



Corporate Compliance

POLICY TITLE: Patient's Right to Request Accounting of Disclosure of Protected Health Information	SYSTEM POLICY AND PROCEDURE MANUAL
POLICY #: 800.15	CATEGORY SECTION: Compliance and Ethics
System Approval Date: 6/18/18❖	Effective Date: 9/10
Site Implementation Date: 6/18/18❖	Last Reviewed/Approved: 9/15/16
Prepared by: Office of Corporate Compliance	Notation(s): N/A

GENERAL STATEMENT of PURPOSE

The purpose of this document is to outline the established requirements for providing information to patients about the disclosure of their Protected Health Information ("PHI").

POLICY

It is the policy of Northwell Health to respect the rights of Northwell Health patients who request accountings of certain disclosure of their PHI and to comply with requests as specified in the procedure outlined below.

SCOPE

This policy applies to all Northwell Health employees, as well as medical staff, volunteers, students, trainees, physician office staff, contractors, trustees and other persons performing work for or at Northwell Health; faculty and students of the Donald and Barbara Zucker School of Medicine at Hofstra/Northwell conducting research on behalf of the Zucker School of Medicine on or at any Northwell Health facility; and the faculty and students of the Hofstra Northwell School of Graduate Nursing and Physician Assistant Studies.

DEFINITIONS

Disclosure: The release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.

Limited Data Set: PHI that excludes 16 categories of direct identifiers and may be used or disclosed with Institutional Review Board (IRB) approval and the execution of a Data Use

Agreement, without obtaining either an individual's authorization or a waiver (or an alteration) of authorization for its access, use and disclosure. Only the following identifiers may be used in a limited data set:

1. Date (examples may include date of birth, death, or services)
2. Geographic information (except for street address); and
3. Other unique identifying numbers, characteristics or codes that are not expressly excluded.

Personal Representative: the individual who, for decision-making purposes, will be treated as the patient. Depending upon the facts and circumstances of each case, a Personal Representative may be directly appointed by the patient or may be deemed to serve the role of Personal Representative under applicable laws and regulations.

Protected Health Information (“PHI”): Any oral, written, or electronic individually identifiable health information. PHI is information created or received by Northwell that (i) may relate 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 payment for the provision of health care to an individual; and (ii) identifies the individual who is the subject or based on which there is a reasonable basis to believe that the individual who is the subject can be identified. The Health Insurance Portability and Accountability Act (HIPAA) further clarifies that PHI includes information that identifies the individual by one or more (depending on context) of the following 18 identifiers:

1. Names;
2. Geographic subdivisions smaller than a state, including street address, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code in certain situations;
3. All elements of date (except year) for dates directly related to an individual, including birth date, discharge date, date of death; and all ages over 89 and all elements of dates indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older;
4. Telephone numbers;
5. Fax numbers;
6. Electronic mail addresses;
7. Social security numbers;
8. Medical record numbers;
9. Health plan beneficiary numbers;
10. Account numbers;
11. Certificate/license numbers;
12. Vehicle identifiers and serial numbers;
13. Medical Device Identifiers;
14. Web Universal Resource Locators (URLs);
15. Internet Protocol (IP) address numbers;
16. Biometric identifiers, including finger and voice prints;
17. Full face photographic images and any comparable images; and
18. Any other unique identifying number, characteristic, or code.

PROCEDURE

REQUESTS FOR ACCOUNTING OF DISCLOSURES

1. A patient or his/her Personal Representative may request an accounting of disclosures to and by Northwell Health and its business associates of the patient's PHI for a specified period of time up to six years prior to the date of the request (but not for disclosures made prior to April 14, 2003). (See -VD001G – Request for an Accounting of Disclosures).
2. Health Information Management ("HIM") or the individual Practice, where appropriate, will be responsible for receiving and processing all requests for an accounting of PHI disclosures.
3. Northwell Health must provide the accounting within 60 days of the request. A one-time extension of an additional 30 days will be allowed if the requestor is notified in writing as to the reason for the delay and the date by which the accounting will be provided. The extension request will be created by HIM and submitted to the Office of Corporate Compliance for review and mailing.
4. The accounting provided for the patient must be in writing and must include the following information for each disclosure:
 - Date.
 - Name (and address, if known) of the recipient of the disclosure.
 - Brief description of the PHI disclosed.
 - Brief statement of the purpose of the disclosure or a copy of the written request for disclosure (if any).
 - If multiple disclosures of PHI have been made to the same person or organization for the same purpose (other than for the excepted disclosures), then only the accounting for the first disclosure must include the information noted above.
 - In the case of multiple disclosure accounting, the frequency and number of disclosures, date range of the accounting period and date of the last disclosure must also be included.
5. Tracking Disclosures for Research: any disclosures (release outside the covered entity) of PHI made without the written authorization of the research subject must be tracked. This includes studies conducted under a waiver of authorization, as well as situations where authorization was obtained but the recipient of the PHI is not listed on the authorization form. When a limited data set is used, there is no requirement to track disclosure.

