

	<b>Privacy</b>	<b>Rio Grande Valley HIE</b>	<b>Policy: P5</b>
	<b>Effective Date</b> 01/15/2014	<b>Last Date Revised/Updated</b> 01/14/2014	<b>Date Board Approved:</b> 01/14/2014
<b>Subject: Right to an Accounting of Disclosures of PHI</b>			

**FEDERAL REGULATION:**

45 CFR 164.528; HITECH Act, Section 13405(c) **Note, NPRM released May 31, 2011, once final this may need to be amended.**

ONC-HIE-PIN-003. Privacy and Security Framework Requirements and Guidance for the State Health Information Exchange Cooperative Agreement Program.

**POLICY:**

When HIEs store, assemble, or aggregate protected health information, individuals have the right to request and review documentation to determine who has accessed their information and to whom it has been disclosed. It is RGV HIE’s policy to comply with all HIPAA requirements related to the right to an accounting of disclosures. Initially, RGV HIE does not intend to implement a database or engage in storing, assembling, or aggregating protected health information. This policy will apply once RGV HIE implements a database or otherwise engages in storing, assembling, or aggregating data.

Both RGV HIE’s and the Participating Providers’ Notice of Privacy Practices shall inform individuals of the process for requesting an accounting. RGV HIE’s Notice of Privacy Practices will be posted on the RGV HIE website.

An individual has a right to receive an accounting of disclosures of protected health information made by RGV HIE in the three years prior to the date on which the accounting is requested, except for disclosures:

- 1) To individuals of protected health information about themselves
- 2) Incidental to a use or disclosure otherwise permitted or required by HIPAA
- 3) Pursuant to an authorization
- 4) To persons involved in the individual’s care or other notification purposes

- 5) For national security or intelligence purposes
- 6) To correctional institutions or law enforcement officials
- 7) As part of a limited data set
- 8) For any period prior to 2011.

RGV HIE temporarily suspends an individual's right to receive an accounting of disclosures to a health oversight agency or law enforcement official for the time specified by such agency or official, if such agency or official provides RGV HIE with a written statement that an accounting to the individual would be reasonably likely to impede the agency's activities and specifying the time for which such a suspension is required. If the agency or official statement is made orally, RGV HIE:

- 1) Documents the statement, including the identity of the agency or official making the statement;
- 2) Temporarily suspends the individual's right to an accounting of disclosures subject to the statement; and
- 3) Limits the temporary suspension to no longer than 30 days from the date of the oral statement, unless a written statement is submitted during that time.

An individual may request an accounting of disclosures for a period of time less than three years from the date of the request.

#### **Content of the Accounting**

RGV HIE provides the individual with a written accounting that meets the following requirements:

- 1) The accounting includes disclosures of protected health information that occurred during the three years (or such shorter time period at the request of the individual) prior to the date of the request for an accounting.
- 2) The accounting includes for each disclosure:
  - a) The date of the disclosure
  - b) The name of the entity or person who received the protected health information and, if known, the address of such entity or person
  - c) A brief description of the protected health information disclosed

- d) A brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure; or, in lieu of such statement, a copy of written request for a disclosure.
- 3) If, during the period covered by the accounting, RGV HIE has made multiple disclosures of protected health information to the same person or entity for a single purpose, or pursuant to a signed authorization, the accounting may, with respect to such multiple disclosures, provide:
    - a) The information for the first disclosure during the accounting period
    - b) The frequency, periodicity, or number of the disclosures made during the accounting period
    - c) The date of the last such disclosure during the accounting period.

RGV HIE acts on the individual's request for an accounting, no later than 60 days after receipt of such a request, as follows:

- 1) RGV HIE provides the individual with the accounting requested; or
- 2) If RGV HIE is unable to provide the accounting within the time required, RGV HIE may extend the time to provide the accounting by no more than 30 days, provided that:
  - a) RGV HIE, within the time limit set, provides the individual with a written statement of the reasons for the delay and the date by which RGV HIE will provide the accounting; and
  - b) RGV HIE may have only one such extension of time for action on a request for an accounting.

RGV HIE provides the first accounting to an individual in any 12 month period without charge. RGV HIE may impose a reasonable, cost-based fee for each subsequent request for an accounting by the same individual within the 12 month period, provided that RGV HIE informs the individual in advance of the fee and provides the individual with an opportunity to withdraw or modify the request for a subsequent accounting in order to avoid or reduce the fee.

