

Simple Steps to Tracking Disclosures

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The many exceptions to the HIPAA privacy rule's accounting of disclosures standard make it difficult to determine what must be tracked. Although the rule gives patients the right to receive an accounting of disclosures of their health information, it lists several exceptions. This article offers a process that will help your organization determine what needs to be tracked.

Make a List

Perhaps the easiest way to determine what must be tracked is to list the types of disclosures made in your organization. When compiling the list, include all types of disclosures from the designated record set. Remember that the designated record set includes both billing and clinical information. It is also important to list disclosures made by departments other than HIM—for example, radiology, social services, and nursing.

Next, check each disclosure against the privacy rule's list of exceptions. These exceptions are:

- to carry out treatment, payment, and healthcare operations
- to the individual
- for directory or notification purposes
- to federal officials for the conduct of national security
- to a correctional institution or law enforcement official having lawful custody of an individual
- pursuant to a valid authorization (if the proposed amendment becomes final)

For example, as shown in "Sample Disclosure List," below, the first disclosure is to a third-party payer for the purpose of obtaining pre-authorization. The privacy rule does not require that this disclosure be tracked. It defines payment to include pre-authorization and accepts disclosures for payment from the tracking requirement. Therefore, according to the privacy rule, the provider need not track disclosures for pre-authorization.

After checking the disclosure against the privacy rule's exceptions, place a notation to the right of the disclosure indicating whether tracking is necessary, and, if not, why not. Such records will be helpful if the Department of Health and Human Services ever questions the organization's decision not to track a certain type of disclosure.

Check It Twice

Repeat this process for each disclosure on the list. After evaluating each disclosure listed against the exceptions in the privacy rule, use a similar process to evaluate each disclosure against state laws or regulations.

In the sample list provided, the state requires that disclosures to the individual be tracked. The privacy rule does not. When state tracking requirements are more stringent than those of the privacy rule, the organization must track the disclosure.

Organizations will find that the privacy rule requires that very few disclosures be tracked. They must, however, comply with state law when it requires tracking that the privacy rule does not. Organizations may find that many disclosures that must be tracked are not made from the HIM department, but rather by departments such as information services or nursing. Sometimes it can be difficult to determine whether some disclosures must be tracked. In such situations, organizations may want to seek legal counsel.

Replicating the process above will help organizations design an effective disclosure tracking system that captures all required disclosures.

Sample Disclosure List

Disclosures	Tracking Required by HIPAA?	Tracking Required by State?	Rationale for HIPAA Tracking Exception	Rationale for State Tracking Exception
Pre-admission Clinic				
Obtaining pre-authorization	no	no	payment	third-party payer
Providing limited demographic information to contract lab for admission lab work	no	no	treatment	healthcare
Volunteers				
Providing directory information to individuals who ask for the patient by name	no	no	directory	directory
Nursing				
Reporting infectious diseases to public health authority as required by law	no	yes	healthcare operations— population based	
Reporting potential child abuse to appropriate government authority as required by law	yes	yes		
Reporting gunshot wounds to appropriate government authority as required by law	yes	yes		
Communicating needed information to secure needed services for patient from contracted dietary, lab, and therapy departments	no	no	treatment	healthcare
Communicating information to patients' physicians	no	no	treatment	healthcare
Communicating the patient's status to the patient's family appropriate to their involvement in the patient's care	no	no	treatment	oral information
Producing a surgery schedule for coordination of services; used by numerous departments within the organization	no	no	treatment	healthcare
Lab				
Sending physician copies of lab results to physicians' offices	no	no	treatment	healthcare
Radiology				
Patients picking up original copies of x-rays	no	yes	individual	
Sending original copies of x-rays to other physicians	no	no	treatment	healthcare
Sending copies of x-ray reports to physicians' offices	no	no	treatment	healthcare
Health Information Management				

Disclosing information to individuals identified by the patient in a valid authorization	decision pending	yes	depends on whether proposed privacy rule amendment becomes final	
Allowing patients access to or copies of their health information	no	yes	individual	
Sending copies of dictated reports to the patient's physician (and other physicians as directed by the dictating physician)	no	no	treatment	
Reporting births and deaths to Vital Statistics	yes	no		doesn't meet definition of disclosure
Allowing third-party payers who contract with the organization to conduct audits of record	no	no	payment	third-party payer
Allowing risk management insurer to audit the records as part of their premium setting	no	no	healthcare operations	actuarial
Allowing financial auditors to access the records to see if documentation supports bills	no	no	payment	third-party payer
Providing third-party payers with copies of reports in health records to substantiate charges and facilitate payment	no	no	payment	third-party payer
Providing access to record to legal department at malpractice insurer in anticipation of legal action	no	no	healthcare operations	legal
Providing attorneys with copies of a record in anticipation of legal action	no	no	healthcare operations	legal
Allowing researchers with appropriate institutional review board approval to access records	see note in rationale column	see note in rationale column	doesn't require tracking if information is de-identified or if for improving health, reducing costs, or protocol development	will need to evaluate specific studies against the requirements
The provision of records or data to committees charged with credentialing or performance improvement activities	no	no	healthcare operations	quality assurance peer review
Allowing the Joint Commission access to health information for accreditation purposes	no	no	quality assessment and improvement	administrative
Utilization Management				
Obtaining certification for continued stay	no	no	payment	third-party payer
Discharge Planning or Social Services				
Sending information to another healthcare provider for potential transfer	no	no	treatment	healthcare
Information Services				
Sending cost report information to the state	see note in rationale column	no	depending on purpose may fall under definition of healthcare operations	doesn't meet the definition of a

				disclosure of the patient's record
Generation of fund-raising letters using patient demographic information	no	no	healthcare operations	not considered health information
Patient Accounts				
Sending copies of the itemized bill to the patient's attorney on receipt of a valid authorization	decision pending	no	depends on whether proposed privacy rule amendment becomes final	disclosures of billing information do not have to be tracked
Sending copies of the itemized bill upon request to the patient or guarantor when concerns are expressed about the charges	no	no	payment	disclosures of billing information do not have to be tracked

This sample form was developed by AHIMA for discussion purposes only. It should not be used without review by your organization's legal counsel to ensure compliance with local and state laws.

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