

Alaska Native Medical Center

Patient Right to Accounting of Disclosures Procedure #1008-01

Reference Policy: Patient Rights to Health Information under the Privacy Rule Policy #1008

1. Purpose:

To honor a patient's right to receive an Accounting of Disclosures of their protected health information (PHI), in accordance with the Privacy Rule at 45 C.F.R. §164.528.

2. Scope:

The ANMC accredited campus and its staff, including employees, residents, non-physician interns, students, volunteers, and contractors.

3. Definitions:

3.1. Disclosure means the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information. Disclosures include information divulged in a hard-copy format, verbally, electronically, or in any other manner.

4. Accounting of Disclosures Procedure:

4.1. **General Right to Receive an Accounting.** ANMC documents disclosures of PHI where the patient is not given the opportunity agree or object and honors patients' rights to receive an accounting of disclosures.

4.1.1. For paper records, patients have a right to receive an accounting of disclosures for a period of up to six years prior to the date of the request.

4.1.2. ANMC must account for disclosures made without a patient authorization, except as set forth in this procedure. Generally, disclosures that must be logged include: (1) certain disclosures of PHI related to research and (2) public policy disclosures. ANMC must also account for inadvertent or erroneous disclosures of PHI.

4.2. **Disclosures requiring an Accounting.**

4.2.1. Disclosures of PHI for Research. ANMC must account for the following disclosures of PHI for research purposes, made based on: (a) an IRB-approved waiver of a HIPAA-compliant authorization; (b) an Investigator certification the use of PHI is "preparatory to research;" or (c) an Investigator certification he/she is conducting decedent research; unless the disclosure is solely to a researcher part of the ANMC, ANTHC, or SCF workforce and the PHI will not be shared outside of ANMC, ANTHC, or SCF.

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- 4.2.2. Public Health Activities. To a public health authority authorized by law to collect or receive information for the purpose of preventing or controlling disease, injury, or disability.
- 4.2.3. Child Abuse Reporting. To a public health authority, like Office of Children's Services (OCS) or other appropriate government authority authorized by law to receive reports of child abuse or neglect.
- 4.2.4. Elder and Dependent Abuse Reporting. To a governmental authority authorized by law to receive reports of elder and dependent abuse reporting, like Adult Protective Services (APS).
- 4.2.5. Domestic Violence Reporting. To a governmental authority authorized by law to receive reports of domestic violence. Please note, Alaska does not currently have a domestic violence reporting law.
- 4.2.6. Injuries by Firearms, Assaultive, or Abusive Conduct. To local law enforcement agencies, when treating persons with certain injuries.
- 4.2.7. FDA Reporting. To a person subject to the jurisdiction of the Food and Drug Administration.
- 4.2.8. Communicable Disease Exposure Notification. To a person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition, if ANMC is authorized by law to notify such person as necessary in the conduct of a public health intervention or investigation.
- 4.2.9. Employment-Related Disclosure. To an employer about a patient who is a member of the workforce of the employer to conduct an evaluation relating to medical surveillance of the workplace or to evaluate whether the individual has a work-related illness or injury. In addition, the employer needs such information to comply with federal or state law and notice was given to the individual at the time care was provided or there is a notice at the work site.
- 4.2.10. Health Oversight Activities. To a health oversight agency for oversight activities authorized by law, including audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight of (a) the health care system; (b) government benefit programs for which health information is relevant to beneficiary eligibility; (c) entities subject to government regulatory programs for which health

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information is necessary for determining compliance with program standards; or (d) entities subject to civil rights laws for which health information is necessary for determining compliance.

