

UW Medicine

AGREEMENT FOR ELECTRONIC ACCESS TO PROTECTED HEALTH INFORMATION

This Agreement for Electronic Access to Protected Health Information (PHI) hereinafter "Agreement" is entered into between _____ (hereinafter "Outside Entity") and the University of Washington (hereinafter UW Medicine). The University of Washington is a hybrid entity and has designated its healthcare components and non-healthcare components as described in [COMP.101 Patient Information Privacy and Security Compliance Program and Administrative Requirements](#). Pursuant to 45 CFR §164.103 and §164.105(a)(2)(iii)(C), the University's designation includes http://depts.washington.edu/comply/docs/101_G1.pdf. UW Medicine is one or more of the affiliated entities known as UW Medicine. Information about UW Medicine's Organized Health Care Arrangements can be found in [COMP.101 Patient Information Privacy and Security Compliance Program and Administrative Requirements](#) and by contacting UW Medicine Compliance at 206.543.3098 or 855.211.6193.

This Agreement is incorporated into all existing and current agreements(s) between the parties. Outside Entity must comply with all requirements for protecting PHI under the HIPAA Privacy Rule and the HIPAA Security Rule (45 CFR Parts 160 and 164 (HIPAA) and are subject to the application of civil and criminal penalties under sections 1176 and 1177 of the Social Security Act. Outside Entity must also comply with all requirements for protecting patient information under State Privacy regulations including but not limited to RCW 70.02.

The PHI disclosed and provided to Outside Entity is required by law to be protected against unauthorized use, disclosure, modification or loss. In order to comply with applicable legal requirements for the protection of information, the parties agree as follows:

Section 1. Purpose of Activities.

UW Medicine is committed to providing high quality patient care, education, and research. In furtherance of its mission, UW Medicine agrees to allow the disclosure of PHI to Outside Entity as required by laws and regulations for Outside Entity. UW Medicine also agrees to allow Outside Entity electronic access to PHI necessary to perform its _____ duties. Outside Entity will use PHI only for the scope of activities under this Agreement. Disclosure will occur through electronic access to UW Medicine Clinical Information Systems. Outside Entity understands that electronic access to the UW Medicine Information System is a privilege offered in the sole discretion of UW Medicine. UW Medicine is under no obligation to release PHI to Outside Entity in this format. Outside Entity understands and acknowledges that UW Medicine may terminate this privilege at any time for any reason.

OBLIGATIONS OF OUTSIDE ENTITY

Section 2. Use or Disclosure of PHI.

Only the minimum necessary PHI to accomplish the intended purpose of this agreement can be used or disclosed. Outside Entity shall not use or disclose PHI received from UW Medicine in any manner that would constitute a violation of federal or Washington State law, including but not limited to the Health Insurance Portability and Accountability Act and any regulations enacted pursuant to its provisions ("HIPAA Standards") or applicable provisions of Washington state law (including but not limited to: RCW 70.02 Medical Records – Health Care Information Access And Disclosure). Outside Entity shall ensure that its directors, officers, employees, contractors, and agents use or disclose PHI received from, or created or received on behalf of UW Medicine only in accordance with the provisions of this Agreement and federal and state law. Outside Entity shall not disclose PHI in any manner other than that permitted by this Agreement. Outside Entity further agrees that all information accessed through the UW Medicine Information System will be maintained in the strictest confidentiality and in the same manner as Outside Entity safeguards the confidentiality of their PHI and as required by state and federal law.

Section 3. Process for Requesting UW Medicine System Access.

Outside Entity designates a liaison to coordinate user access. The liaison is responsible for managing the modification and termination for accounts provided to Outside Entity. Outside Entity will have each individual sign the [non-UW Medicine workforce member Privacy, Confidentiality and Information Security Agreement](#) before access is granted.

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The signed form must be retained by the Outside Entity. During the account activation process on the UW Medicine Online Information portal, the liaison confirms that the form has been signed and is on file. Outside Entity warrants, represents, and ensures that each individual approved for access under this Agreement adheres to the requirements of this Agreement and Confidentiality Statement. Should there be any change in the employment or other status of the liaison, the liaison will be responsible for notifying the sponsoring administrator, director or designee and the appropriate User Access Administration. Should audits or other activities reveal a change in the liaison's status, the party identifying the change will be responsible for notifying all involved parties.

