

CONNECTICUT VALLEY HOSPITAL OPERATIONAL PROCEDURE MANUAL

SECTION II: ORGANIZATION-FOCUSED FUNCTIONS POLICY 10: Management of Information PROCEDURE 10.17: Accounting of Disclosure of Protected Health Information

Purpose:

To inform staff of the patient's/personal representative's right for an accounting of disclosures of Protected Health Information (PHI) when requested in writing. The patient is entitled to an accounting of disclosures in the six years prior to the date on which the accounting is requested, with the exception of disclosures not required by law or disclosures made prior to April 14, 2003.

Definitions:

1. *Correctional Institutions:* Any penal or correctional facility, jail, reformatory, detention center, work farm, halfway house, or residential community program center operated by, or under contract to, the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, for the confinement or rehabilitation of persons charged with or convicted of a criminal offense or other persons held in lawful custody. Other persons held in lawful custody include juvenile offenders, adjudicated delinquents, aliens detained awaiting deportation, persons committed to mental institutions through the criminal justice system, witnesses, or others awaiting charges or trial.
2. *Disclosure:* The release, transfer, provision of access to, or the divulging in any other manner of information outside the agency holding the information.
3. *Health Oversight Agency:* A governmental agency or authority, or a person or entity acting under a grant of authority from or a contract with such a public agency, including the employees or agents of the public agency, its contractors and those to whom it has granted authority, that is authorized by law to oversee the public or private health care system or government programs in which health information is necessary to determine eligibility or compliance.
4. *Personal Representative:* A person who has authority under applicable law to make decisions related to health care on behalf of a patient.
5. *Protected Health Information (PHI):* Individually identifiable information relating to past, present or future physical or mental health or 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.

6. *Public Health Authority*: A governmental agency or authority, or a person or entity acting under a grant of authority from or a contract with such a public agency, including the employees or agents of the public agency, its contractors and those to whom it has granted authority, that is responsible for public health matters as part of its official mandate.
7. *Treatment, Payment, and Health Care Operations (TPO)*: Includes all the following:
 - **Treatment** – The provision, coordination, or management of health care and related services, consultation between providers relating to an individual, or referral of an individual to another provider for health care.
 - **Payment** – Activities undertaken to obtain or provide reimbursement for health care, including determinations of eligibility or coverage, billing, collections activities, medical necessity determinations and utilization review.
 - **Health Care Operations** – Includes functions such as quality assessment and improvement activities, reviewing competence or qualifications of health care professionals, conducting or arranging for medical review, legal services and auditing functions, business planning and development, and general business and administrative activities.

Procedure:

1. Health Information Management (HIM) provides an accounting of disclosures of PHI in response to a written request by the patient/personal representative.
2. HIM ensures that the patient/personal representative completes the Request for Accounting of Disclosure of PHI form (CVH-531).
3. HIM provides the patient with an accounting of disclosures for up to 6 years prior to the date on which the accounting is requested within 60 days of receipt of the request. Disclosures made prior to April 14, 2003 are exempt.
4. HIM includes an accounting of the following disclosures of PHI which do not require patient authorization (See *OP&P Procedure 10.23, Uses and Disclosures of Protected Health Information Without Authorization*):
 - a. for public health activities and purposes;
 - b. for health oversight activities;
 - c. for judicial or administrative proceedings;
 - d. for matters concerning deceased individuals; and
5. HIM does not include an accounting of the following disclosures:
 - a. disclosures made for carrying out treatment, payment and health care operations;
 - b. disclosures made to the individual about their PHI;

- c. disclosures for national security or intelligence purposes;
 - d. disclosures that occurred prior to the effective date of April 14, 2003;
 - e. disclosures not created by Connecticut Valley Hospital (CVH), unless the individual provides a reasonable basis to believe that the person who created the PHI is no longer available to act on the individual's request;
 - f. if the disclosure is not part of the individual record;
 - g. if the disclosure is for psychotherapy notes;
 - h. if it is information collected and held in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding; or if it is a record that is subject to the Clinical Laboratory Improvements Amendments of 1988;
 - i. if the disclosure is part of a Limited Data Set; or
 - j. disclosures made as a result of an authorization (CVH-184).
6. Any staff member, in his/her capacity to report or disclose specific information containing PHI, to a public health authority or health oversight agency for example, documents the disclosure on the Accounting of Disclosure of Protected Health Information Log Form (CVH-532) located in the Correspondence section of the patient's medical record. Information documented on the log includes:
- a. the date of the disclosure;
 - b. the person/entity requesting PHI and address (if known);
 - c. a brief description of PHI disclosed;
 - d. a brief statement of the purpose of the disclosure; and
 - e. the name/title of person providing the disclosure.
7. Infection Control Practitioners report all disclosures they make to the Department of Public Health, to the Director of Health Information Management (HIM) for direct entry into the Medical Record Information Tracking (MRIT) System.
8. Court reports are entered in the MRIT system as they are transcribed by HIM.
9. The Research Committee is responsible to ensure that the researcher documents an accounting of disclosures made pursuant to a research project consisting of 50 or more individuals on the Accounting of Disclosures of Protected Health Information Log Form (CVH-532) which includes:
- a. 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;
 - b. the name, address and telephone number of the entity that sponsored the research and of the researcher to whom the PHI was disclosed;

- c. a brief description of the type of PHI that was disclosed;
 - d. the name of the protocol or other research activity; and
 - e. the name/title of person providing the disclosure.
10. HIM provides the patient/personal representative an accounting of PHI disclosures, based on information from the Accounting of Disclosure of Protected Health Information Log Form (CVH-532) and the MRIT System. HIM staff includes the name and title of the staff member processing the request on the cover letter form (CVH-269).
 11. HIM retrieves from the Research Committee, a description of the research protocol or activity, including the purpose and the criteria for selecting particular records and includes this information in the accounting provided to the patient.
 12. HIM adds a statement to the cover letter (CVH-269) that the PHI of the patient may or may not have been disclosed for a particular protocol or other research activity. This only applies when the patients' records are utilized for research purposes in a research project consisting of 50 or more individuals.
 13. HIM staff files the request and a copy of the accounting provided to the individual in the Correspondence section of the patient's medical record.
 14. CVH retains the request and a copy of the documentation provided to the individual in accordance with the State of Connecticut retention guidelines.
 15. CVH temporarily suspends an individual's right to receive an accounting of disclosures to a health oversight agency or law enforcement official, for the time specified by such agency or official, if such agency or official provides CVH with a written statement that such an accounting to the individual would be reasonably likely to impede the agency's activities.

Illustration/Example

Example: On November 15, 2005, an individual believes that a rash of health insurance advertisements mailed to his home are the result of information provided by a facility/statewide program from which he recently received services. He has provided a written document requesting an accounting of all disclosures made in the past six years. The request provided included all the required elements and the information is provided him. The medical records department does not include an accounting of disclosures made that were required to carry out treatment, payment and health care operations. The medical records department also did not include disclosures made to the Secret Service who requested information on this patient because the patient had publicly threatened the Vice President of the United States in the past, and the Vice President was scheduled to make a visit to the city in the near future. It should be noted that the Secret Service representative provided validation of her identity prior to the disclosure being made.

