

SUNY DOWNSTATE MEDICAL CENTER
UNIVERSITY HOSPITAL OF BROOKLYN
POLICY AND PROCEDURE

Subject: <u>ACCOUNTING OF DISCLOSURES</u>	No. HIPAA-1
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Reviewed by: <u>Renee Poncet</u>	Effective Date: <u>12/2016</u>
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I. PURPOSE

To establish a policy and procedure for ensuring that disclosures of PHI are documented appropriately and an accounting is provided to the patient, when requested, to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.

II. POLICY

SUNY Downstate will document disclosures of patient information and will provide an accounting of disclosures to patients, when requested, as required by State and Federal law, professional ethics and accreditation agencies.

III. DEFINITION(s)

None

IV. RESPONSIBILITY

It is the responsibility of all medical staff members and hospital staff members to comply with this policy. Medical staff members include physicians as well as allied health professionals. Hospital staff members include all employees, medical or other students,

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trainees, residents, interns, volunteers, consultants, contractors and subcontractors at the hospital.

V. PROCEDURE/GUIDELINES

Disclosure- The release, transfer, provision of access to, or divulging in any other manner of information **outside** the entity.

Treatment- The provision, coordination or management of healthcare and related services by one or more healthcare providers, including the coordination or management of healthcare by a healthcare provider with a third party; consultation between healthcare providers relating to the patient; or the referral of a patient for healthcare from one healthcare provider to another.

Payment- Activities, such as determination of eligibility or coverage, billing, claims management, review for medical necessity and appropriateness of care, utilization review, pre-certification of services, undertaken by:

- A. A health plan to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the health plan; or
- B. A healthcare provider or health plan to obtain or provide reimbursement for the provision of healthcare.

Healthcare Operations- Operational and administrative activities of the covered entity, such as:

- A. Quality assessment and improvement activities- including outcomes evaluation, development of clinical guidelines, contacting of providers/ patients about treatment alternatives.
- B. Reviews and evaluations of healthcare professionals and providers- including training of healthcare and non-healthcare professionals and students; accreditation, certification, licensing or credentialing activities.
- C. Creation, renewal or replacement of health insurance contracts- including underwriting, premium rating and securing a contract for reinsurance of risk.
- D. Medical or legal review and auditing functions- including fraud abuse detection and compliance programs.
- E. Business planning and development- including cost management and planning analyses and formulary development and administration.
- F. Business management and administrative activities-including management activities relating to compliance with privacy standards, customer service, resolution of internal grievances, due diligence in regard to the sale or consolidation of the covered entity, fundraising and creation of de-identified health information.

A. Documentation of Disclosures

1. Types of Disclosures- All disclosures of PHI made by SUNY Downstate or any of its business associates must be documented for accounting purposes, except those made:
 - a. Pursuant to patient's specific written authorization;
 - b. To individuals or entities external to SUNY Downstate for treatment, payment or healthcare operations purposes;

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- c. Of patient directory information, in accordance with the policy, Facility Directory;
 - d. To friends and family, made in accordance with the policy, Uses and Disclosures to Individuals Involved in Care and for Notification Purposes;
 - e. For national security and intelligence activities;
 - f. About inmates to correctional institutions or law enforcement officials; and
 - g. Before April 14, 2003 that were recorded to comply with State law.
2. Information Required for Each Disclosure- The following information must be completed for each disclosure in the Accounting of Disclosures database:
 - a. Date of disclosure;
 - b. Name of person/ organization receiving PHI;
 - c. Address of person/ organization receiving PHI (if known);
 - d. Brief description of PHI disclosed, including dates of treatment; and
 - e. Brief statement to the purpose of disclosure.
 - i. For disclosures permitted under the policy Uses and Disclosures Not Requiring Patient Authorization, a copy of the written request may be used in lieu of a statement to the purpose of disclosure.
 3. Series of Disclosures- If a series of disclosures is made to the same government payer or private insurance company for payment purposes, the information in Section IV.A.2. need only be documented for the first disclosure.

B. Requests for Accounting- All patient requests for an accounting of disclosures should be referred to the Health Information Management Department (HIM). All requests must be in writing. See attached Patient Request for Accounting of Disclosures form.

1. Response Time- HIM staff should respond to patient requests for access in an expeditious fashion and at the very latest, within 60 days from the date the request was received. To ensure that these deadlines are met, HIM staff should complete the information on the back of the Patient Request for Accounting of Disclosures form:
 - a. One time extension of 30 days may be granted if the department is experiencing unusual difficulties responding within the timeframes above. However, under no circumstances may an accounting be given later than 90 days from the date the request was received.
 - b. If an extension is needed, the HIM Department must notify the patient within the original 60 day timeframe to explain the reason for the delay and the date when the hospital expects to provide the accounting. See Extension Notification form attached to this policy.
2. Content of Accounting
 - a. Period of accounting- A patient can request an accounting of disclosures made during any period of time falling within six years before the date of the request. However, an accounting cannot be provided for disclosures made before April 14, 2003.
 - b. Information required for accounting- In the accounting, information required in Section IV.A.2. must be included for each disclosure.
 - c. Series of disclosures- If a series of disclosures was made to the Secretary of the Department of Health and Human Services in order to determine compliance or to other persons or organizations, in accordance with the