Section 4. **Safeguarding Information.**

- A. Outside Entity shall only use, store, disclose, or access PHI:
 - (1) In accordance with, and only to the extent permissible under this Agreement and;
 - (2) In full compliance with all applicable laws, regulations, rules or standards, including, but without limitation, HIPAA and RCW 70.02.
- B. Outside Entity shall have in place policies and procedures to implement and maintain all safeguards necessary to ensure the confidentiality, availability, and integrity of all UW Medicine data. Outside Entity shall deploy appropriate safeguards to implement the Secretary of Health and Human Services' annual guidance on the most effective and appropriate technical safeguards for use in carrying out security standards.
- C. Where applicable Outside Entity shall report to the Covered Entity the possible existence of identity theft (The Federal Trade Commission has regulations known as the Red Flag Rules which are part of the Fair and Accurate Credit Transactions (FACT) Act of 2003).

Section 5. **Data Ownership.**

Outside Entity acknowledges and agrees that UW Medicine owns all rights, interests and title in and to its data and that such rights, interests and title shall remain vested in UW Medicine at all times. Outside Entity shall not compile and/or distribute analyses to third parties utilizing any data received from, or created or received on behalf of UW Medicine without express written permission from UW Medicine, unless specifically authorized by federal or state law in furtherance of its public health functions.

Section 6. **Reporting of Unauthorized Use or Disclosure of PHI.**

Outside Entity shall, immediately & no later than within five (5) working days of becoming aware of an unauthorized use or disclosure of PHI by Outside Entity, its officers, directors, employees, contractors, agents or by a third party to which Outside Entity disclosed PHI, report any such disclosure to UW Medicine. Such notice shall be made to the following:

UW Medicine Compliance
Box 358049
Seattle, WA 98195-8049
(206) 543-3098
comply@uw.edu

Section 7. **Breaches Involving Unsecured PHI.**

- A. A breach is when unsecured PHI may have been used, accessed, disclosed, or acquired in a manner not permissible under the terms of this Agreement. Unsecured PHI means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology

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specified by the Secretary in the guidance issued under section 13402(h)(2) of Public Law 111-5. If Outside Entity has reason to believe that a breach has occurred, Outside Entity will, within five business days of discovery, give Covered Entity notice. An breach shall be treated as discovered by the Outside Entity as of the first day on which such breach is known to the Outside Entity, (which includes any person, other than the individual committing the incident, who is an employee, officer, or other agent of the Outside Entity) or should reasonably have been known to the Outside Entity to have occurred. Outside Entity shall give highest priority to immediately mitigate and remediate any unauthorized access and shall devote such resources as may be required to accomplish that goal. The Outside Entity shall cooperate with all Covered Entity efforts, including providing any and all information necessary to enable Covered Entity to fully understand the nature and scope of the breach including but not limited to identification of each individual who has been affected by the breach.

- B. The Outside Entity will investigate a breach of unsecured PHI to determine if the PHI has been compromised based upon a risk assessment in accordance with Section 164.402 (2).
- C. If it is determined that the PHI has been compromised, Covered Entity may provide notice or may require Outside Entity to provide notice to any or all individuals affected. In such case, Outside Entity shall consult with Covered Entity regarding appropriate steps required to notify third parties. Outside Entity must coordinate with Covered Entity any public notification to any individual, media outlet, or the Secretary of Health and Human Services.
- D. If Covered Entity determines that notification is required, the Outside Entity shall pay the full costs of notice to affected individuals, including the costs to retain an outside consulting firm to undertake the notification effort and will supply UW Medicine Compliance with the following information to make such notification:
 - (1) A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known;
 - (2) A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code); and
 - (3) A brief description of what the Outside Entity is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.
- E. Outside Entity shall indemnify, hold harmless, and defend UW Medicine from and against any penalties, claims, actions, loss, liability, damage, costs, or expenses, including but not limited to reasonable attorneys' fees, system remediation, or forensic analysis, arising from or pertaining to a breach of this agreement, the violation of any state or federal law applicable to the use, disclosure or protection of personal information or PHI, and the unauthorized access to PHI. The indemnification provided hereunder includes the full costs of notice to impacted individuals, including the costs to retain an outside consulting firm to undertake the notification effort and other costs.
- F. UW Medicine has the right, at any time, to monitor, audit, and review activities and methods in implementing this Agreement in order to assure compliance therewith, within the limits of Outside Entity's technical capabilities.

Section 8. Accounting for Disclosures.

45 C.F.R. 164.528 requires UW Medicine to account for all disclosures of PHI when requested to do so by a patient unless an exception applies. For access to PHI by Outside Entity (that is) a disclosure and subject to an Accounting of Disclosures, UW Medicine and Outside Entity agree to account for disclosures as follows:

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- (1) Outside Entity will upload an electronic file weekly to the UW Medicine Accounting of Disclosures database (<http://depts.washington.edu/comply/compliance-programs/hipaa-program/accounting-of-disclosures/>), for all accesses which require an accounting; and
- (2) The parties intend this section to comply with 45 C.F.R. 164.528 and informal guidance issued by the U.S. Department of Health and Human Services, Office for Civil Rights. If at any time regulatory guidance changes, the parties agree to re-negotiate the accounting for disclosures process to bring the process into conformance with regulatory guidance and 45 C.F.R. 164.528.

