



**Health Care Agency
Behavioral Health Services
Policies and Procedures**

Section Name: Information Management
Sub Section: HIPAA
Section Number: 05.05.03
Policy Status: New Revised

	SIGNATURE	DATE APPROVED
Chief of Operations Behavioral Health Services	_____	_____

SUBJECT:

Accounting for Disclosures of Protected Health Information (PHI)

PURPOSE:

To establish policy and guidelines for Behavioral Health Services (BHS) regarding the provision of an accounting of disclosures of protected health information (PHI).

POLICY:

BHS staff shall comply with all Health Insurance Portability and Accountability Act (HIPAA) requirements for accounting for PHI disclosures, as spelled out in the County of Orange HIPAA Policies and Procedures.

SCOPE:

This policy and procedure pertains to all BHS staff and consumers.

REFERENCES:

Code of Federal Regulations Title 45 §164.528, §164.530(j)(1)

County of Orange P&P I-15, [Accounting for Disclosures of PHI](http://ocintranet.ocgov.com/hipaa/p&p/pp15.pdf)
<http://ocintranet.ocgov.com/hipaa/p&p/pp15.pdf>

[Authorization to Use and Disclose Protected Health Information form](http://ochealthinfo.com/civicax/filebank/blobdload.aspx?BlobID=11063)
<http://ochealthinfo.com/civicax/filebank/blobdload.aspx?BlobID=11063>

Behavioral Health Services P&P: [Tracking Disclosures of Protected Health Information, #05.05.02](http://intranet/docs/bhs/p&p/05.05.02.pdf) <http://intranet/docs/bhs/p&p/05.05.02.pdf>

[Accounting of Disclosures form:](http://ochealthinfo.com/civicax/filebank/blobdload.aspx?BlobID=11061)
<http://ochealthinfo.com/civicax/filebank/blobdload.aspx?BlobID=11061>

DEFINITIONS:

Protected Health Information (PHI)

Any individual identifiable health information that is created, transmitted, or maintained by a covered entity in any form or medium. PHI excludes individually identifiable health information:

- In education records;
- In employment records held by a covered entity in its role as employer; and
- Regarding a person who has been deceased for more than 50 years.

Treatment, Payment and Health Care Operations (TPO):

Treatment:

Generally means 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:

Means activities undertaken by a health plan to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the health plan, or activities undertaken by a health care provider or health plan to obtain or provide reimbursement for the provision of health care, and these described activities relate to the individual to whom health care is provided, and include, but are not limited to determinations of eligibility or coverage and adjudication or subrogation of health benefit claims, risk adjustment, billing, claims management, collection activities and obtaining payment under a contract for reinsurance, review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care or justification of charges, utilization review activities and certain disclosures to consumer reporting agencies of specified PHI relating to collection of premiums or reimbursement.

Health Care Operations:

Include, but are not limited to activities related to covered functions, such as quality assessment and improvement activities; certain population-based activities; protocol development, case management and care coordination, contacting patients and health care providers about treatment alternatives; review of competency and qualification reviews of health care professionals, health plan performance, certain training programs, underwriting, premium rating, medical review, legal services and auditing functions, business planning and development, and general business and administrative activities. Said activities may include implementation and compliance of HIPAA regulations, customer service, resolution of internal grievances, and consistent with regulations, the creation of de-identified health information or a limited data set, as well as fundraising for the covered entity.

Disclosure:

Means the release, transfer, provision of, access to, or divulging in any other manner of information outside the County's health care components.

