LSU - HEALTH CARE SERVICES DIVISION
BATON ROUGE, LA

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CATEGORY:	HIPAA Policies
CONTENT:	Patient's Right to Request an Accounting of Disclosures of their PHI - Accounting of Disclosures of PHI (Attachment A) - Accounting of Disclosures of PHI for Research (Attachment B) - Tracking Form for Disclosure of PHI (Attachment C) - Disclosures that Require Tracking (Attachment D)
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INQUIRIES TO:	**LSU HCSD** **Compliance Section** **Post Office Box 91308** **Baton Rouge, LA 70821** **Telephone: 225-354-7032**

Deputy Chief Executive Officer
LSU Health Care Services Division

9/8/17
Date

Compliance and Privacy Officer
LSU Health Care Services Division

09/08/17
Date

LSU - HEALTH CARE SERVICES DIVISION
BATON ROUGE, LA
Patient's Right to Request an Accounting of Disclosures of their PHI

I. SCOPE

This policy is applicable to all workforce members of the LSU Health Care Services Division facilities, including employees, physician/practitioner practices, vendors, agencies, business associates and affiliates.

II. PURPOSE

To provide guidance to the LSU HCSD facilities and providers on a patient's right to request an accounting of the uses and disclosures of their Protected Health Information, as required by the Health Insurance Portability and Accountability Act, Standards for Privacy of Individually Identifiable Health Information (HIPAA Privacy Regulations), and any other applicable state or Federal laws or regulations.

III. POLICY

All LSU HCSD facilities and providers must provide patients with a right to request and receive an accounting of the uses and disclosures of their Protected Health Information by any LSU HCSD care facility or health care provider. The provider must designate the area in which this accounting information will be available.

IV. DEFINITIONS

A. **Protected Health Information (sometime referred to as "PHI")** – for purposes of this policy means individually identifiable health information held or transmitted by a covered entity or its business associate, in any form or media, whether electronic, paper, or oral. It includes demographic data that relates to that relates to:

1. The individual's past, present, or future physical or mental health or condition;
2. The provision of health care to the individual; or
3. The past, present, or future payment for the provision of health care to the individual, and that identifies the individual or for which there is a reasonable basis to believe it can be used to identify the individual. PHI includes many common identifiers such as name, address, birth date, social security number, etc.

B. **Privacy Officer – person designated by the Facility** as the Privacy Officer.

C. **Disclosure or Release** – The release, transfer, provision of access to, or divulging of information in any other manner outside the Facility. The words "disclosure" and "release" have the same meaning for purposes of this policy. It is important to note that such disclosures may occur verbally or in writing. Either method of communication is considered a disclosure.

V. PROCEDURE

A. Rights of a Patient to an Accounting. A patient has the right to receive an accounting of the disclosures of Protected Health Information made by the Facility for up to six (6) years prior to the date on which the accounting is requested, except for the following disclosures:

1. To carry out treatment, payment and health care operations;

2. To individuals of Protected Health Information about them;

3. Incident to another permissible or required use or disclosure of PHI (e.g. overheard conversations)

4. Pursuant to a valid HIPAA authorization;

5. For a hospital's or health care facilities' directory;

6. To persons involved in the patient's care;

7. For national security or intelligence purposes;

8. For notification purposes such as identifying or locating a family member, or personal representative to inform them of the patient's location, general condition or death;

9. To correctional institutions or law enforcement officials as allowed in the HIPAA Privacy Regulations;

10. As part of a limited data set;

11. If the Protected Health Information was disclosed prior to the HIPAA compliance date, of April 14, 2003.

12. Pursuant to and in compliance with a valid HIPAA authorization to disclose psychotherapy notes or PHI for marketing.

B. The Facility must temporarily 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 the Facility 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 but no longer than 30 days. If the Facility should receive the request orally, the HIM Director or designee should document the statement, including the identity of the agency or official making the statement.