Section 9. Availability of Books and Records.

Outside Entity agrees to make its internal practices, books and records relating to the use and disclosure of PHI received from UW Medicine, or created or received on behalf of UW Medicine, available to the Secretary of the U.S. Department of Health and Human Services for purposes of determining UW Medicine's and Outside Entity's compliance with the HIPAA Standards. Outside Entity promptly shall provide to UW Medicine a copy of any documentation that Outside Entity provides to the Secretary within five business days.

Section 10. Investigations and Corrective Actions.

UW Medicine reserves the right to monitor, review and investigate reported and identified failures to comply with this agreement and impose corrective actions which may include the termination of an individual's access, or termination of this agreement. UW Medicine reserves the right to report unprofessional conduct to appropriate licensing authorities, including but not limited to, the Nursing Quality Assurance Commission, the Medical Quality Assurance Commission, the Office for Civil Rights, the Department of Health, and the Department of Justice.

UW Medicine Compliance shall inform Outside Entity of alleged breach of PHI that may involve the Outside Entity's workforce member(s). Outside Entity agrees to cooperate with UW Medicine to adequately investigate complaints received involving the Outside Entity's workforce member(s). Outside Entity agrees to have a sanctions policy, produce it upon request, and discipline their workforce members for all breaches involving UW Medicine PHI according to their policy.

Section 11. Immediate Termination.

If UW Medicine determines that Outside Entity, or Outside Entity's directors, officers, employees, contractors or agents have violated a material provision of this Agreement, UW Medicine may terminate its participation in this Agreement immediately without liability for termination.

Section 12. Indemnification.

The parties agree to defend indemnify, and hold each other harmless from and against any loss, claim, or damage arising from the negligent acts or omissions of their own officers, directors, employees, or agents in the performance of their duties under this agreement.

Section 13. Entire Agreement.

This Agreement constitutes the entire agreement between the parties regarding access to UW Medicine's Information Systems, and supersedes all prior verbal or written agreements, commitments, or understandings concerning the matters provided for herein.

Section 14. Amendment.

This Agreement may be modified only by a subsequent written Agreement executed by the parties. The provisions in this Agreement may not be modified by any attachment or letter agreement.

Section 15. Governing Law.

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The parties' rights or obligations under this Agreement will be construed in accordance with, and any claim or dispute relating thereto will be governed by, the laws of the State of Washington.

Section 16. **Waiver.**

Neither the waiver by any of the parties hereto of a breach of or a default under any of the provisions of this Agreement, nor the failure of either of the parties, on one or more occasions, to enforce any of the provisions of this Agreement or to exercise any right or privilege hereunder, will thereafter be construed as a waiver of any subsequent breach or default of a similar nature, or as a waiver of any of such provisions, rights or privileges hereunder.

Section 17. **Applicability to Organized Healthcare Arrangement (OHCA) Members.**

To the extent that use or disclosure of any protected health information belonging to OHCA members, [COMP.101 Patient Information Privacy and Security Compliance Program and Administrative Requirements](#) is necessary to fulfill the terms of the Agreement(s), Outside Entity agrees to treat that information with the same level of confidentiality as UW Medicine's PHI and in accordance with the terms of this Agreement.

Section 18. **Term of Agreement.**

This Agreement is effective beginning _____ and will continue thereafter until terminated. In addition to the termination provisions of Section 11, either party may terminate this Agreement with a 30-day notice.

Section 19. **Definitions.**

Personal Information means an individual's first name or first initial and last name in combination with any one or more of the following data elements:

- (a) Social security number;
- (b) Driver's license number or Washington identification card number; or
- (b) Account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

All terms not otherwise defined herein shall be defined in accordance with 45 CFR Parts 160, 162, and 164; American Recovery and Reinvestment Act of 2009 (ARRA) Health Information Technology for Economic and Clinical Health (HITECH) Act); and state laws governing healthcare privacy including but not limited to Public Records - Personal Information - Notice of Security Breaches (RCW 42.56.590), the Uniform Healthcare Information Act (RCW 70.02), mental illness (RCW 71.05), mental health services for minors (RCW 71.34), drug and alcohol abuse (42 CRF part 2), and HIV/AIDS/STDs (RCW 70.24).

Name
UW Medicine administrator or director (sponsor)
Title

Name
Title

Date

Date