

HIPAA Accounting and Doc Policies.
DRAFT POLICIES FOR OPUS AND FOR USE IN PHI MANAGEMENT MODULES
ACCOUNTING, DOCUMENTATION, AUTHORIZATIONS
February 3, 2003

Implementation Policy: Documentation Required. The Privacy Rule requires the SHCC to document and retain for six years the documentation of the following:

1. Business Associate Agreements—document and maintain copies of Business Associate Agreements;
2. Authorizations—document and maintain copies of all signed Patient Authorizations;
3. Waiver of Authorizations for Research Purposes—receive from the researcher requesting PHI documentation that the IRB has approved a Waiver of Authorization and met the HIPAA-required criteria for a Waiver of Authorization;
4. Decedents—the SHCC may require that researchers provide documentation that individuals are deceased when requesting Decedent PHI for research purposes;
5. Notice—maintain copies of the Notice, written acknowledgements of receipt, and good faith effort to obtain written acknowledgement;
6. Restriction—document any agreed to restrictions;
7. Access—document the DRS that are subject to access by individuals and the titles of the persons or offices responsible for receiving and processing requests for access by individuals;
8. Amendment—document the titles of the persons or offices responsible for receiving and processing requests for amendments by individuals;
9. Accounting—document the information required to be in an accounting (see 164.503 (j)); the written accounting that is provided to the individual; titles of the persons or offices responsible for receiving and processing requests for an accounting; statement of the law enforcement or health oversight agency or official (if made orally) who has requested that the SHCC temporarily suspend accounting because it could impede the agency's activities;
10. Personnel Designations—document the privacy official and contact person or office who is responsible for receiving complaints;
11. Training—document that the SHCC has provided training to all members of the workforce on the policies and procedures as necessary and appropriate for the members to carry out their function within the covered entity
12. Complaints—document all complaints received and their disposition, if any
13. Sanctions—document any sanctions that are applied against members of the workforce who fail to comply with the privacy policies and procedures of the SHCC
14. Changes to policies and procedures or privacy practices as described in the Notice—document any changes to policies and procedures prior to the effective date of the change and make appropriate changes to the Notice
15. SHCC's HIPAA Policies and Procedures---document system and local policies and procedures

Implementation Policy: Additional Documentation Required by the SHCC. While not specifically required in the Privacy Rule, the SHCC has determined that it is in the best interest of the patient and UC to retain documentation for the following (note: HIPAA requires that the covered entity provide written responses in all of the following circumstances but not written requests):

1. Data Use Agreements;
2. Verifications of identity of public officials requesting information;
3. Patient written requests for Restrictions;
4. Patient written request for access to or copies of the DRS, SHCC response to the patient's request, written denial of the request, written statement of the reason for a delay in taking timely action on the request, written rebuttal statement, and any other written actions;
5. Patient written request for amendments to PHI, SHCC's written denial of the amendment, written statement for reasons for delay in responding to requests, patient's written statement disagreeing with the denial of the amendment, SHCC's written rebuttal;
6. Patient written requests for an accounting, written statement for reasons for delay in responding to requests;
7. Patient written request for confidential communications of PHI and SHCC response;
8. SHCC's training materials;
9. Accounting—when a law enforcement or health oversight agency has submitted a written request to temporarily suspend accounting, the SHCC should document the written request;
10. Notification of victims of abuse, neglect or domestic violence—notify the individual of any disclosures to governmental agencies or, if the professional determination has been made not to notify the individual or individual's personal representative, document why;
11. Permitted disclosures for judicial and administrative proceedings—documentation required from a party seeking PHI in a judicial or administrative proceeding should be maintained by the SHCC; and
12. Researcher's request for decedent information—SHCC may request documentation from researcher of death of subject.

Implementation Policy: Accounting of Disclosures. When the patient provides a written request for the accounting, the SHCC must provide a patient with an accounting of the following uses and disclosures of PHI made by the SHCC in the six years prior to the date on which the accounting was requested:

1. Required by law (except where excepted in IP);
2. Public health activities (except for Disaster Relief purposes);
3. To the individual's employer when the SHCC provides health care to the employee at the request of the employer or when the employer is UC when the disclosure is for medical surveillance in the workforce or a work-related illness or injury and for worker's compensation if not authorized by the individual;
4. To a government authority authorized to receive reports about suspected abuse, neglect or domestic violence (note: the SHCC should have notified the individual of the disclosure unless it believed it was not in the individual's best interest);
5. To health oversight activities for health oversight activities;
6. For judicial and administrative proceedings;
7. Disclosures to law enforcement officials for law enforcement purposes, including information regarding a suspect, fugitive, material witness or missing person or victims of crime or crimes on premises;
8. Disclosures for transplant purposes to organ procurement organizations (???if requested by family member or personal representative);

9. To avert a serious threat to the health or safety (except when an suspension of accounting is requested as described below);
10. For specialized government functions (except for national security and intelligence activities and law enforcement custodial activities as described below), including for protected services for the President and others;
11. For military and veterans activities;
12. Administration of public benefits programs; and
13. Research disclosures under Waiver of Authorizations (see special accounting procedures under Accounting Standard), including what HIPAA defines as “review preparatory to research” but UC IRB policies defines as research.