PROCEDURE:

I. Right to Request an Accounting:

An individual has the right to receive an accounting of disclosures of PHI made by the County designated health care components, or health plans, in the six (6) years prior to the date of the request, including any lesser period of time, to any entity, including a business associate, except for disclosures:

- A. To carry out treatment, payment, or operations as permitted by the Health Insurance Portability and Accountability Act regulations.
- B. To the individual about his or her own information by the HIPAA regulations.
- C. Incident to a use or disclosure by the HIPAA regulations.
- D. Pursuant to an authorization by the HIPAA regulations.
- E. For the facility directory or to persons involved in the individual's care, or other notification purposes permitted by the HIPAA regulations.
- F. For national security or intelligence purposes, by the HIPAA regulations.
- G. To correctional institutions or law enforcement officials as permitted by the HIPAA regulations.
- H. As part of a limited data set, according to HIPAA regulations.

II. Accounting of Disclosures to Oversight Agency or Law Enforcement:

Accounting of PHI disclosures to a health oversight agency or law enforcement official, as provided by the HIPAA regulations, shall be temporarily pended for the time period specified by such agency or official:

- A. If the agency or official provides the covered entity with a written statement that such an accounting would be reasonably likely to impede the activities of the agency or official and specifying a time period for the suspension.
- B. Such a suspension may be requested orally; but the covered entity must:
 - 1. Document the statement to include:
 - a) The identity of the agency or official making the request.

- b) Noting the oral request that results in temporarily suspending the individual's right to an accounting of disclosures subject to the statement.
 - c) Noting the temporary suspension is limited and cannot be longer than thirty (30) days from the date of the statement unless the written statement described herein is submitted during that time period.
- C. Requests for an Accounting of disclosures shall be made in writing via the office of the Health Care Agency's Custodian of Records.
- D. Any staff person receiving a request for an accounting of disclosures shall provide the requestor with a Request for an Accounting of Disclosures form, which includes the address and phone number of the Custodian of Records.
- E. If the request is received over the phone, the staff person shall provide the requestor with the telephone number for the Custodian of Records (COR), 714-834-3536.
- F. The Custodian of Records will contact the Service Chief (SC) of the clinic where the consumer is being treated to inform them of the request.
- G. The Service Chief will report to the COR disclosures that must include those allowed for which an authorization or opportunity to agree or object is not required as listed in 45 CFR 154.512. In this case, the individual has not already been notified regarding the disclosure and the PHI has not been disclosed as part of the designated record and has been de-identified, including:
- 1. Disclosures required by law.
 - 2. Disclosures for public health activities.
 - 3. Disclosures about victims of abuse, neglect or domestic violence.
 - 4. Disclosures for health oversight activities.
 - 5. Disclosures for judicial and administrative proceedings.
 - 6. Disclosures for law enforcement purposes.
 - 7. Disclosures about decedents.
 - 8. Disclosures for organ donation.
 - 9. Disclosures for research purposes.
 - 10. Disclosures to avert a serious threat to health and safety.

11. Disclosures permitted that are consistent with applicable law and standards of ethical conduct.
 12. Disclosures for specialized government functions including military command authorities, protection for government officials, medical suitability determinations.
 13. Standard disclosures for workers' compensation.
- H. An accounting of disclosure does not have to be given for the following disclosures that have been made by the Health Care Agency of their Business Associates:
1. To carry out TPO as permitted by the HIPAA regulations.
 2. The individual about his or her own information by the HIPAA regulations.
 3. Incident to a use or disclosure by the HIPAA regulations.
 4. Pursuant to an authorization by the HIPAA regulations.
 5. Should the Health Care Agency use facility directories, for the facility directory or to persons involved in the individual's care, or other notification purposes permitted by the HIPAA regulations.
 6. For national security or intelligence purposes, by the HIPAA regulations.
 7. To correctional institutions or law enforcement officials as permitted by the HIPAA regulations.
 8. As part of a limited data set, according to HIPAA regulations, which has been de-identified and may have been disclosed for purposes of research, public health or health care operations; or that occurred prior to the compliance date for the covered entity.
- I. After the Accounting of Disclosures is completed, the Custodian of Records shall forward a copy of the response to the Accounting of Disclosures to the client's last known treatment facility/facilities for filing with the PHI. The facility staff shall file the Accounting of Disclosures on the client's medical record in the section with other administrative documents.