C. Tracking of Disclosures. All departments disclosing information must document the disclosure so that the disclosure may be accounted for. The documentation of the disclosure most typically is done in the patient's medical record. Business Associates that disclose PHI must also account for disclosures, and be able to provide an accounting of those disclosures at the request of the patient. Attachment C provides a form that may be used if the accounting is not maintained in the medical record. Attachment D outlines the disclosures that require tracking.

Health Information Management is responsible for the majority of disclosures, and has processes by which it documents those disclosures. However, in the daily course of business, other departments may also have cause to release protected health information. Such departments include, but are not necessarily limited to the following:

- Admission/Registration
- Emergency Department
- Inpatient Units
- Clinics
- Laboratory
- Infection Control
- Patient Financial Services
- Radiology
- Cardiopulmonary
- Utilization Review
- Pharmacy
- Social Services
- Quality Improvement
- Risk Management
- Security

D. Content of the Accounting. The content of the accounting must be in writing and unless specified for a shorter time period by the patient, cover six (6) years prior to the date of the request. The accounting must include for each disclosure the following:

The date of the disclosure;

1.

2. The name of the entity or person who receive the PHI, and if known, the address of such entity or person;

3. A brief description of the PHI disclosed; and

4. A brief statement of the purpose of the disclosure that reasonably informs the patient or their personal representative of the basis for the disclosure or, in lieu of such statement, a copy of the written request for disclosure.

5. If, during the period covered by the accounting, the Facility has made multiple disclosures or PHI to the same person or entity for a single purpose, the accounting may, with respect to such multiple disclosures, provide:

   a. The information listed above in a., b., c. and d;
   b. The frequency, periodicity, or number of the disclosures made during the accounting period; and
   c. The date of the last such disclosure during the accounting period.

6. If, during the period covered by the accounting, the Facility 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:

   a. The name of the protocol other research activity;
   b. A plain language description 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 patient may or may not have been disclosed for a particular protocol or other research activity.

7. If the Facility provides an accounting for research disclosures and if it is reasonably likely that the PHI of the patient was disclosed for such research protocol or activity, the Facility shall, at the request of the patient assist in contacting the entity that sponsored the research and the researcher.

E. Time Period for Responding to Accounting Requests. The Facility shall provide the

patient the requested accounting within 60 days from the date of such request or if the Facility is unable to provide the accounting within this time frame they shall provide a written statement of the reasons for the delay and the date by which the Facility shall provide the accounting. The Facility can have only one such extension of time.

F. Fees For Second Accounting in Same Calendar Year. The Facility must provide the first accounting to an individual in any 12 month period without charge. The Facility may impose a reasonable, cost-based fee for each subsequent request for an accounting by the same individual within the 12 month period, provided that the Facility inform the patient in advance of the fee and provide the patient with an opportunity to withdraw or modify the request for a subsequent accounting in order to avoid or reduce the fee.

REFERENCE: 45 C.F.R. § 164.528

Attachment A: Accounting of Disclosures of Protected Health Information

Name and Address of Facility Making Disclosure:		
Patient Name:	**Medical Record Number:**	**Billing Number:**
Accounting Period = From Date: To Date:	Request Date:	Accounting Date:

Date of Disclosure	Name of Person or Entity Receiving PHI	Brief Description of PHI Disclosed	Brief Statement of Purpose of Disclosure	Copy of Written Request Attached?	Multiple Disclosures to Same Person or Entity During Period Covered?
				☐ No ☐ Yes	☐ No ☐ Yes, describe frequency, periodicity, or # of disclosures: Date of last disclosure in period:
				☐ No ☐ Yes	☐ No ☐ Yes, describe frequency, periodicity, or # of disclosures: Date of last disclosure in period: Date of last disclosure in period:

Attachment B: Accounting of Disclosures of Protected Health Information

Name and Address of Facility Making Disclosure:

Patient Name:	Medical Record Number:	Billing Number:
Accounting Period = From Date: To Date:	Request Date:	Accounting Date:

During the accounting period listed above, the facility participated in Institutional Review Board or Privacy Board approved research activities where the protected health information of 50 or more patients was disclosed to another entity or researcher. Information about the research activity is listed below. Your PHI may or may not have been included in the research activity. If you need assistance in contacting the entity that sponsored the research and the researcher(s), please contact our privacy Officer at _____
Address and Telephone Number of facility Privacy Officer