A modified tracking mechanism is available for research involving the disclosure of PHI from 50 or more subjects (i.e. during epidemiological research). Under a modified tracking mechanism, the researcher must be prepared to provide:

- The name and description of all protocols involving disclosure of 50 or more subjects
 - A brief description of the types of PHI disclosed
 - The dates or time periods of the disclosures
 - Contact information of the recipients
 - A statement that a specific individual's PHI may or may not have been disclosed for a particular study.
 - If multiple disclosures of PHI have been made to the same person or organization for the same purpose (other than for the excepted disclosures), then only the accounting for the first disclosure must include the information noted above.
 - In the case of multiple disclosure accounting, the frequency and number of disclosures, date range of the accounting period and date of the last disclosure must also be included.
6. Law enforcement or health oversight agencies can request a suspension of the accounting of disclosures to that agency. Such requests can be written or verbal. If the request is written, it must specify the time period and reason for the suspension. If the request is verbal, suspension is limited to 30 days unless the agency submits a written statement that states an accounting will be reasonably likely to impede the agency's activities and specifies how long the suspension will be in force. Employees contacted by law enforcement will notify the Office of Legal Affairs via the on-call Northwell Health attorney at 516-321-6649 or legalaffairs@northwell.edu.
7. No charge may be made for the first accounting request fulfilled in any 12-month period.
8. The same general guidelines provided by state law for copying of records will be applied for each additional accounting during the same 12-month period. If a charge will be made, the individual must be notified in advance and given the opportunity to retract or limit the request in order to avoid or reduce the charge.
9. Northwell Health MUST account for the following types of disclosures:
- For public health activities (e.g., for disease control, vital statistics reporting, etc.)
 - For FDA-regulated products or activities
 - For purposes of reporting abuse (child abuse, neglect, others as required by state law)
 - For health oversight activities (e.g., to an agency for investigations, licensure and disciplinary actions, etc.)
 - For judicial and administrative proceedings (e.g., in response to a court order)
 - For law enforcement purposes (e.g., reporting gunshot wounds, for identification purposes)
 - Regarding victims of a crime
 - Regarding the reporting of a crime on the premises
 - Regarding the reporting of a crime in emergencies
 - For the provision of information to coroners, medical examiners, and funeral directors

- For organ, eye, or tissue donation purposes
- For research purposes (special accounting rules apply in research context)
- In order to avert a serious threat to health or safety
- For military/veterans activities (e.g., for armed forces personnel to assure proper execution of a military mission)
- For protective services of the President, foreign heads of state, etc.
- For workers compensation purposes
- Disclosures to or by business associates for any of the above purposes
- Impermissible disclosures

10. Northwell Health does NOT need to account for disclosures made under the following circumstances:

- Information has been de-identified
- For treatment, payment, or health care operations purposes
- Pursuant to an authorization
- To the patient or someone involved in the patient's care
- For a facility directory
- For national security or intelligence purposes (e.g., to authorized federal officials for lawful intelligence or counter-intelligence)
- To law enforcement officials/correctional institutions with custody of the patient
- Disclosure occurred prior to April 14, 2003
- Disclosure occurred more than six years from the date of the request for accounting
- Meets the criteria for a limited data set
- If the patient has agreed to suspend the right to an accounting
- Incidental disclosures (e.g., statements in a waiting room that may have been overheard)

Please note that this is NOT a list of permissible disclosures. The list above only describes the instances where HIPAA requires that Northwell Health account for a particular disclosure.

Training

The Office of Corporate Compliance will provide training on HIPAA on, at least, an annual basis.

Sanctions

In compliance with HIPAA, violations of this policy will be subject to disciplinary action as outlined in the Human Resources Policy and Procedure Manual and in the Bylaws, Rules and Regulations of the Medical Staff.

Documentation

Any documentation generated in compliance with this policy will be retained for a minimum of 6 years from the date of its creation.

ENFORCEMENT

All violations of this policy shall be reported to the appropriate manager/supervisor/director or to the Office of Corporate Compliance (516.465.8097) for appropriate resolution of the matter. You can also make an anonymous report to the Compliance Help-Line, 24 hours a day, 7 days a week, by calling (800) 894-3226 or by visiting www.northwell.ethicspoint.com online.

CLINICAL REFERENCES/PROFESSIONAL SOCIETY GUIDELINES:

N/A

REFERENCES to REGULATIONS and/or OTHER RELATED POLICIES:

Health Insurance Portability and Accountability Act, 45 CFR Parts 160 -164
 Health Information Technology for Economic and Clinical Health (HITECH) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. No. 111-5 (Feb. 17, 2009)
 Northwell Health Bylaws, Rules and Regulations of the Medical Staff
 Northwell Health Policy #800.42 – Confidentiality of Protected Health Information
 Northwell Health Research Policy #GR094 Access, Use and Disclosure of Protected Health Information for Research

ATTACHMENTS:

N/A

FORMS:

VD001G—Request for an Accounting of Disclosures

<u>APPROVAL:</u>	
Northwell Policy Committee	6/18/18❖
System PICG/Clinical Operations Committee	6/18/18❖

Standardized Versioning History:

*=Northwell Policy Committee Approval; ** =PICG/Clinical Operations Committee Approval

7/13/2010* 9/23/10**

7/25/13* 8/15/13**

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❖ Expedited Approval Granted by:
 Winifred Mack, SVP/Operations – Chair, Northwell Policy Committee
 Morris Rabinowicz, MD, Co-Chair, - System PICG/Clinical Operations Committee