SECTION 4: PATIENT RIGHTS

4.7. Accounting for Disclosures

POLICY

1. Background:
   a. Patients under the care of the University of Florida (UF) have a right to know what happens to their protected health information (PHI), including with whom the information has been shared, when, and for what reason. Some specific uses and disclosures are included in UF’s Consent for Treatment, which the patient must sign before services are provided, except, of course, in emergency treatment situations. Most other routine uses and disclosures of PHI are described in the Joint Notice of Privacy Practices (see Forms), and, in general, the patient’s permission is obtained before information is disclosed to third parties.
   b. There are three aspects to this Accounting for Disclosures process:
      i. The patient’s right to request an accounting and what the patient may expect to receive from the report;
      ii. UF’s responsibility to record the appropriate disclosures so that an accurate accounting may be provided upon request, and
      iii. UF’s responsibilities in responding to a request for such an accounting.

2. Patients’ Rights:
   a. In general, patients have the right to receive an accounting of disclosures of PHI made by UF if the disclosures were not:
      i. Related to treatment or health care operations and were not incidental to an otherwise permitted use or disclosure;
      ii. Authorized by the patient;
      iii. To persons involved in the patient’s care or other notification processes;
      iv. For national security or intelligence purposes, or to correctional institutions or law enforcement officials in certain limited circumstances; and
      v. Part of a limited data set.
   b. Limitations: Patients may request an accounting of disclosures for a period of time up to and including the six years prior to the date on which the accounting is requested. The accounting will not include a list of system users who have accessed the patient’s records during that time period.
   c. Fees for providing an accounting report:
      i. The first accounting in any 12-month period will be provided without charge to the requestor.
      ii. For each subsequent request by the same individual within any 12-month period, UF may impose a reasonable, cost-based fee. The requestor must be informed in advance and given an opportunity to withdraw or modify the request in order to avoid or reduce the fee.
3. Use of the Online Disclosure Tracking System: UF’s on-line Disclosure Tracking System (DTS) must be used to record all qualifying disclosures for the purpose of providing a timely accounting if one is requested.
   a. For a list and explanation of qualifying disclosures, please see Accounting for Disclosures on the Privacy Office website.
   b. Only authorized users may access and enter data into the System. Each department, clinic, or other area responsible for any PHI must designate at least one person as an authorized user. Instructions for how to become an authorized user are also on the web site.
   NOTE: The DTS is not for reporting incidents to the Privacy Office. Entering a disclosure in the system will not notify the Privacy Office of an incident; an Incident Report must be completed and sent to the Privacy Office for investigation, then, if necessary, a related disclosure may be recorded in the DTS.

4. UF’s Responsibilities:
   a. The UF Privacy Office will coordinate and respond to all requests for accountings of disclosures.
   b. UF must act on a request for an accounting of disclosures of PHI within 60 days (with the possibility of a 30-day extension, if necessary) after receiving the request in writing.

5. Temporary Suspension of Right: UF will temporarily suspend an individual's right to receive an accounting of disclosures that were made to a health oversight agency or law enforcement official, for the time specified by such agency or official, if such agency or official provides UF with a written statement that such an accounting to the individual would be reasonably likely to impede the agency's activities and specifying the time for which such a suspension is required.

6. Accounting for Disclosures during Research. UF Researchers who disclose PHI to individuals or entities outside of the health care components of UF for any reason are responsible for tracking all such disclosures that were not directly related to treatment or health care operations, and which were not authorized by either the patient or the reviewing IRB.

DEFINITIONS
1. Accounting of Disclosures: A listing of a covered entity's disclosures of PHI that were made, concerning a specific patient, for purposes other than disclosures needed for treatment and health care operations, disclosures made in response to a valid authorization, and certain other limited disclosures.

2. Authorized User: With respect to the online Disclosure Tracking System, a person designated by their unit to access the system; users obtain and maintain a system log-on and password, enter required data about disclosures, and assist the Privacy Office to respond to requests for accountings of disclosures.

3. Disclosure: The release, transfer, provision of access to, or divulging in any manner, of PHI in any format held by UF.

PRIVACY REQUIREMENTS
1. Patient's Right: An individual has a right to receive an accounting of disclosures of PHI made by a covered entity (CE) in the six years prior to the date on which the accounting is requested, except for disclosures:
   a. To carry out treatment, payment and health care operations;
   b. To individuals of PHI about them;
   c. Incident to a use or disclosure otherwise permitted or required by the Privacy Rule;
   d. Pursuant to a valid authorization;
e. For the facility's directory or to persons involved in the individual's care or other notification purposes;

f. For national security or intelligence purposes;

g. To correctional institutions or law enforcement officials;

h. As part of a limited data set; or

i. That occurred more than six years prior to the request.

