

## ORGANIZATION POLICY

POLICY TITLE:        ONSLOW MEMORIAL HOSPITAL ACCOUNTING OF  
                              DISCLOSURES OF PROTECTED HEALTH INFORMATION

POLICY NUMBER: 1313

PURPOSE AND APPLICABLE LAW: The purpose of this Policy is to establish the Hospital's accounting of disclosures of protected health information.

### PROCEDURE:

In accordance with federal law and OMH's Notice of Privacy Practices, each patient has the right to request an accounting of disclosures. An accounting of disclosures is a list of certain types of disclosures made to third parties containing a patient's protected health information obtained from the patient's designated record set. Upon request, OMH must document and release to the patient or patient's personal representative, a list of disclosures made by OMH.

A patient or a patient's personal representative may request an accounting of disclosures at any time. Members of OMH workforce who maintain components of a patients' designated record set must track all disclosures of protected health information, other than those specifically exempted in the Identifying Disclosures for Accounting section of this policy. Disclosures are tracked by recording certain information about every disclosure, as discussed in the Contents of Accounting section of this policy.

While OMH's Health Information Management Department ("HIM") will be responsible for making most disclosures and tracking disclosures made by their department, other members of OMH's workforce who maintain components of the designated record set may also make disclosures. This process will therefore require the diligent participation of many staff members in a wide range of departments within OMH.

Please refer to Appendix A of this policy for a list of departments within OMH facilities that may be responsible for disclosing protected health information.

Each of OMH's business associates is required, under HIPAA and the terms of its business associate agreement with OMH, to account for its own disclosures of protected health information of patients of any OMH facility. Business Associates are defined as individuals or organizations that perform activities or services on behalf of OMH involving the sharing of protected health information.

## Identifying Disclosures for Accounting

OMH policy requires that every department identify and document the types of disclosures it routinely and non-routinely makes and evaluate each disclosure to identify and document those that are either included or excluded for accounting purposes.

A disclosure is the release, transfer, provision of access to, or divulging in any other manner of protected health information to parties other than OMH or its business associates.

All disclosures, other than those listed below, are subject to accounting. Disclosures that do not require accounting are disclosures made:

- To carry out treatment, payment and health care operations (i.e. Infection Control);
- Incidental to treatment, payment and health care operations;
- To individuals of protected health information about them;
- Pursuant to a valid authorization;
- For the facility's directory or to the persons involved in the individual's care or for other notification purposes;
- For national security or intelligence;
- To correctional institutions or law enforcement officials;
- As part of a limited data set; and
- That occurred prior to April 14, 2003.

Examples of disclosures that require accounting include, but are not limited to, those:

- Required by law;
- For public health activities;
- For judicial and administrative proceedings;
- About decedents;
- About cadaveric organ, eye or tissue donation purposes;
- For research purposes, except those pursuant to a valid authorization;
- To avert a serious threat to health or safety of the patient or others;
- For specialized government functions, except those disclosures made for national security and intelligence activities and correctional institutions and other law enforcement custodial situations;
- For workers' compensation; and
- Other disclosures not covered in the guidelines above.

OMH staff must evaluate each disclosure individually, as the nature of that disclosure may change depending on the purpose. Disclosures to medical staff members and contracted personnel, provided that the information is being shared so that these persons may perform treatment, payment or health care operations within the hospital setting do not require inclusion in a patient's accounting. However, a similar exchange under different circumstances might require tracking.

Please contact OMH's Privacy Official if additional guidance is required on the inclusion / exclusion of any particular disclosure.

### Contents of the Accounting

A complete accounting of disclosures must include all disclosures made by OMH and its business associates for the six years prior to the date of the request for accounting, or a shorter time period if specified by the patient or patient's personal representative. OMH is not required to provide accounting for any disclosures made prior to April 14, 2003.

For each disclosure in the accounting OMH must include:

- The date of the disclosure;
- The name of the person or organization that received the information;
- The address of the person or organization that received the information (if known);
- A brief description of the protected health information disclosed; and
- At least one of the following items:
  1. A brief statement explaining the purpose of the disclosure and the basis on which the disclosure was permitted under our facilities' policies; or
  2. A copy of a written request made by a person or organization to which disclosure was made, where the information was disclosed:
    - a. To the Secretary of HHS to determine OMH's compliance with the Privacy Rule;
    - b. As required by law;
    - c. For public health activities;
    - d. About victims of abuse, neglect, or domestic violence;
    - e. For health oversight activities;
    - f. For judicial and administrative proceedings;
    - g. For law enforcement purposes;
    - h. About decedents;
    - i. About cadaveric organ, eye or tissue donation purposes;
    - j. For research purposes;
    - k. To avert a serious threat to health or safety;
    - l. For specialized government functions; or
    - m. For workers' compensation.

