

HARTSOUGH DERMATOLOGY

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Accounting for Disclosures of PHI Individual Rights

Introduction

Four sections of the Privacy Rule address the tracking of disclosures and the right of individuals to receive an accounting for disclosures.¹ In general, a covered entity – including a physician – is required to keep a history of when and with whom disclosures are made of protected health information (PHI) – confidential information. Physicians *do not have to track* disclosures:

- for treatment, payment and health care operations – the most common reasons for disclosures;
- made to a patient or the patient's representative;
- made as a result of a patient authorization;
- for the practice's directory or to persons involved in the individual's care;
- for national security or intelligence purposes;
- to correctional institutions or law enforcement officials with custody of the individual; and
- made prior to April 14, 2003.

All other disclosures must be tracked, including disclosures required by law such as mandated reports to public health agencies and information released as a result of a court order.

Policy

The practice tracks all disclosures of a patient's protected health information (PHI) that occur for other than the purposes of treatment, payment, and health care operations, that are not made to the individual or to a person involved in the patient's care, that are not made as a result of a patient authorization, and that are not made for national security or intelligence purposes or to correctional institutions or law enforcement officials. Each patient is entitled to a copy of the list of disclosures of the patient's PHI.

Procedure

Tracking Disclosures of Protected Health Information

Initial Date for Tracking Disclosures: The practice began accounting for disclosures of protected health information April 14, 2003.

Exceptions to Accounting of Disclosures: The practice only tracks those disclosures required by the Privacy Rule. The practice does not track disclosures made:

- for treatment, payment or health care operations;
- prior to the **effective** date of the rule;
- made as a result of a patient authorization;

¹ § 164.508 – Uses and Disclosures for which Authorization is Required; § 164.512 – Uses and Disclosures for Which Consent, an Opportunity to Agree or Object is Not Required; § 164.528 – Accounting of Disclosures of Protected Health Information; and § 164.530 (j) – Documentation Requirements.

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- to law officials or correctional institutions according to § 164.512(f) ;
- to the individual;
- for national security or intelligence purposes;
- to people involved in an individual's care; and
- for notification purposes as described in § 164.510.

The practice does track all other disclosures made as required by law, including public health reporting and disclosures mandated under worker's compensation laws.

Content of Information Tracked: The information tracked in relation to each disclosure is as follows:

- date of disclosure;
- name (and address, if known) of covered entity or individual who received the information;
- description of information disclosed; and
- reason for disclosure.

This information is recorded on the **Error! Reference source not found.** and maintained by the Privacy Officer.

The practice also includes a copy of the Disclosures of PHI Tracking Log with the information about the patient's disclosure with the patient's medical record.

Requests for Accounting of Disclosures

Requests for Accounting of Disclosure: A request for an accounting for disclosures must be made in writing and mailed or sent to the practice. It should be marked "Attention: Privacy Officer."

Charge for Accounting of Disclosures: The practice allows an individual to request one accounting within a 12-month period free of charge. The practice charges a reasonable cost-based fee for more frequent accounting requests. The charge will be in accordance with the state law.

Disclosure Period Requested: Beginning on or after April 14, 2003, an individual can request an accounting of disclosures for a period of up to six years prior to the date of the request or three years in the case that a Covered Entity uses or maintains an electronic health record with respect to PHI and effective as of the effective date set forth in § 13405(c) of the HITECH Act. Requests for shorter accounting periods will be accepted.

Recording Requests for Accounting of Disclosures: The practice logs in all written requests on the Requests for Accounting of Disclosures Log. The log includes the date the request was received, the name and address of the requestor, the date by which the practice must respond to the request, and the date the practice actually sent the response.

Response to Requests for Accounting of Disclosures: The practice responds to all requests for an accounting of disclosures within 60 days of receipt of the request. If the practice intends to provide the accounting for disclosures and cannot do so within 60 days, the practice must inform the requestor of such and provide a written statement of the reason for the delay and the date the request is expected to be fulfilled. Only one 30-day extension is permitted.

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The right to receive an accounting of disclosures may be temporarily suspended by a law enforcement official or health oversight agency if the practice is notified by the law enforcement official or health oversight agency. The notice should indicate that the law enforcement or agency efforts would be impeded if the accounting of disclosures were released. Typically, the notice is given to the practice in writing, but may be oral if the practice documents the notice. Oral notice can only be effective for 30 days. After 30 days, a written notice must be given.

Exceptions to Accounting of Disclosures: The practice only tracks those disclosures required by the Privacy Rule. The practice does not track, and cannot provide information related to, disclosures made:

- for treatment, payment or health care operations;
- prior to the effective date of the rule;
- to law officials or correctional institutions according to section § 164.512(f) ;
- to the individual;
- made as a result of a patient authorization;
- for national security or intelligence purposes;
- to people involved in an individual's care; and
- for notification purposes as described in section § 164.510(b).

Content of Information Provided to Patient: The information provided in response to a request for disclosures includes the following for each disclosure:

- date of disclosure;
- name (and address, if known) of covered entity or individual who received the information;
- description of information disclosed;
- reason for disclosure;
- copy of a written request for accounting; and
- date of last accounting request.

If a patient makes multiple requests, the practice only provides information since the last request.

A copy of any responses to a request for disclosures is filed with the patient's medical record.

Documentation

The practice documents disclosures and accountings of disclosures on the Disclosures of PHI Tracking Log and Requests for Accounting of Disclosures Log. This information, along with the requests for disclosures, the responses of the practice, and any related correspondence, is retained as required under section § 164.630(j) for a period of six years from the date of its creation.