUNTING OF DISCLOSURES AND ASSOCIATED ALLOWABLE FEES

- A. The Hospital District will provide the accounting of Disclosure to the patient or patient's Personal Representative within 60 days of the date of the request.
- B. If the Hospital District can not provide the accounting of Disclosure within 60 days of the date of the request, the Privacy Officer may extend the time to provide the accounting by no more than 30 days, provided that:
 1. The Hospital District gives the patient or Personal Representative, within the initial 60 days, a written statement of the reasons for the delay and the date the accounting will be provided; and
 2. The Hospital District may only have one extension of time for action on a request for an accounting.
- C. The patient may have the first Accounting of Disclosures in any 12-month period without charge.



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- D. HCHD may charge a reasonable, cost-based fee for each additional request for an accounting by the same patient or Personal Representative within the 12-month period, provided HCHD informs the requestor in advance of the fee and provides the requestor the opportunity to withdraw or modify the request for a subsequent accounting in order to avoid or reduce the fee (See HCHD policy on fees for copies, and accountings of Disclosures).

IV. RETENTION AND TRACKING OF ACCOUNTING OF DISCLOSURES

- A. Requests for and the accounting of Disclosure given to the patient or Personal Representative will be maintained for six (6) years.
- B. The accounting(s) will be filed in the patient's medical records.
- C. The Privacy Officer will keep a log of accountings provided to patients or their Personal Representatives for purposes of auditing or monitoring the right of the patient to obtain an Accounting of Disclosures of their PHI.

V. RESPONSIBILITIES

- A. The Privacy Officer (or designee) will:
1. Receive all requests for accounting of Disclosures.
 2. Validate that no health oversight agency or law enforcement official has submitted a written (or oral) statement preventing the facility from providing the accounting.



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3. Identify if any reason exists to deny the accounting of Disclosure requested by the patient's Personal Representative as outlined in this document. If such reason exists deny the request.
 4. Route approved requests for an accounting of Disclosure of PHI to all Record Custodians, and where appropriate, Business Associates.
 5. Act to extend the time needed for an accounting of Disclosures as outlined in this document.
 6. Provide the accounting of Disclosure to the patient or patient's Personal Representative using Attachment A – "Accounting of Disclosures of Protected Health Information Tracking" or other format as long as the accounting includes all items listed in section II. H. of this document; and
 7. If requested by the patient per section II. H above, assist the patient in contacting the entity that sponsored the research and the researcher.
 8. Keep a log of accountings provided to patients or their Personal Representatives for purposes of auditing or monitoring the right of the patient to obtain an accounting of Disclosures of their PHI.
- B. All **Record Custodians** will compile an accounting of Disclosure of the records under their care and submit the document to the Privacy Officer.
- C. All members of the **workforce** responsible for disclosing PHI will document the Disclosure as outlined in this document. Attachment A – "Accounting of Disclosures of Protected Health Information Tracking", or other



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mechanism used by HCHD, will be used to document the Disclosures.

- D. As identified in a business associate contract, all **Business Associates** responsible for disclosing PHI, that is a part of HCHD's designated record set held only by the business associate, will document the Disclosure as outlined in this document. Attachment A – "Accounting of Disclosures of Protected Health Information Tracking", or other mechanism used by the business associate or HCHD, will be used to document the Disclosures.
- E. Vice President of Strategic Planning or designee is responsible for accounting for Disclosures for research activities described in section H. 4. d of this document, see Attachment B – "Accounting of Disclosures of PHI for Research".