Multiple Disclosures: If a series of disclosures was made to the same person or organization, OMH staff need only include the contents of the accounting discussed in this policy for the first disclosure made during the accounting period. OMH staff may then provide the following information to cover the rest of the series:

- Frequency, periodicity, or number of disclosures made in the series;
  - EXAMPLE: Disclosures were made every 2 months.
  - EXAMPLE: A total of 15 disclosures were made during the accounting period.
  - The date of the last disclosure in the series that was made during the accounting period.

Note: A sample *Accounting of Disclosures of Protected Health Information Tracking Form* may be found in Appendix B of this policy.

### Requests for Accounting by a Patient's Personal Representative

If a patient's designated personal representative requests an accounting of disclosures of the patient's records, OMH shall grant or deny the accounting according to the procedures in this policy as though the personal representative were the patient, unless one of the following exceptions applies:

1. Harm to patient. A personal representative may be denied an accounting of a patient's information if the patient's attending physician has determined that granting such accounting is reasonably likely to cause substantial harm to the patient.
2. Detrimental effect from accounting to parent or guardian. A parent or guardian of a minor may be denied accounting of the minor's protected health information if the treating physician certifies that such accounting to the parent or guardian would have a detrimental effect on:
  - a. The physician's or the facility's professional relationship with the minor;
  - b. The care or treatment of the minor; or
  - c. The minor's relationship with his or her parents or guardian.

### Temporary Suspension of Right

OMH must suspend a patient'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 OMH 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.

If the statement of the agency or official is made orally, OMH must:

- Document the statement, including the identity of the agency or official making the statement;
- Temporarily suspend the individual's rights; and
- Limit the temporary suspension to no longer than 30 days from the date of the oral statement, unless a written statement is submitted during that time.

### Victims of Abuse, Neglect, or Domestic Violence

A patient's right to an accounting of disclosures of his/her protected health information may be denied under the following circumstances:

- If the treating physician, based on professional judgment, that the information requested is reasonably likely to endanger the life or physical safety of the patient or another person.

- If the request for accounting is made by the patient’s designated personal representative and the treating physician has determined, based on professional judgment, that the provision of accounting to such personal representative is reasonably likely to cause substantial harm to the individual or another person.

### Role of Health Information Management in Handling Patient’s Requests for Accounting

OMH has determined that all patient requests for accounting of protected health information maintained in medical records, billing records, or any other records must be forwarded to MR within 24 hours of receipt. MR shall respond to such patient requests in a timely and respectful manner and in accordance with the procedures contained in this and other applicable policies and procedures.

### Providing the Accounting

It is OMH policy that HIM provide the accounting no later than 60 days following the request. If OMH is unable to provide the accounting within the 60 days, OMH may extend that time by no more than 30 days provided that the individual is notified in writing of the reason for the delay and provided with a date by which they may expect the accounting. OMH is allowed only one extension per request.

OMH must provide the first accounting in a 12-month period without charge. A reasonable, cost-based fee for each subsequent request may be imposed, provided that OMH notifies the individual in advance of the charge and provides the individual with an opportunity to modify or withdraw the request.

### Documenting the Release of the Accounting

It is OMH policy that MR:

- Identify the information to be included in an accounting;
- Maintain a copy of the accounting, as provided to the individual;
- Document the titles of the person(s) or office(s) responsible for receiving and processing requests for an accounting by individuals; and
- Document policies and procedures utilized when tracking and providing accounting of disclosures.

EFFECTIVE DATE: June 2005

REVISION DATE: January 12, 2009, January 2015

REVIEW DATE: December 2011, January 2018

APPROVED BY:

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Penney Burlingame Deal, DHA, RN, FACHE  
President and Chief Executive Officer

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Regina Lanier, MSN, MAEd, RN  
Senior Vice President, Chief Nursing Officer

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Scott Johnston, M.D.  
Chief of Staff

*Signed Original in Executive Office*

## Appendix A

Examples of departments that may disclose patient's protected health information include:

- Admissions / Registration
- Cardiac Catheterization Laboratory / Interventional Radiology
- Cardiac Rehabilitation
- Cardiology
- Emergency Department and Intensive Care Unit
- Health Information Management / Medical Records
- Laboratory
- Materials Management
- Patient Financial Services
- Pharmacy
- Physical / Occupational / Speech Therapy Rehabilitation
- Radiology
- Respiratory Therapy
- Utilization Review

*Signed Original in Executive Office*