4.2.11. Law Enforcement. To law enforcement in the following cases:

- 4.2.11.1. Court Order, Subpoena, Warrant. Pursuant to a valid court order, subpoena, or warrant, all of which must have been signed by judge.
- 4.2.11.2. Patient Death. To a law enforcement official if ANMC suspects such death may have resulted from criminal conduct.
- 4.2.11.3. Identify or Locate a Suspect. To a law enforcement official to identify or locate a suspect, fugitive, material witness, or missing person.
- 4.2.11.4. Crime on Premises. To a law enforcement official to report PHI ANMC reasonably believes in good faith constitutes evidence of criminal conduct that occurred on the ANMC accredited campus.
- 4.2.11.5. Victim/Suspected Victim of a Crime. To a law enforcement official in response to a request for PHI about an individual who is or is suspected to be a victim of a crime.
- 4.2.11.6. Admission to Violent Crime. To law enforcement to identify or apprehend an individual who as admitted to participating in a violent crime ANMC reasonably believes may have caused serious physical harm to the victim, or where the totality of the circumstance suggest the individual escaped from a correctional institution or from lawful custody.
- 4.2.11.7. To Prevent a Serious and Imminent Threat of Harm. To a third party—including law enforcement, family members, employers, and the target of the threat—reasonably able to prevent or lessen a serious and imminent threat of harm.
- 4.2.11.8. Off-Premises Emergency. To a law enforcement official if it appears necessary to alert law enforcement to the commission and nature of a crime; the location of such

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crime or of the victim(s) of such crime, and the identity, description and location of the perpetrator of such crime.

- 4.2.12. Coroners or Medical Examiners. To coroners or medical examiners to assist them in carrying out their duties.
- 4.2.13. Funeral Directors. To funeral directors to assist them in carrying out their duties.
- 4.2.14. Organ and Tissue Procurement. To organ procurement organizations or tissue and eye banks for organ, eye, or tissue donation purposes.
- 4.2.15. Military and Veterans Activities. To appropriate U.S. or foreign military command authorities regarding an individual who is a member of U.S. or foreign armed forces.
- 4.2.16. Protective Services. To authorized federal officials for the provision of protective services to the President of the United States, foreign heads of state, and certain other individuals and government officials and to conduct investigations related to those protective services.
- 4.2.17. Workers' Compensation. As authorized by and to the extent necessary to comply with workers' compensation laws.
- 4.2.18. Business Associate Disclosures. By a business associate having notified ANTHC of a disclosure event.
- 4.2.19. Breach. The result of a Breach of PHI; and
- 4.2.20. Required by Law. In other instances required by law.
- 4.3. **Exceptions from Accounting Requirement.** ANMC is not required to provide a patient with an accounting of disclosures of PHI made for the following purposes:
 - 4.3.1. To carry out treatment, payment, and health care operations;
 - 4.3.2. To the patient;
 - 4.3.3. Incident to a use or disclosure otherwise permitted or required;
 - 4.3.4. Pursuant to a HIPAA-compliant Authorization, such as an ANMC Release of Information Request form;

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- 4.3.5. To a family member, caregiver, or Personal Representative for purposes related to treatment, payment, or health care operations;
 - 4.3.6. Through the Facility Directory;
 - 4.3.7. For national security or intelligence purposes;
 - 4.3.8. To correctional institutions or law enforcement officials having lawful custody of an inmate or other individual PHI about such inmate or individual, provided the use or disclosure is for (a) the provision of health care; (b) for the health and safety of the individual or other inmates or persons responsible for transporting inmates; (c) for law enforcement on the premises of the correctional institution; or (d) for maintaining the safety, security, and good order of the correctional institution; or
 - 4.3.9. As part of a limited data set.
- 4.4. **Required Exceptions.** ANMC must temporarily suspend a patient’s right to receive an accounting of disclosures made to a health oversight agency or law enforcement official if the health oversight agency or law enforcement official informs ANMC that providing such an accounting to the patient would be reasonably likely to impede the agency’s activities. The terms and lengths of the suspension will be as follows:
- 4.4.1. Written Request. The length of time specified in a written request from the health oversight agency or law enforcement official.
 - 4.4.2. Oral Request. Thirty days from the date of the health oversight agency’s or law enforcement official’s oral request for a suspension, unless ANMC receives a written request during that 30-day period, in which case ANMC will continue the suspension for the length of time specified in such written request. In the event ANMC receives an oral request, it must document the occurrence of the request, including the identity of the agency or official making the request.
5. **Patient Requests for Accounting of Disclosures:**
- 5.1. **Request Process.**
 - 5.1.1. Patients are informed of their right to request an accounting of disclosures of their PHI in the “ANMC Notice of Privacy Practices.”

