

*Oregon Association of Hospitals and Health Systems
HIPAA Taskforce*

ACCOUNTING FOR DISCLOSURES

45 CFR 164.528 provides that an individual has a right to receive an accounting of disclosures of protected health information made by a covered entity in the six years prior to the date on which the accounting is requested, except for disclosures:

- To carry out treatment, payment and health care operations as provided in 45 CFR 164.506;
- To individuals of protected health information about them as provided in 45 CFR 164.502;
- Incident to a use or disclosure otherwise permitted or required by this subpart, as provided in 45 CFR 164.502;
- Pursuant to an authorization as provided in 45 CFR 164.508;
- For the facility's directory or to persons involved in the individual's care or other notification purposes as provided in 45 CFR 164.510;
- For national security or intelligence purposes as provided in 45 CFR 164.512(k)(2);
- To correctional institutions or law enforcement officials as provided in 45 CFR 512(k)(5);
- As part of a limited data set in accordance with 45 CFR 164.514(e); or
- That occurred prior to the compliance date for the covered entity.

The following is a list of disclosures that hospitals must account for pursuant to a request for accounting under 45 CFR 164.528. As with anything related to HIPAA compliance, this list reflects a good faith analysis of the law but likely will be subject to change as implementation proceeds. The following list assumes disclosure of more than the limited data set. Hospitals must account for disclosures:

- To Health Services as required by law or pursuant to Health Services survey authority, including:
 - Infectious disease reporting
 - Fetal death
 - Birth certificates
 - Death certificates
 - Teen suicide
 - Intimate Partner Violence survey reporting
 - Newborn Screening
 - Oregon Death with Dignity
 - Reports of Death for purposes of organ donation
- To State Medical Examiner, such as reporting of gunshot wounds
- To coroners and funeral directors

- To Advisory Boards, such as the State Trauma Advisory Board
- To Attorneys, pursuant to subpoena or court order. Notably, releases to attorneys (or anyone else) pursuant to patient authorization do not need to be accounted for.
- To organ donation agencies
- To Registries, external to the hospital and mandated, including:
 - Cancer Registry
 - Immunization Registry
 - Trauma Registry
 - National Practitioner Databank
- To Department of Human Services or law enforcement regarding elder abuse, child abuse or abuse of mentally ill or developmentally disabled persons
- To and by business associates, unless disclosure is for exempt purpose (treatment, payment or health care operations)
- To public health authority or local animal control (victims of dog bites)
- To Department of Motor Vehicles
- To Health oversight agencies such as Department of Human Services acting in their role as a regulating agency, such as disclosures for purposes of audit. Notably, disclosures to JCAHO need not be accounted for.
- Pursuant to subpoenas and court orders
- To investigators, mental health examiners and the court for purposes of mental commitment
- To law enforcement, unless 1) disclosure is made pursuant to authorization; or 2) law enforcement has requested that accounting not be provided for a specified period of time
- To practitioner licensure agencies and boards
- Related to research performed with a waiver of authorization (unless only limited data set information is disclosed)
- To State Crime lab, if 1) specimen is accompanied by a label with protected health information on it; and 2) release is performed without authorization
- To the Food and Drug Administration or person/entity subject to the jurisdiction of the FDA for purposes related to the quality, safety or effectiveness of a FDA-regulated product or activity.
- Related to reviews preparatory to research
- Related to research involving PHI of decedents