RGV HIE documents the following and retains this documentation for six years from the date of its creation or the date when it last was in effect, whichever is later:

- 1) The information required to be included in an accounting for disclosures of protected health information;
- 2) The written accounting that is provided to the individual; and

- 3) The titles of the person or office responsible for receiving and processing requests for an accounting by individuals.

**PROCEDURE:**

***Maintaining Documentation of Disclosure of Information***

1. RGV HIE designates the Privacy Officer to be responsible for receiving and processing requests for an accounting by patients. RGV HIE is required to document and retain the titles of the person or office responsible for receiving and processing requests for an accounting by patients, for a period of six years from the date of its creation or the date when it was last in effect, whichever is later.
2. RGV HIE is required to document and retain the information required to be included in an accounting for disclosures of protected health information for six years from the date of its creation or the date when it was last in effect, whichever is later. All disclosures of patient health information will be documented electronically in the patient's individual health record.
3. RGV HIE is required to document and retain the written accounting that is provided to the individual for six years from the date of its creation or the date when it was last in effect, whichever is later. Each accounting and all supporting documents will be maintained in the patient's health record.

***Initial Processing of Patient's Request***

1. Upon patient request for an accounting of RGV HIE's disclosure of his/her PHI, the patient must complete and sign the "Request for Accounting of Disclosure of Protected Health Information" form or submit a request in writing through an email or letter.
2. RGV HIE provides up to two (2) accountings per patient without charge, within a 12-month period. Additional accountings requested within the same 12-month period will be provided at a cost of \$5.00 each. If a fee is due, it should be collected at the time that the request is submitted. Payment must be made in order to begin processing the patient's request. The patient has an opportunity to withdraw or modify his/her request in order to avoid or reduce the fee. If patient chooses to withdraw his/her request, this should be noted on the request form and signed by both the staff person and the patient.
3. Once the signed and completed request form is received, the Privacy Officer is responsible for entering the request into the Accounting Request Schedule and ensuring that the request is completed within the designated timeframe.
4. Upon receipt of the patient's signed written request, RGV HIE has 60 days to process the request. If unable to act on the patient's request within the 60 day time period, RGV HIE has up to an additional 30 days to honor the patient's request. RGV HIE must provide the

individual with a written statement of the reasons for the delay, and the date by which the accounting will be provided. RGV HIE may have only one such extension of time for action of a patient's request for amendment.

***Accounting of Disclosure of Protected Health Information***

1. RGV HIE is required to provide the patient with a written summary of all disclosures of his/her PHI within the past three years (from the date of the request), except for omissions as required by law or an oversight agency. This includes disclosures made by business associates of RGV HIE.
2. Each disclosure included in the accounting should have:
  - a. The date of the disclosure;
  - b. The name of the entity or person who received the PHI, and the address of such entity/person, if known;
  - c. A brief description of the PHI that was disclosed;
  - d. A brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure. A copy of the written request for disclosure may be provided with the accounting, in lieu of such a statement.
3. If multiple disclosures were made to the same entity/person for a single purpose, or pursuant to a signed authorization, the accounting may provide:
  - a. The information for the first disclosure during the accounting period;
  - b. The frequency, periodicity or number of the disclosures made during the accounting period;
  - c. The date of the last such disclosure during the accounting period.
4. If during the period covered by the accounting, RGV HIE has made disclosures of PHP for a particular research purpose for 50 or more individuals, the accounting may provide:
  - a. The name of the protocol or research activity;
  - b. A plain-language description of the protocol or research activity, including the purpose of the activity and the criteria for selecting particular records.
  - c. A brief description of the type of information that was disclosed;
  - d. The date/time period that such disclosures happened/could have happened, including the last disclosure date;
  - e. Name, address and telephone number of the entity sponsoring the research/activity and the name of the researcher to whom the information was given;
  - f. A statement that the patient's protected health information may/may not have been disclosed for a particular protocol or other research activity.

If RGV HIE provides an accounting for research disclosures, and if it is reasonably likely that the protected health information of the individual was disclosed for such research protocol or activity, RGV HIE shall, at the request of the individual, assist in contacting the entity that sponsored the research and the researcher.

5. RGV HIE shall provide the patient/participant with a written response accompanied by a complete accounting of all disclosures made within the specified time period.
6. Upon written request from a provider member of RGV HIE for an accounting in response to a patient's request, RGV HIE will follow the same policy and procedures, but shall send the requested information to the provider member. It shall be the provider member's responsibility under such circumstances to respond to the patient's request

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