Name of Protocol or Research Activity:			
Description of the Protocol or Research Activity; Purpose of the Research; and Criteria for Selecting Records	**Description and Purpose:**	**Criteria:**	
Brief Description of the Type of PHI Disclosed			
Date or Period of Time Disclosures Occurred, Including Date of Last Disclosure	**Date or Period of Disclosures:**	**Date of Last Disclosure:**	
Name, Address, Telephone Number of Research Sponsor to Whom PHI was Disclosed	**Name:**	**Address:**	**Phone:**
Name, Address, Telephone Number of Research Sponsor to Whom PHI was Disclosed	**Name:**	**Address:**	**Phone:**
Name, Address, Telephone Number of Research Sponsor to Whom PHI was Disclosed	**Name:**	**Address:**	**Phone:**
Name, Address, Telephone Number of Research Sponsor to Whom PHI was Disclosed	**Name:**	**Address:**	**Phone:**

Attachment C: Tracking Form for Disclosure of Protected Health Information

Instructions: Please complete this form for each disclosure of protected health information (PHI) to an outside person, entity or organization where the patient's written authorization was **not** obtained. Do not complete this form if the PHI was released for continuing care or treatment, payment purposes, or health care operations. See Policy 7507, Accounting of Disclosures of Protected Health Information for additional information.

Patient Name:		**Social Security Number:**	
Medical Record		**Billing Number:**	

Number:			
Date(s) of Disclosure:		**Date(s) of Service / Visit Disclosed:**	
Name of Person or Entity Receiving PHI: (include address if known)			
If a Written Request was Received, attach the request and check box to the right.	☐ A written request for disclosure of the PHI was received from someone other than the patient and is attached to this form.		
Brief Description of PHI Disclosed: (Check one, or all that apply)	☐ Demographic information; such as name, address, telephone number or other contact data ☐ Diagnosis or procedure information ☐ Lab test result, specify: _____ ☐ Radiology results, specify: _____ ☐ History or physical examination ☐ Discharge summary ☐ Consultation ☐ Entire medical record ☐ Emergency record of treatment ☐ Itemized bill or billing information ☐ Other, specify: _____		
Brief Statement of Purpose of Disclosure:	☐ State or federal law required reporting (such as reporting births, deaths, communicable diseases, FDA, suspected abuse, crime victims & injuries) ☐ Organ donation or transplantation ☐ Medical examiner ☐ Funeral Home ☐ Research ☐ Subpoena, court order, or other lawful process; see attached document ☐ Other, specify: _____		

Person Completing Form (Printed): _____ **Date:** _____

Title: _____ **Telephone:** _____

Please forward this completed form to the Health Information Management Department

Attachment D: Disclosures that Require Tracking

1. Court orders/ Judicial and Administrative proceedings
2. Insurance audits not part of TPO
3. Coroner/Medical Examiner
4. Funeral directors
5. FDA
6. Medical Device reporting
7. OCR- investigations of privacy complaint
8. Peer review organizations- DRG/utilization chart reviews
9. Sentinel event chart reviews
10. State health professional licensure agencies
11. Federal or state review (e.g., HHS, DOJ, OIG, MCFU, DHH)

12. Cancer registry reports
13. Trauma registry reports
14. To avert a serious threat to health or safety
15. Military and veterans activities
16. Protective services of the President and others
17. Medical suitability determinations
18. Vital Statistics (births/deaths)
19. Bureau for Health Information
20. Research with IRB waiver
21. Elder abuse reporting
22. Domestic violence reporting
23. Law enforcement purposes pursuant to process and for identification and location purposes (but not prisoners). May be temporarily suspended pursuant to 164.528(a)(2)
24. Child abuse reporting
25. Public Health (unless there are no direct identifiers) – Can use a generalized approach to report the disclosure.
26. Reporting gunshots, wounds, and other suspicious wounds
27. Organ procurement organization
28. Worker's compensation
29. Business associate not providing TPO services
30. Misdirected PHI