

UNIVERSITY POLICY

Policy Name:	Accounting of Disclosures of Protected Health Information				
Section #:	100.1.3	Section Title:	HIPAA Policies	Formerly Book:	00-01-15-20:00
Approval Authority:	RBHS Chancellor/Executive Vice President for Health Affairs		Adopted:	01/27/2003	Reviewed: 3/11/2016
Responsible Executive:	Senior Vice President and Chief Enterprise Risk Management, Ethics and Compliance Officer		Revised:	06/22/2011; 7/1/2013, 3/11/2016	
Responsible Office:	Office of Enterprise Risk Management, Ethics and Compliance		Contact:	Office of Enterprise Risk Management, Ethics and Compliance: 973-972-8093	

1. Policy Statement

This policy acknowledges the right of a patient to request an accounting for disclosures of their Protected Health Information (PHI). This policy applies to:

- I. The Rutgers Covered Entity and Covered Components within that entity including faculty, employees, students, volunteers, trainees, and other persons whose conduct, in the performance of work for Rutgers and/or its units, is under the direct control of such Entity, whether or not they are paid by Rutgers.
- II. Any Rutgers University workforce member of any Rutgers school, unit or department that bills federal and/or state programs for the provision of medical care to patients, or engages in human subject research sponsored by federal, state or private programs.
- III. Any independent contractor, business associate or other vendor providing services and engaged by the Rutgers Covered Entity.
- IV. Any Rutgers University Workforce member of a Rutgers school, unit or department that bills federal and/or state programs for the provision of medical care to patients.

2. Reason for Policy

To establish a policy and procedure to ensure that Rutgers Covered Entity and any Rutgers non-covered entities, including but not limited to schools, units and departments that bill federal and/or state programs for healthcare-related goods or services, comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), HITECH Act (2009), Omnibus Rule (2013) and related state and federal law in providing a timely response to a patient's request for an accounting of disclosures.

3. Who Should Read This Policy

This policy applies to and should be read by:

- I. The Rutgers Covered Entity and Covered Components within that entity including faculty, employees, students, volunteers, trainees, and other persons whose conduct, in the

performance of work for Rutgers and/or its units, is under the direct control of such Entity, whether or not they are paid by Rutgers.

- II. Any independent contractor, business associate or other vendor providing services and engaged by the Rutgers Covered Entity.
- III. Any Rutgers University workforce member of any Rutgers school, unit or department who is engaged in the provision, coordination, or management of health care and related services among providers including third parties, consultations regarding a patient and patient referrals.
- IV. Any Rutgers University workforce member of any Rutgers school, unit or department that bills federal and/or state programs for the provision of medical care to patients, or engages in human subject research sponsored by federal, state or private programs.
- V. Other University departments that assist the Rutgers Covered Entities in certain activities including, but not limited to the Office of Enterprise Risk Management, Ethics and Compliance, the Office of Information Technology and the Office of the Senior Vice President and General Counsel.

4. Related Documents

- I. 45 CFR 164.528, Title 45, Code of Federal Regulations, Part 164, Section 528, Security and Privacy, Accounting of Disclosures of Protected Health Information.
- II. 45 CFR 164.512 (i), Title 45, Code of Federal Regulations, Part 164, Section 512, Security and Privacy, Uses and Disclosures for Which Consent, an Authorization or Opportunity to Agree or Object is not Required, Uses and Disclosures for Research Purposes
- III. 45 CFR 164.514(e), Title 45, Code of Federal Regulations, Part 164, Section 514, Subpart E, Security and Privacy, Privacy of Individually Identifiable Health Information.
- IV. Uses and Disclosures of Health Information With and Without an Authorization, Policy 100.1.1

The following policies provide additional and related information:

- V. Standards for Privacy of Individually Identifiable Health Information, Policy 100.1.9
- VI. Access of Individuals to Health Information, Policy 100.1.4

5. Definitions

- I. Protected Health Information (PHI): Protected health information means individually identifiable health information that relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual or the past, present or future payment for the provision of health care to an individual and identifies or could reasonably be used to identify the individual.
 - A. Except as provided in paragraph two (2) of this definition that is: a) transmitted by electronic media; b) maintained in electronic media; or c) transmitted or maintained in any other form or medium
 - B. Protected health information excludes individually identifiable health information in: a) Education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g; b) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); and c) Employment records held by a covered entity in its role as employer.
 - C. Relevant individually identifiable health information of deceased individuals should be considered active PHI for 50 years after death.
- II. Covered Entity (CE): Either (1) A health care provider, (2) a health plan or (3) a health care

clearinghouse who transmits any health information in electronic form in connection with a transaction covered by 45 CFR 160.103. Covered Entities must comply with the HIPAA regulation, including the HITECH Act (2009), the Omnibus Rule (2013) and related state and federal law.