Implementation Policy: Exception to Accounting of Disclosures. The Privacy Rule requires the SHCC to provide a patient with an accounting of the disclosures of the patient’s PHI made by the SHCC in the six years prior to the date on which the accounting is requested EXCEPT for the following uses and disclosures:

1. Treatment, payment and health care operations;
2. To Business Associates who have entered into either a Business Associate Agreement or Amendment as required, so long as the disclosure is for payment and operations or when the individual has signed an Authorization for the disclosure;
3. To the individual;
4. Incidental to treatment, payment and operations;
5. Authorized by the individual with a signed HIPAA-authorization;
6. Part of a Limited or Deidentified Data Set;
7. Facility directory (note: individual must have an opportunity to agree or object);
8. Individuals involved in the patient’s care (note: individual must have an opportunity to agree or object), including others when the individual is present and to persons who should be notified of the individual’s location, general condition or death;
9. Disaster relief purposes;
10. For national security or intelligence purposes to authorized federal officials for the conduct of lawful intelligence, counter-intelligence and other national security activities authorized by the National Security Act;
11. To correctional institutions or law enforcement officials for custodial situations so long as the use or disclosure is for: the provision of health care, health and safety of the individual or other inmates or persons responsible for transporting inmates; law enforcement on the premises and for maintaining the good order of the correctional institution;
12. To health oversight or law enforcement agency who request temporary suspension of accounting because it may impede their activities (see documentation requirement); and
13. Those that occurred prior to April 14, 2003.

Implementation Policy 6-6: The SHCC must obtain a signed Authorization for uses and disclosures that are not otherwise permitted by the Privacy Rule or required by law, including the following:

1. Use or disclosure of psychotherapy notes, except:
 - a. Use by the originator of the notes for treatment;
 - b. Use or disclosure by the SHCC of its own training programs in which students, trainees or practitioners in mental health learn under supervision to practice or improve their skills in group, joint, family or individual counseling; or
 - c. Use or disclosure by the SHCC to defend itself in a legal action or other proceeding brought by the individual; and
 - d. Use or disclosure that is required or permitted with respect to oversight of the originator of the notes.
2. For marketing of PHI to third parties (see Standard Ten), and the Authorization must state whether the SHCC receives any direct or indirect remuneration from the third party. Authorization is not required for:
 - a. Communications that are face-to-face between the SHCC and the individual;
 - b. Communications that describe the SHCC's own products or services to an individual; or
 - c. Promotional gifts from the SHCC to the individual;
3. IRB-approved research protocol that requires informed consent and the individual's Authorization;
4. Use of research data that was obtained prior to April 2003 with an IRB-approved Waiver of Consent, but the IRB has subsequently determined that the protocol post-April 2003 requires informed consent and/or the researcher wants to enroll new subjects and the criteria for a HIPAA required Waiver of Authorization cannot be met¹;
5. Disclosure of PHI to the patient's employee (including those situations when the patient is a UC employee and the disclosure is to UC), except:
 - a. When the use and disclosure is for public health activities;
 - b. To conduct an evaluation relating to medical surveillance of the workplace; or
 - c. To evaluate whether the individual has a work-related illness or injury,².
6. Use of a list for fundraising activities that has been created using disease or treatment PHI or that clearly identifies an individual and his/her specific disease or treatment;
7. Use and Disclosure of PHI to the media or through other forms of external communications;
8. Creation of disease or treatment specific data bases (that have not been deidentified or with limited data sets) for purposes of institutional advancement or external communications activities;
9. Use of disease or treatment specific data bases (that are not deidentified or limited data sets) created prior to April 2003 if those data bases were not created with specific legal permission from the individuals whose PHI is included in the data base;
10. The SHCC may not disclose PHI to another covered entity without authorization for the following operational activities of the other entity: resolution of internal grievances, customer service, medical review or auditing activities; or

¹ The researcher can seek approval to use deidentified data or a limited data set without patient Authorization or IRB approved Waiver of Authorization. See Standard Nine.

² The PHI that is disclosed to the employer must consist of findings concerning the work-related illness, or injury or to comply with federal law or similar state law. The SHCC must provide written notice to the individual that PHI relating to the medical surveillance of the workplace and work-related illnesses and injuries is disclosed to the employer. The Notice can be provided at the time of health care delivery or by posting the Notice at the site of delivery

11. When PHI regarding an injured worker's previous condition is not directly related to the claims for compensation.