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- 5.1.2. Requests may be made in writing or orally. Oral requests should be documented on a “Request for an Accounting of Disclosures form.”
- 5.1.3. Requests are managed by the Health Information Management (HIM) Department. Workforce members should direct requests to HIM.
- 5.1.4. Patients may authorize an accounting to be released to another individual or entity in a writing which includes all information required to carry out the request (name, address, phone number, etc.).
- 5.1.5. For each request, HIM verifies the requestor’s identity and authority in accordance with the *ANMC Verification of Individual’s Identity and Authority to Access Health Information Procedure*.
- 5.1.6. HIM will notify Privacy Officers of any requests.
- 5.2. **Time for Response.** ANMC will provide the individual with an accounting within 60 days of receipt of a request. If the accounting cannot be completed within 60 days, ANMC may extend the response period by providing the individual with a written statement of the reason for the delay and the expected completion date. One 30-day extension of time per request is permitted.
- 5.3. **Content of the Accounting.**
 - 5.3.1. Required Content. The accounting must include the following information:
 - 5.3.1.1. The date of the disclosure;
 - 5.3.1.2. The name of the entity or person who received the PHI and, if known, the address of such entity or person;
 - 5.3.1.3. A brief description of the PHI disclosed; and
 - 5.3.1.4. A brief statement of the purpose of the disclosure reasonably informing the patient the basis for the disclosure.
 - 5.3.2. Multiple Disclosures Exception. If, during the accounting period (6 years from the date of the request for paper records or 3 years from the date of the request for electronic health records, unless the patient requests an accounting for a shorter time period), ANMC has made three or more disclosures of PHI to the same person or entity (other than the patient), the written accounting may contain the following:

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- 5.3.2.1. The information listed above for the first disclosure during the accounting period;
- 5.3.2.2. The frequency or number of disclosures made during the accounting period; and
- 5.3.2.3. The date of the last such disclosure during the accounting period.
- 5.3.3. IRB Waiver Exception. For research protocols having received an IRB approved waiver of a HIPAA-compliant authorization and require disclosure of PHI maintained by ANMC for 50 individuals or more, ANMC may instead provide the following accounting for those records:
 - 5.3.3.1. The name of the protocol or other research activity;
 - 5.3.3.2. A description, in plain language, of the research protocol or other research activity, including the purposes of the research and the criteria for selecting particular records;
 - 5.3.3.3. A brief description of the type of PHI disclosed;
 - 5.3.3.4. The date or time period during which such disclosures occurred, or may have occurred, including the date of the last such disclosure during the accounting period;
 - 5.3.3.5. The name, address, and telephone number of the entity sponsoring the research and of the researcher to whom the information was disclosed; and
 - 5.3.3.6. A statement that the PHI of the individual may or may not have been disclosed for a particular protocol or other research activity.
 - 5.3.3.7. If it is reasonably likely the patient's PHI was disclosed for the research protocol or activity, HIM will, at the patient's request, assist in contacting the research sponsor and the researcher.
- 5.4. **Cost.** ANMC provides accountings at no charge for a request made once during any twelve-month period. A reasonable cost-based fee may be charged for any additional requests made during a twelve-month period, provided the individual is

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informed of the fee in advance and given an opportunity to withdraw or modify the request.

- 5.5. **Record Keeping.** ANMC will maintain for at least six years: (a) an accounting of disclosures on each patient; (b) written requests for an accounting; (c) written accountings provided to an individual; (d) and records of the titles and names of the people responsible for receiving and processing accounting requests.

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Authority to Approve	Director, Health Information Services
Approval Date	8/27/2018
Effective Date	8/27/2018
Supersedes	New
Responsible for Review	Executive Management Team

Official Signature on file o/s:
Roald Helgesen
ANMC Administrator