



**DEPARTMENT OF MENTAL HEALTH  
POLICY/PROCEDURE**

<b>SUBJECT</b> <b>ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION</b>	<b>POLICY NO.</b>  <b>501.03</b>	<b>EFFECTIVE DATE</b>  <b>04/14/2003</b>	<b>PAGE</b>  <b>1 of 6</b>
<b>APPROVED BY:</b>  Director	<b>SUPERSEDES</b> <b>500.6</b> <b>04/14/2003</b>	<b>ORIGINAL ISSUE DATE</b>	<b>DISTRIBUTION LEVEL(S)</b> <b>1</b>

**PURPOSE**

- 1.1 To permit clients to request an accounting of the disclosures of their Protected Health Information (PHI).

**POLICY**

- 2.1 The Department of Mental Health (DMH) will permit clients to request an accounting of disclosures of PHI. The client has the right to receive an accounting of disclosures made by DMH during a time period specified up to six (6) years prior to the date of the request, but not before April 14, 2003, including disclosures to or by business associates or MOU Departments.

**2.2 Accounting Requirements – General**

The accounting must include all disclosures, **except** for disclosures:

- 2.2.1 to carry out treatment, payment and health care operations
- 2.2.2 to clients of PHI about themselves
- 2.2.3 incident to a use or disclosure otherwise permitted or required by the Privacy Regulations;
- 2.2.4 pursuant to the client’s authorization;
- 2.2.5 for a facility directory or to persons involved in the client’s care or other notification purposes (e.g., disaster relief assistance) permitted by law;
- 2.2.6 for national security or intelligence purposes;



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- 2.2.7 to correctional institutions or law enforcement officials to provide them with information about a person in their custody.
- 2.2.8 as part of a limited data set; or
- 2.2.9 that occurred prior to the compliance date.
- 2.3 Examples of disclosures subject to the accounting requirement include, but are not limited to, disclosures for or pursuant to:
  - 2.3.1 research, unless authorized by the client;
  - 2.3.2 subpoenas, court orders or discovery requests;
  - 2.3.3 abuse and/or neglect reporting;
  - 2.3.4 communicable disease reporting;
  - 2.3.5 or other reports to the Department of Health such as tumor registry, etc.
- 3.1 **Accounting Requirements – Research Involving More than 50 Participants**

If, during the period covered by the accounting, DMH made disclosures of Protected Health Information for a particular research purpose for 50 or more individuals, the accounting may, with respect to such disclosures for which the PHI about the client may have been included, provide:

  - 3.1.1 the name of the protocol or other research activity
  - 3.1.2 a description, in plain language, of the research protocol or other research activity, including the purpose of the research and the criteria for selecting particular records;
  - 3.1.3 a brief description of the type of PHI that was disclosed;
  - 3.1.4 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;



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- 3.1.5 the name, address and telephone number of the entity that sponsored the research and of the researcher to whom the information was disclosed; and
- 3.1.6 a statement that the PHI of the client may or may not have been disclosed for a particular protocol or other research activity.
- 3.2 If DMH provides an accounting for research disclosures as described above, and if it is reasonably likely that the PHI of the client requesting the accounting was disclosed for such research, DMH shall, at the request of the client, assist in contacting the entity that sponsored the research and the researcher.
- 3.3 The research accounting provision above permits DMH to meet the requirement for research disclosures if it provides clients with a list of all protocols for which their PHI may have been disclosed for research purposes pursuant to a waiver of authorization by the Institutional Review Board (IRB). To use this method of accounting the disclosure must involve at least 50 records.
- 4.1 **Suspension of Accounting**
  - A client’s right to receive an accounting of disclosure may be suspended at the request of a health oversight agency or law enforcement official if certain conditions are satisfied.
  - 4.1.1 If DMH receives a request to suspend client’s right to receive an accounting from a health oversight agency or law enforcement official, County Counsel should be contacted to determine if the appropriate conditions have been satisfied.
  - 4.1.2 If the request from a health oversight agency or law enforcement is oral, DMH shall document the statement, including the identity of the agency or official making the request and temporarily suspend the individual’s right to an accounting.
  - 4.1.3 Such suspension shall be no longer than thirty (30) days from the date of the oral statement, unless a written statement is submitted during the 30 days with a time frame exceeding the 30 days.



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4.1.4 A written statement from a health oversight agency or law enforcement to request suspension of accounting must state that such accounting would be reasonably likely to impede their activities. The written statement must also specify the time for which a suspension of rights is required.

**PROCEDURE**

- 5.1 A client must request an accounting for disclosure in writing using the **Accounting Request Form** (Attachment I). **Verification of the requester's identity must be obtained prior to granting the request for an accounting.** Clients making their request for an accounting by telephone or e-mail should be sent a copy of the form. The request form must be maintained in the client's medical record for a minimum of six (6) years.
- 5.2 Any DMH facility that receives a request for an accounting of disclosures should provide the client with the **Accounting Request Form.**
- 5.3 DMH shall designate an individual or individuals who will be responsible for processing requests for accounts of disclosures. DMH shall document the titles of the persons or offices responsible for receiving and processing requests for an accounting of disclosures.
- 5.4 For each disclosure that must be recorded, the accounting must include the following information:
  - 5.4.1 the date of the disclosure;
  - 5.4.2 the name of the entity or person who received the PHI and, if known, the address of such entity or person;
  - 5.4.3 a brief description of the PHI disclosed; and
  - 5.4.4 a brief statement of the purpose of the disclosure that reasonably informs the client of the basis for the disclosure.



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- 5.5 The **Account Tracking Sheet** (Attachment II) must be used to record disclosure and must be maintained in a client’s medical record for a period of at least six (6) years from the date of the last accounting.
- 5.6 The **Accounting Request Form** must be maintained in a client’s clinical record and must be maintained for six (6) years.
- 5.7 If, during the period covered by the accounting, DMH has made multiple disclosures of PHI on to the same person or entity for a single purpose, or pursuant to a single authorization, the accounting may, with respect to such multiple disclosures, provide:
  - 5.7.1 the information set forth in Section 2.3 above for the first disclosure
  - 5.7.2 the frequency, periodicity or number of disclosures made during the accounting period; and
  - 5.7.3 the date of the last such disclosure during the accounting period.
- 5.8 DMH will act on the client’s request for an accounting no later than sixty (60) days after receipt of such a request, using the **Letter Responding to Client’s Request for Accounting of Disclosures** (Attachment III) by providing a copy of the **Account Tracking Sheet**. If DMH deems it necessary, it may request an additional thirty (30) day extension to act on the request. Only one extension period is permitted. The client must be notified of the delay in writing, within the original sixty (60) day time limit indication the reason(s) for the delay and the date by which the accounting will be provided.
- 5.9 The first accounting of a client in any twelve (12) month period must be provided at no charge. DMH may impose a reasonable, cost-based fee for each subsequent request for an accounting by the same client within the twelve (12) month period, provided that DMH informs the client in advance of the fee and provides the client with an opportunity to withdraw or modify the request for a subsequent accounting in order to avoid or reduce the fee.

**DOCUMENTATION RETENTION**



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6.1 All documents required to be created or completed under this policy and procedure will be retained for a period of at least six (6) years from the date of its creation or the date when it was last in effect, whichever is later.

**AUTHORITY**

HIPAA, 45 CFR § 164.528(a)

**ATTACHMENTS**

- Attachment I Accounting Request Form
- Attachment II Account Tracking Sheet
- Attachment III Letter Responding to Client’s Request for Accounting of Disclosures