- III. Rutgers Covered Entity: The collective term referring to all units, schools or departments that meet the definition of a Covered Entity as put under 45 CFR 160.103 and are required to follow HIPAA regulation, including the HITECH Act (2009), the Omnibus Rule (2013) and related state and federal law.
- IV. Covered Health Care Component(s) Rutgers University has designated certain units as constituting its healthcare components based on one or more of the following criteria:
 - 1. A department that would meet the definition of a covered entity if it were a separate legal entity.
 - 2. A department that performs covered functions or transactions under HIPAA.
 - 3. A department that performs activities that would make it a business associate if it were a separate legal entity.
- V. Workforce: Faculty, employees, students, volunteers, trainees, and other persons whose conduct, in the performance of work for Rutgers and/or its units, is under the direct control of the Rutgers Covered Entity whether or not they are paid by Rutgers.

6. The Policy

- I. The Rutgers Covered Entity and its Workforce will provide an individual with an accounting of all disclosures of their PHI upon the individual's written request as required by state and federal law. A request for Accounting of Disclosures Form can be accessed at the Rutgers Ethics website.
- II. The Rutgers Covered Entity and its Workforce will act on an individual's request for an accounting within sixty (60) days of receipt of the request. If a unit is unable to provide the accounting within sixty (60) days, it may extend the time period to provide the accounting by no more than thirty (30) days. However, within the original sixty (60) days, units must provide the individual with a written statement of the reasons for the delay and the date by which units will provide the accounting. Rutgers Covered Entities are only permitted one extension per request.
- III. The first accounting in a twelve-month period to an individual must be provided without charge. However, the Rutgers Covered Entity may impose a reasonable cost-based fee for each subsequent request for an accounting made by the same individual within the twelve-month period provided the unit informs the individual of the fee prior to complying with the request, thus giving the individual the opportunity to withdraw or modify the request.
- IV. As part of the accounting of the disclosures, the Rutgers Covered Entity will coordinate with business associate(s) on the response to the request.
- V. The Rutgers Covered Entity 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 Rutgers Covered Entity with a written statement that such an accounting to the individual would be reasonably likely to impede the agency's activities and it must include the time frame for which such a suspension is required.
- VI. The Rutgers Covered Entity 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 unit with an oral statement that such an accounting to the individual would be reasonably likely to impede the agency's activities and it must include the time frame for which such a

suspension is required. However, in as much as the statement was given orally, Rutgers Covered Entities must:

- A. Document the statement, including the identity of the agency or official making the statement; and
 - B. Limit the temporary suspension to no longer than thirty (30) days from the date of the oral statement, unless a written statement is submitted during that time.
- VII. Requests made for accountings of disclosures of PHI must be made to the employee or department designated by the Dean or President/CEO of the Rutgers Covered Entity and/or the Privacy Officer of the University.
- VIII. The Rutgers Covered Entity will implement a process to provide an accounting to individuals of all disclosures except:
- A. Disclosures to carry out treatment, payment and healthcare operations;
 - B. Disclosures to the individual of PHI about themselves;
 - C. Disclosures for the facility's directory or to persons involved in the individual's care or other notification purposes;
 - D. Disclosures for national security or intelligence purposes in accordance with 45 CFR 164.512(k)(2);
 - E. Disclosures to correctional institutions or law enforcement officials, as provided in 45 CFR 164.512(k)(5);
 - F. Disclosures that occurred prior to April 14, 2003;
 - G. Disclosures pursuant to an authorization;
 - H. Disclosures incident to a use and disclosure otherwise permitted; and
 - I. Disclosures that are part of a limited data set in accordance with 45 CFR 164.514(e).
 - J. An accounting must cover a period of six (6) years, unless the request specifies a shorter period.
- IX. The accounting for each disclosure must include:
- A. The date of the disclosure;
 - B. The name and address of the entity or person who received the PHI;
 - C. A brief description of the PHI disclosed; and
 - D. A brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure or, in lieu of such statement, a copy of a written request for disclosure (i.e. subpoena, etc.).
- X. If a Rutgers Covered Component has made multiple disclosures of PHI to the same person or entity for a single purpose, the accounting with respect to such multiple disclosures should provide:
- A. The information required as described in section IX. for the first disclosure during the accounting period;

- B. The frequency or number of the disclosures made during the accounting period;
and
 - C. The date of the last disclosure during the accounting period.
- XI. The Rutgers Covered Entity must document and retain the following information for six (6) years:
- A. The information required to be included in an accounting as discussed in IX.
 - B. The written accounting itself that was given to the requesting individual.
 - C. The titles of persons or offices responsible for receiving and processing requests for an accounting.
- XII. If, during the period covered by the accounting, the Rutgers Covered Entity has made disclosures of PHI for a particular research purpose in accordance with CFR 164.512(i) for fifty (50) or more individuals, the disclosure should include:
- A. The name of the protocol or other research activity;
 - B. 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;
 - C. A brief description of the type of PHI that was disclosed;
 - D. 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;
 - E. The name, address, and telephone number of the entity that sponsored the research and of the researcher to whom the information was disclosed; and
 - F. A statement that the PHI of the individual may or may not have been disclosed for a particular protocol or other research activity.
- XIII. If the Rutgers Covered Entity provides an accounting for research disclosures in accordance with this policy and it is reasonably likely that the PHI of the individual was disclosed for such research protocol or activity, the unit must, at the request of the individual, assist in contacting the entity that sponsored the research and the researcher.