Applicability: UW Medicine

Policy Title: Use & Disclosure of Protected Health Information for Marketing Communications

Policy Number: PP-09

Superseded Policy(ies) or Entity Policy: N/A

Date Established: December 12, 2002

Date Effective: July 1, 2014

Dates Revised: May 22, 2006; March 12, 2009; April 12, 2012; May 6, 2013

Next Review Date: July 1, 2017

PURPOSE AND SCOPE
This policy discusses how UW Medicine can use and disclose protected health information (PHI) for marketing purposes.

This policy is applicable to all UW Medicine entities.

POLICY PRINCIPLES/STATEMENT
See POLICY.

DEFINITIONS
1. Communications that are not marketing:

   - Those communications used by UW Medicine to describe health-related products or services (or payment for such products or services).

   - Those communications used for a patient’s treatment, health-related products or services, and case management or care coordination (unless UW Medicine receives financial remuneration in exchange for making the communication).

   - Refill reminders or other communications about a patient’s current prescriptions for drugs or biologics (only if any financial remuneration received by UW Medicine in exchange for making the communication is reasonably related to the cost of making the communication).

   - Directives or recommendations for alternative treatments, therapies or healthcare professionals, or for settings of care for the patient.
• For example: it is not marketing when a physician describes and refers a patient to the services offered by another UW Medicine healthcare professional specializing in care that is appropriate to the patient’s treatment plan.

2. **Financial Remuneration** means direct or indirect payment from, or on behalf of, a third party whose product or service is being described. Direct or indirect payment does not include any payment for treatment of an individual.

3. **Marketing Communications** generally means, marketing communications that are about a product or service that encourages the recipient to purchase or use the product or service.

4. **Payment** means all activities undertaken by UW Medicine to obtain reimbursement for treatment that has been provided including the following activities:
   
   • Eligibility determination for coverage;
   
   • Coordination of benefits among third-parties and patients for cost-sharing responsibilities;
   
   • Adjudication or subrogation of health benefit claims;
   
   • Risk adjustment of amounts due;
   
   • Payment under a contract for reinsurance;
   
   • Healthcare data processing that supports billing, claims management and collection; and
   
   • Utilization reviews.

See UW Medicine Compliance Policy: **PP00 Glossary of Terms**.

**POLICY**

1. UW Medicine must obtain the individual’s written authorization for any use or disclosure of PHI for marketing unless the communication is in the form of:
   
   a. A face-to-face communication between a UW Medicine workforce member and an individual; or
   
   b. A promotional gift of nominal value provided by UW Medicine.

2. UW Medicine prohibits the sale of PHI without the individual’s written authorization.
3. If the marketing involves financial remuneration to UW Medicine from a third party, the authorization must include a statement that remuneration is involved. See UW Medicine Compliance Policy: PP-08 Use & Disclosure of Protected Health Information Requiring Authorization.

4. UW Medicine occasionally purchases external mailing lists for its direct mail marketing activities. Individuals who wish to be removed from these lists will be directed to the mailing house that owns the list. UW Medicine will make information pertaining to commercial mailing lists available upon request.

REGULATORY/LEGISLATION/REFERENCES
- 45 CFR 164.501 “Definitions.”
- 45 CFR 164.508(a) (3) “Uses and disclosures for which an authorization is required – Authorization required: Marketing
- RCW 70.02 – Medical Records - Healthcare Information Access and Disclosure

PROCEDURE ADDENDUM(s) REFERENCES/LINKS
- UW Medicine Compliance Policy: PP-00 Glossary of Terms
- UW Medicine Compliance Policy: PP-08 Use & Disclosure of Protected Health Information Requiring Authorization

ROLES AND RESPONSIBILITIES
Defined within POLICY.

AUTHORITIES

<table>
<thead>
<tr>
<th>Custodian</th>
<th>Responsible Officer</th>
<th>Implementation Officer</th>
<th>Administrative Officer</th>
</tr>
</thead>
<tbody>
<tr>
<td>UW Medicine Compliance</td>
<td>UW Medicine Compliance</td>
<td>UW Medicine Compliance</td>
<td>UW Medicine Compliance</td>
</tr>
<tr>
<td><strong>Author</strong></td>
<td><strong>Owner</strong></td>
<td><strong>Auditor</strong></td>
<td><strong>Endorser</strong></td>
</tr>
<tr>
<td>UW Medicine Compliance</td>
<td>UW Medicine Compliance</td>
<td>UW Medicine Compliance</td>
<td>UW Medicine Executive Compliance Committee</td>
</tr>
</tbody>
</table>

APPROVALS

_____________________________                _________________________
UW Privacy Official                               Date
Johnese M. Spisso, Chief Health System Officer,  
UW Medicine & Vice President for Medical Affairs, UW