

Department: UW Medicine Compliance

Subject: PP-02 Use of Consents, Authorizations or Other Legal Permission from the Patient for Certain Relationships Established Prior to the April 14, 2003 HIPAA Compliance Deadline

Policy Number: 02

Established Date: December 23, 2002

Revised Date: May 22, 2006

Reviewed Date: February 26, 2009

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**Background:**

The Health Insurance Portability and Accountability Act (HIPAA) privacy regulations became enforceable on April 14, 2003. Prior to that date, and until the patient's first contact with UW Medicine<sup>1</sup> for services, UW Medicine entities may continue to rely on the patient's registration *Consent /Financial Agreement*, authorization, and other expressed legal permission from the patient to use and disclose protected health information (PHI) for treatment, payment, health care operations and other non-research purposes.

**Policy:**

UW Medicine shall provide the *Joint Notice of Privacy Practices of UW Medicine and Certain Other Providers* and obtain an acknowledgement of receipt by the patient for services provided after April 14, 2003.

The following applies (I) to any consent, authorization, or other expressed legal permission obtained from the individual for treatment, payment, healthcare operations, or other non-research purposes prior to April 14, 2003; (II) for any consent, authorization, or other expressed legal permission obtained from an individual prior to April 14, 2003 for an identified research project that includes treatment of the individual; and (III) to contracts or other arrangements with business associates made prior to October 15, 2002.

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<sup>1</sup>For the purposes of HIPAA, UW Medicine includes the following entities: University of Washington Medical Center and Clinics; Harborview Medical Center and Clinics; UW Medicine Neighborhood Clinics (University of Washington Physicians Network); UW Physicians Sports Medicine Clinic; UW Medicine Eastside Specialty Center; Hall Health Primary Care Center; and University of Washington Physicians.

**I.** Only PHI that was created or received prior to April 14, 2003, may be used or disclosed for treatment, payment, health care operations, or other non-research purposes provided that:

A) The use or disclosure is not expressly prohibited by or excluded from the patient's consent, authorization, or other expressed legal permission.

**And**

B) UW Medicine complies with all limitations included in the patient's consent, authorization, or other expressed legal permission.

**II.** For any consent, authorization, or other expressed legal permission obtained from an individual for an identified research project that includes treatment of the individual, UW Medicine may:

A) Use or disclose PHI for purposes of the project for which it was created or received, provided that UW Medicine complies with all limitations included in the individual's consent, authorization or other expressed legal permission.

**And**

B) Use or disclose PHI that was created or received as part of the project, provided that the use or disclosure complies with all limitations included in the patient's consent, authorization, or other expressed legal permission.

**III.** UW Medicine may disclose PHI to a business associate and may allow a business associate to create, receive, or use PHI on its behalf in accordance with a written contract or other written arrangement to perform functions or activities or provide services that make the entity a business associate if:

1) Prior to October 15, 2002, UW Medicine has entered into and is operating under a written contract or other written arrangement with a business associate for such business associate to perform functions or activities or provide services that make the entity a business associate; **and**

2) The contract or other arrangement is not renewed or modified from October 15, 2002 until April 14, 2004.

Transition Period:

A prior contract or other arrangement that meets the time period qualification requirements above is not required to be amended solely for HIPAA compliance until the earlier of:

1) The date such contract or other arrangement is renewed or modified on or after October 15, 2002; or

2) April 14, 2004.

UW Medicine Responsibilities During Transition:

UW Medicine complies with the individual's right to make a privacy complaint, access PHI, request amendment of PHI, and request an accounting of disclosures. Furthermore, UW Medicine mitigates any harm caused by the use or disclosure of PHI held by a business associate.

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**References:**

- I. 45 CFR Part 164; Section 164.532 –Transition Provisions
- II. RCW 70.02.050 – Disclosure Without Patient's Authorization

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UW Privacy Officer: \_\_\_\_\_ Date: \_\_\_\_\_

Johnese M. Spisso, Vice President for Medical Affairs, UW & COO UW Medicine

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