

Operational Policy

Policy title:	HIPAA: Recording and Accounting for Disclosures of Individual Information		
Policy number:	ODHS OHA 100-004		
Original date:	07/22/2014 (OHA only)	Last update:	(Joint ODHS OHA) 01/24/2022
Approved:	Kris Kautz, OHA Deputy Director Don Erickson, ODHS Chief Administrative Officer		

Purpose

This Health Insurance Portability and Accountability Act (HIPAA) policy is one of a series that outlines Oregon Department of Human Services (ODHS) and Oregon Health Authority (OHA) expectations for the necessary collection, use, and disclosure of protected health information about individuals in order to provide services and benefits to individuals, while maintaining reasonable safeguards to protect the privacy of their information.

ODHS|OHA staff should review all ODHS|OHA privacy policies to be sure they understand how these policies work together to protect individual privacy.

Description

This policy describes the recordkeeping that ODHS|OHA staff must complete when releasing protected health information (PHI) about individuals.

Applicability

This policy applies to all OHA staff (see OAR 943-014-0015) and ODHS staff working in Business Associate programs (see ODHS 100-013) including employees, volunteers, interns, and contractors. This definition of staff aligns with the HIPAA definition of workforce.

As keepers of the public trust, ODHS|OHA staff has a responsibility to comply with state and agency policies, administrative rule, and state and federal law. ODHS|OHA take this responsibility seriously and failure to fulfill this responsibility is not treated lightly. Individuals who fail to comply with state or agency policy, administrative rule, or state and federal law may face progressive discipline, up to and including dismissal from state service.

Policy

1. Individuals have the right to request and receive an accounting of disclosures of their PHI made by ODHS|OHA for a period of time not more than six years before the date of the request. An accounting is a list or a statement of each disclosure of PHI to another program, entity, or person.
2. An accounting is only required for PHI that is held by HIPAA-covered programs or their Business Associate partner programs. (See OAR 943-014-0015 and ODHS 100-013)

3. ODHS|OHA staff shall record any use or disclosure of the following PHI using form MSC 2097:
 - a. PHI about an individual in relation to mandatory abuse reporting laws.
 - b. PHI about an individual to avert a serious threat to the health or safety of a person.
 - c. Information about an Oregon State Hospital patient in a public notice that the patient is on unauthorized leave.
 - d. PHI about an individual pursuant to a court order. For these disclosures, ODHS|OHA shall maintain a copy of the court order.
 - e. PHI about an individual to law enforcement officials or the medical examiner for the purpose of identifying a deceased person, determining cause of death, or as otherwise authorized by law.
 - f. PHI about an individual in relation to a fugitive or a person for whom an arrest warrant has been issued in response to a law enforcement official's proper request for the information.
 - g. PHI about an individual to the media, unless the disclosure is made within the scope of an authorization signed by the individual.
 - h. PHI about an individual from a non-public health official to a public health official such as the reporting of disease, injury, or in connection with the conduct of a public health study or investigation.
 - i. PHI about an individual for purposes of ODHS|OHA programs that are not part of health care operations.
 - j. PHI about an individual for the purpose of research conducted using an authorization approved by an Institutional Research Board. ODHS|OHA shall maintain a copy of the research protocol.
 - k. PHI about an individual to entities with oversight of ODHS|OHA's provision of direct health care services in relation to licensing, regulation, or certification by a different component of ODHS|OHA, state or federal auditor, or a state or federal reviewer.
 - l. PHI about an individual in response to a public record request. (Individually identifiable PHI generally shall not be disclosed in response to a public record request.)
 - m. PHI about an individual disclosed upon request 25 years or more after the individual's death, as required by ORS 192.495.
4. ODHS|OHA staff are not required to record disclosures made:
 - a. To the individual about whom the information relates or pursuant to valid authorization.
 - b. To carry out treatment, payment, and health care operations
 - c. For a facility directory, if the individual has been given an opportunity to agree or object to their inclusion.
 - d. To persons involved in an individual's health care
 - e. To correctional institutions or law enforcement officials having lawful custody of an inmate.
 - f. As part of a limited or de-identified data set in accordance with ODHS|OHA rules and policies.
 - g. For national security or intelligence purposes.
5. An individual, their authorized representative, or an individual with a signed authorization may request an accounting of disclosure of PHI by completing form MSC 2096.
6. With proper authorization, ODHS|OHA shall provide an accounting of disclosures that includes:
 - a. The date of the disclosure.
 - b. The name of the person or entity who received the information.
 - c. The address of the person or entity who received the information, if known.
 - d. A brief description of the information disclosed and a statement of the basis for disclosure.
 - e. A copy of any written request for disclosure or court order that resulted in a disclosure.

