

**Commonly Asked Questions in Negotiating
Terms contained within the Business Associate Addendum**

May I delete the description of the organizations contained within UW Medicine?

No. This is important information and informs all parties that protected health information between the entities of UW Medicine is integrated and shared by all.

May I delete the reference to Washington law in Section 1?

No. The HIPAA privacy regulations create a minimum standard for the protection of health information nation-wide. The regulations allow for the possibility that state law is more protective of a patient's privacy or provides a patient greater access to protected health information. In these instances, state law may actually govern the use or disclosure of health information, not the HIPAA regulations. Thus, it is important for business associates to understand that use or disclosure of protected health information on behalf of UW Medicine must conform to both state and federal requirements. Some of areas in which Washington state has more stringent protections than HIPAA include but are not limited to mental health records (RCW 71.05, RCW 71.34), drug and alcohol abuse (RCW 70.96A, 42 CRF part 2), and HIV/AIDS/STDs (RCW 70.24).

May I expand the requirement in Section 2 for reporting of unauthorized use or disclosure beyond five working days?

This is a business decision. The HIPAA privacy rules require the business associate to report any unauthorized use or disclosure. The rules do not identify a specific time frame.

May I expand the requirement in Section 5 for amending the designated record set beyond five days?

This is ultimately business decision, however, it is important to consider state law requirements and to consult with Richard Meeks, UW Medicine HIPAA Compliance Officer, to discuss the operational implications. Upon request for amendment of a medical record (contained within the designated record set), state law provides that a health care provider must correct or amend its records within ten days of the request (RCW 70.02.100). If unusual circumstances exist, state law provides for a maximum of twenty-one days to respond. The HIPAA privacy regulations, in contrast, allow a health care provider sixty days to respond. This provision tends to be an area in which considerable energy in negotiation is expended. The most important question to address is whether, in reality, the business associate holds the original designated record set such that they will be impacted by a short deadline.