

## VNS HEALTH CORPORATE POLICY & PROCEDURE

**TITLE:** HIPAA Accounting for Disclosure of Patient/Member Information

**APPLIES TO:** VNS Health Home Care, including the Home Care, and Care Management Organization (CMO) divisions;  
VNS Health Personal Care;  
VNS Health Behavioral Health, Inc.;  
VNS Health Health Plans;  
VNS Health Hospice Care; and  
Medical Care at Home, P.C. (collectively, “VNS Health”)

**POLICY OWNER:** Corporate Compliance Department

**FIRST ISSUED:** August 9, 2005

**NUMBER:** HIPAA.11

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### PURPOSE

It is the policy of VNS Health is to safeguard patient information and to protect against any unauthorized access to or release of patient information. With certain exceptions (See Section B below), patients and members have a right to receive accountings of the disclosures made by VNS Health of their protected health information (“PHI”), which includes most identifiable health information related to the health care and payment for health care of a patient and members (including demographic information). This Policy describes how VNS Health will record certain disclosures of PHI and provide accountings of these disclosures to patients.

### POLICY

**A. Maintaining Records of Disclosures and Providing Accountings.** In accordance with HIPAA’s privacy regulations, VNS Health will maintain records of certain disclosures made by VNS Health of a patient’s or member’s PHI so that VNS Health can provide patients or members with an accounting of these disclosures within sixty (60) days of their request. HIPAA only grants individuals a limited right to receive an accounting of VNS Health’s disclosures of their PHI, and there are many circumstances in which VNS Health is not obligated to account for its disclosures.

**Exception:** VNS Health is not required to, and does not, account for the following disclosures:

1. Disclosures to carry out treatment, payment and health care operations;
2. Disclosures of PHI to the patient;
3. Disclosures that are incidental to an otherwise permissible or required use or

disclosure of PHI;

4. Disclosures made pursuant to a HIPAA-compliant authorization;
5. Disclosures to persons involved in the patient's or member's care and notices to family members or friends regarding the patient's or member's location, general condition and/or death, subject to the requirements of the privacy regulations;
6. Disclosures for national security or intelligence purposes, subject to applicable HIPAA requirements;
7. Disclosures to correctional institutions or law enforcement officials, subject to applicable HIPAA requirements; and
8. Disclosures of a limited data set in accordance with applicable HIPAA requirements.

**VNS Health must account for any disclosures of PHI which are not included in the list of exceptions above.** Examples of disclosures which VNS Health does need to record and account for are: responses to subpoenas (without patient authorizations) and disclosures to government officials for purposes other than those included in the above list of exceptions (for example, regulatory agency requests and reports to the state department of health would be required to be listed in the accounting log).

For those disclosures for which VNS Health needs to be able to provide an accounting, the VNS Health Chief Compliance and Privacy Officer ("Privacy Officer"), or designee, will maintain a log.<sup>1</sup> Prior accounting logs are maintained by the Privacy Officer in an archived file. Within sixty (60) days of a patient's or member's written request for an accounting, VNS Health will provide a copy of the disclosure log which will include disclosures made during the six (6) year period prior to the request (but an accounting of a shorter time period may be provided if requested by the patient). All requests for an accounting of disclosures will be submitted to, and processed by, VNS Health's Privacy Officer or designee.

**B. Time Frame for Providing the Accounting.** Except if a Temporary Suspension is in place (per Section C below), no later than sixty (60) days after VNS Health's receipt of a request for an accounting, VNS Health will:

1. Provide the individual with the accounting requested; or
2. Provide the individual with a written statement of the reasons why the accounting will not be provided by the sixty (60) day deadline, which statement will advise the individual of the date by which VNS Health will provide the accounting. VNS Health may extend the time to provide the accounting by no more than thirty (30) days and may only request one extension.

**C. Temporary Suspension of Rights to an Accounting.** VNS Health will suspend an individual's right to an accounting of disclosures to a health oversight agency or law enforcement official for a time specified by the agency or official. If an agency or official provides a written statement to VNS Health that an accounting to the individual would be reasonably likely to impede the

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<sup>1</sup> This log was formerly maintained in the Compliance Department's SharePoint site but is now maintained in the Compliance Departments HIPAA folder on the Compliance Work Group drive.

agency's activities and specify the time period during which the suspension is required.

If VNS Health only receives an oral request from the agency or official requesting a temporary suspension, VNS Health must:

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

**D. Contents of an Accounting.**

1. Generally. VNS Health will provide individuals with written accountings upon request which include the following information for each disclosure:

- (a) The date of the disclosure;
- (b) The name of the entity or person who received the patient's or member's PHI, and if known, the address of such entity or person;
- (c) A brief description of the PHI disclosed; and
- (d) A brief statement of the purpose of the disclosure that reasonably informs the patient or member of the basis for the disclosure, or in lieu of such a statement, VNS Health may instead provide a copy of a written request for a disclosure.

Accountings will include applicable disclosures made to VNS Health's business associates. VNS Health must request that its business associates provide such accounting to VNS Health within thirty (30) days of VNS Health's receipt of the patient's or member's request for the accounting.

2. Multiple Disclosures to the Same Person/Family: If, during the period covered by an accounting, VNS Health has made multiple disclosures for a single purpose to DHHS or to the same person or entity for various legal, public health, regulatory and employment purposes, then VNS Health need only include the following information about these disclosures in an accounting:

- (a) The required information listed above for the first disclosure during the accounting period;
- (b) The frequency, periodicity, or number of disclosures made during the accounting period; and
- (c) The date of the last such disclosure during the accounting period.

Further, if during the accounting period, VNS Health has made disclosures of PHI for a particular research purpose without a patient authorization for 50 or more individuals, the accounting may, with respect to such disclosures, provide:

- (i) The name of the protocol or other research activity;
- (ii) 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;
- (iii) A brief description of the type of PHI that was disclosed;
- (iv) 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;
- (v) The name, address, and telephone number of the entity that sponsored the research and of the researcher to whom the information was disclosed; and
- (vi) A statement that the PHI of the patient may or may not have been disclosed for a particular protocol or other research activity.

Note: If VNS Health provides the accounting of research disclosures described above and if it is reasonably likely that the patient's or member's PHI was disclosed for a research protocol or activity, VNS Health will upon request, assist the patient or member in contacting the entity that sponsored the research, and the researcher.

**E. Fees for Accountings.** VNS Health will provide the first accounting requested by an individual during any twelve (12) month period free of charge. Thereafter, a reasonable, cost-based fee (which includes reasonable retrieval and respond preparation and mailing costs) may be charged for each subsequent request for an accounting made by the same individual during any given twelve (12) month period. Before providing subsequent accountings, however, VNS Health will inform the individual of the estimated fee in advance and provide the individual with an opportunity to withdraw or modify their request for a subsequent accounting in order to avoid or reduce the fee.

**F. Documentation.** When VNS Health provides an accounting of disclosures of PHI, VNS Health must keep a copy of the written accounting that is provided to the individual pursuant to this Policy. In addition, VNS Health must keep copies of all information required to be included in accountings so that VNS Health may respond to accounting requests by its patients. The foregoing information must be maintained by VNS Health for six (6) years.

**REFERENCE:** 45 CFR §164.528

<b>Reviewed:</b>		11/2007	9/2013	1/2015	11/2016	4/2018	10/2019
<b>Revised &amp; Approved:</b>	8/2005 (NEW)	11/2007	9/2013		11/2016	1/2019	1/2020
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