- f. A copy of any research protocol resulting in the release of PHI, in accordance with a waiver from an institutional research board.
7. When providing an accounting of disclosures, if ODHS|OHA has made multiple disclosures to the same entity as a result of a single authorization, ODHS|OHA may note the first disclosure and add the frequency or number of disclosures and the date of the final disclosure made during the requested time period.
8. ODHS|OHA shall act on an individual's request for an accounting no more than 30 calendar days after receiving the request.
9. If ODHS|OHA extends the response time the agency shall, within the initial 30 calendar day period, provide the individual with a written statement, in plain language, regarding the reason for the delay and the date by which ODHS|OHA will provide the accounting, which may not be later than 60 days following the initial request.
10. ODHS|OHA shall provide an individual or the individual's representative with one free accounting of disclosures in any 12-month period.
11. ODHS|OHA may charge a reasonable cost-based fee for each additional accounting requested within a 12-month period. If a fee will be charged, ODHS|OHA shall:
 - a. Inform the individual of the fee before proceeding with the additional request.
 - b. Allow the individual to withdraw or change the request in order to avoid or reduce the fee.
 - c. Adhere to the standards for calculating fees set by the Oregon Department of Administrative Services in policy 107-001-030.
12. ODHS|OHA may temporarily suspend an individual's right to receive an accounting of disclosures when requested by a health oversight agency or law enforcement official who notifies ODHS|OHA that providing the accounting would be reasonably likely to impede their activities.
 - a. ODHS|OHA shall limit the suspension of an individual's right to an accounting to no more than 30 calendar days when the suspension is based on a verbal request.
 - b. If ODHS|OHA suspends an individual's right to receive an accounting based on a verbal request, the agency shall document the verbal request, including the identity of the agency or official making the request.
13. If ODHS|OHA policy conflicts with federal or state statute or rule, that statute or rule supersedes unless the ODHS|OHA policy provides more protection.

References

[42 Part 2 Confidentiality of Substance Use Disorder Patient Records](#)

[45 CFR 160 General Administrative Requirements](#)

[45 CFR 164 Security and Privacy](#)

[ORS 192.390 Inspection of Records](#)

[OAR 943-014-0015 Covered Entity Status for Purposes of the HIPAA Privacy Rules](#)

Forms

[MSC 2096 Request for Accounting of Disclosures of Health Records](#)

[MSC 2097 Disclosure of Protected Health Information \(PHI\)](#)

[MSC 3001 ODHS|OHA Privacy/Security Incident Report](#)

Policies

[ODHS 100-003 Uses and Disclosures of Individual Information](#)

Contact

Information Security and Privacy Office (ISPO)

Phone: 503-945-5780 (Privacy)

dhs.privacyhelp@dhsoha.state.or.us

U. S. Department of Health and Human Services, Office for Civil Rights

Medical Privacy, Complaint Division

200 Independence Avenue, SW

Washington, D.C. 20201

Toll free Phone: 877-696-6775

Phone: 866-627-7748

TTY: 886-788-4989

Email: <mailto:OCRComplaint@hhs.gov>

Policy History

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