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- policy, Uses & Disclosures Not Requiring Patient Authorization, for a single purpose, HIM may provide an abbreviated accounting:
- i. Include information delineated in Section IV.A.2. for the first disclosure;
 - ii. State frequency, periodicity or number of disclosures made in the series; and
 - iii. State the date of the last disclosure in the series that was made during the accounting period.
- d. Research disclosures- For research activities that received a waiver of patient authorization and involve 50 or more individuals, an abbreviated accounting can be provided. HIM staff should coordinate the provision of this accounting with the responsible researcher:
- i. The name of the protocol or other research activity;
 - ii. A description of the research protocol/ activity, including the purpose of the research and the criteria for selecting particular records;
 - iii. A brief description of the type of PHI that was disclosed;
 - iv. The date or period of time during which disclosures occurred or may have occurred, including the date of the last such disclosure during the accounting period;
 - v. The name, address and telephone number of the entity that sponsored the research and of the researcher to whom the information was disclosed;
 - vi. A statement that the PHI of the patient may or may not have been disclosed for a particular research protocol/ activity.
- e. Exclusion at government request- A health oversight agency or law enforcement official may request that the patient's right to an accounting of the disclosures made to the agency or official be temporarily suspended. The patient must not be notified that these disclosures were excluded from the accounting.
- i. The agency or official must provide a written statement documenting that an accounting would be reasonably likely to impede the agency's activities and must specify the time for which the suspension is required.
 - ii. In the event that there is insufficient time to prepare a written statement, HIM staff may grant a temporary suspension for 30 days if the agency or official orally represents that the suspension is needed for the reasons stated above. HIM staff must document the statement, including the identity of the agency or official making the statement; and after 30 days, HIM staff must include the disclosures in an accounting to the patient, unless the agency or official provides a written statement pursuant to Section IV.B.2.e.i.
- f. Collection of fees- A patient is provided one free accounting per 12 month period. If a patient requests an additional accounting within the same 12 month period, HIM staff should prepare an estimate of the fees. The patient must be notified of the estimate and given the opportunity to proceed or withdraw the request. See attached Accounting of Disclosures- Fee Estimate form.
3. Documentation – The following must be maintained for six years from the date of creation:

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- a. Complete information regarding disclosures that is documented in the Accounting of Disclosures database;
- b. Copies of Patient Request for Accounting of Disclosures forms;
- c. Copies of Extension Notification forms;
- d. Copies of Accounting of Disclosures- Fee Estimate forms;
- e. Copies of any accountings provided. items b-d should be filed in the back of the patient's medical record.

VI. ATTACHMENTS

Patient Request for Accounting of Disclosures, Extension Notification, Accounting of Disclosures- Fee Estimate.

VII. REFERENCES-

Standards for Privacy of Individually Identifiable Health Information, 45 CFR §164.528, NY Public Health Law §18

Date Reviewed	Revision Required (Circle One)		Responsible Staff Name and Title
9/2013	(Yes)	No	Shoshana Milstein/ AVP, Compliance & Audit
9/2016	(Yes)	No	Shoshana Milstein/ AVP, Compliance & Audit
12/2016	Yes	(No)	Shoshana Milstein/ AVP, Compliance & Audit

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FOR SUNY DOWNSTATE USE ONLY- To be completed by HIM staff:

Date Request Received: (MM/DD/YY) ___/___/___

Date Request was Completed: (MM/DD/YY) ___/___/___

Fee Charged for Fulfilling This Request (if applicable): \$_____

Name of HIM Staff Member

Date

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EXTENSION NOTIFICATION

[Date]

[Patient Name]

[Street Address 1]

[Street Address 2]

[City, State Zip Code]

Re: Request for Accounting of Disclosures

Dear [Patient Name]:

This letter responds to your request for an accounting of disclosures, which we received from you on _____.

We have been working hard to produce the accounting you have requested. We are usually able to provide an accounting of disclosures within 60 days. However, due to unusual difficulties retrieving the information for the accounting that you have requested, we need an additional 30 days to fulfill your request. We expect to have the accounting available for you no later than _____.

Please contact the Correspondence Unit in the Health Information Management Department of SUNY Downstate Medical Center University Hospital of Brooklyn at (718)270-1845 if you have questions or concerns about this delay.

Sincerely,

Correspondence Unit
Health Information Management Department

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ACCOUNTING OF DISCLOSURES- FEE ESTIMATE

[Date]

[Patient Name]
[Street Address 1]
[Street Address 2]
[City, State Zip Code]

Re: Request for Accounting of Disclosures

Dear [Patient Name]:

This letter responds to your request for an accounting of disclosures, which we received from you on _____.

You are entitled to one free accounting every 12 months. Our records indicate that you have already requested and received a free accounting in the past 12 months. That accounting was provided on _____. If you ask us to proceed with your request for an additional accounting of disclosures, we will charge a fee of \$ _____ to recover the costs of providing the accounting.

We want you to know that you have the following options. Please check the appropriate box and return within 60 days to SUNY Downstate Medical Center University Hospital of Brooklyn, HIM Department- Box #119, 450 Clarkson Ave., Brooklyn, NY 11203.

- Proceed with my request. I have enclosed the fee provided in this letter.
- Withdraw my request. I will pay no fee.
- Modify my request to reduce the applicable fee. Specify modification of request:

If we do not hear from you within 60 days, we will assume that you have decided to withdraw your request.

Correspondence Unit: (718) 270-1845
Health Information Management Department