2. Temporary Suspension of Right: The CE must temporarily suspend an individual’s right to receive an accounting of disclosures made to a health oversight agency or law enforcement official, for the time specified by such agency or official, if such agency or official provides the CE with a written statement that such an accounting to the individual would be reasonably likely to impede the agency's activities and specifying the time for which such a suspension is required.

3. Information to be tracked for each disclosure includes:
   a. The date of the disclosure;
   b. The name of the entity or person who received the PHI and, if known, their address;
   c. A brief description of the PHI disclosed; and
   d. The purpose of the disclosure.

4. Multiple Disclosures: If, during the period covered by the accounting, the CE has made multiple disclosures of PHI to the same entity for a single purpose, the accounting may provide the information required above for the first disclosure during the accounting period, along with the frequency, periodicity, or number of the disclosures made during the accounting period and the date of the last such disclosure during the accounting period.

5. Research Disclosures:
   a. If, during the period covered by the accounting, the CE has made disclosures of PHI for a particular research purpose for 50 or more individuals, the accounting may, with respect to such disclosures for which the PHI about the individual may have been included, provide:
      i. The name of the protocol or other research activity;
      ii. 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;
      iii. A brief description of the type of PHI that was disclosed;
      iv. 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;
      v. The name, address, and telephone number of the entity that sponsored the research and of the researcher to whom the information was disclosed; and
      vi. A statement that the PHI of the individual may or may not have been disclosed for a particular protocol or other research activity.

   b. If the CE provides an accounting for research disclosures, and if it is reasonably likely that the PHI of the individual was disclosed, the CE shall, at the request of the individual, assist in contacting the entity that sponsored the research and the researcher.
6. Provision of an accounting: The CE must act on the individual's request for an accounting, no later than 60 days after receipt of such a request, with the possibility of an extension of no more than 30 days, provided that the CE gives the individual a written statement of the reasons for the delay.

7. Fees for providing an accounting: The CE must provide the first accounting to an individual in any 12 month period without charge.
   a. The CE may impose a reasonable, cost-based fee for each subsequent request for an accounting by the same individual within the 12 month period.
   b. The CE must inform the individual in advance of the fee and provide the individual with an opportunity to withdraw or modify the request in order to avoid or reduce the fee.

8. Documentation: Disclosure tracking information, including copies of requests, copies of accountings provided, and the titles of persons or offices responsible for received and processing requests, must be maintained for at least six years.

PROCEDURES

1. Accessing and Using the online Disclosure Tracking System: Person(s) designated to enter data into the system complete a short tutorial and an application form to become a DTS User. The tutorial, forms and instructions are located on the Privacy Office website.

2. Recording Disclosures: When a disclosure of PHI meeting policy criteria or an accidental or unauthorized disclosure has been discovered, do the following:
   a. Complete an Incident Report to notify the Privacy Office of the disclosure, if appropriate.
   b. When requested to do so by the Privacy Office, record the disclosure in the online Disclosure Tracking System.

3. Requesting an Accounting of Disclosures
   a. Patients or their representatives should complete a Request for Accounting of Disclosure form or submit a request in writing to the UF Health Shands Director of Health Information Management or to the UF Health Physicians Clinic Manager. The request must include a time period, not longer than six years for the accounting.
   b. If the request is the second (or more) during a 12-month period, notify the Privacy Office first, prior to beginning the process, so that fees can be calculated. Then notify the requestor of the cost of the accounting and give the requestor an opportunity to withdraw or modify the request before any costs are incurred. (The first accounting request within a 12 month period is free of charge.)

4. Responding to Written Requests for Accounting of Disclosures
   a. Verify the identity of the requestor, and, if not the patient, the relationship of the requestor to the patient, and their authority to receive the accounting. (See also SECTION 3: Verification of Identity and Authority and Personal Representatives)
   b. If any disclosures have been recorded on a paper Tracking Log in the patient's health record, attach a copy of the Log to the original Request for Accounting, and forward both to the Privacy Office. If there is no Tracking Log in the patient's health record, send only the Request form. Retain a copy of the request in the patient's health record.
   c. The Privacy Office will coordinate the response to the request. Maintain a copy of the response, when received, along with the request in the patient's health record.
REFERENCES
1. HIPAA: 45 CFR § 164.528 (Accounting of Disclosures)

EXHIBITS
1. UF Privacy Patient Rights Form Request for Accounting of Disclosures of PHI at, http://privacy.ufl.edu/uf-health-privacy/forms/.