REFERENCES/BIBLIOGRAPHY:

- Policy 3.11.000, HCHD HIPAA Policy
- Policy 3.11.300, Authorization for Use and Disclosure of Protected Health Information for Purposes Other Than Treatment
- Policy 3.11.301, Use and Disclosure of Psychotherapy Notes
- Policy 3.11.601, Use and Disclosure of Protected Health Information for Marketing
- Policy 3.05, Research

OFFICE OF PRIMARY RESPONSIBILITY:

Office of Privacy Administration



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REVISION HISTORY:

Record revisions below:

Effective Date	Version	Approved by:



INSTRUCTIONS: Please complete this form for each disclosure of Protected Health Information (PHI) to anyone other than a HCHD workforce member when the patient's (or his/her representative) authorization is not obtained or provided. See HCHD Policy 3.11.306 *Permitted Use and Disclosure of Protected Health Information Without Patient's Authorization*

PRINT LEGIBLY

1. Patient Name:	
2. Medical Record Number:	
3. Date of Disclosure:	
4. Name of person or entity receiving PHI: Include the address and telephone number if known	
5. Brief Description of PHI disclosed: Check all that apply	<input type="checkbox"/> Demographic information (name, address, telephone, contact, etc...) <input type="checkbox"/> Procedure <input type="checkbox"/> Date(s) of Service: _____ <input type="checkbox"/> Diagnosis <input type="checkbox"/> Diagnostic results, Specify: _____ <input type="checkbox"/> History/ consult/ physical examination <input type="checkbox"/> Discharge Summary <input type="checkbox"/> Emergency record of treatment <input type="checkbox"/> Itemized bill or billing information <input type="checkbox"/> Entire Medical/clinical record <input type="checkbox"/> Designated Record Set <input type="checkbox"/> Other, specify: _____
6. Purpose of the disclosure: Check all that apply	<input type="checkbox"/> Federal & state law; local ordinances <ul style="list-style-type: none"> <input type="checkbox"/> Child/Adult Protective Services <input type="checkbox"/> Law Enforcement <input type="checkbox"/> Other, specify, _____ <input type="checkbox"/> Funeral Homes/ Medical Examiner/ Coroner <input type="checkbox"/> Organ/ Tissue Procurement <input type="checkbox"/> Public Health <ul style="list-style-type: none"> <input type="checkbox"/> Registries/ Vital Statistics <input type="checkbox"/> FDA <input type="checkbox"/> Social Services <input type="checkbox"/> Other, specify: _____ <input type="checkbox"/> Health Oversight <ul style="list-style-type: none"> <input type="checkbox"/> Certification/ Licensure (JCAHO, CARF, TDH, etc...) <input type="checkbox"/> Financial (TDH, CMS, auditors) <input type="checkbox"/> Military/ Veterans Affairs <input type="checkbox"/> Other, Specify: _____
<input type="checkbox"/> A written request for PHI is from someone other than the patient and is attached to this report	
7. Employee Name and ID (Who disclosed the PHI)	
8. Facility where disclosure occurred:	

Accounting of Disclosures of PHI – Research

Attachment B

Name and Address of Facility Making Disclosure:			
Patient Name:	<input type="checkbox"/> Medical Record Number:	<input type="checkbox"/> Billing Number:	
Accounting Period = From Date:	To Date:	Request Date:	Accounting Date:
<p>During the accounting period listed above, the facility participated in Institutional Review Board or Privacy Board approved research activities where the protected health information of 50 or more patients was disclosed to another entity or researcher. Information about the research activity is listed below. Your PHI may or may not have been included in the research activity. If you need assistance in contacting the entity that sponsored the research and the researcher(s), please contact our Privacy Officer at <i>[Address, and telephone number of facility Privacy Officer.]</i></p>			
Name of Protocol or Research Activity			
Description of the Protocol or Research Activity; Purpose of the Research; and Criteria for Selecting Records	Description and Purpose:	Criteria:	
Brief Description of the Type of PHI Disclosed			
Date or Period of Time Disclosures Occurred, Including Date of Last Disclosure	Date or Period of Disclosures:	Date of Last Disclosure:	
Name, Address, Telephone Number of Research Sponsor to Whom PHI was Disclosed	Name:	Address:	Phone:
Name, Address, Telephone Number of Research Sponsor to Whom PHI was Disclosed	Name:	Address:	Phone:
Name, Address, Telephone Number of Research Researcher to Whom PHI was Disclosed	Name:	Address:	Phone:
Name, Address, Telephone Number of Researcher to Whom PHI was Disclosed	Name:	Address:	Phone:
Name, Address, Telephone Number of Researcher to Whom PHI was Disclosed	Name:	Address:	Phone:

