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Department: UW Medicine Compliance

Subject: PP-16c Use & Disclosure of Protected Health Information (PHI)  
Permitted for Health Oversight Activities

Policy Number: 16c

Established Date: April 10, 2003

Revised Date:

Review Date: October 12, 2006, July 9, 2009

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***Policy:***

This policy describes the circumstances in which UW Medicine<sup>1</sup> may use or disclose protected health information (PHI) for health oversight activities when the purpose of the use or disclosure is not for treatment, payment, health care operations nor authorized by the patient.

**I. Health Oversight Activities**

A Health Oversight Agency is:

- A) A public agency or Indian Tribe
  - 1) that is authorized by law to oversee the health care system or government programs
  - 2) in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant.
- B) Includes contractors of such agency or other persons or entities to whom the health oversight agency grants authority.

Health oversight agencies do not include private-sector accrediting organizations such as Joint Commission and AAAHC, whose use or

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<sup>1</sup> For the purpose 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 Physicians Eastside Specialty Center; Hall Health Primary Care Center; and University of Washington Physicians.

disclosure of PHI is governed by business associate agreements. See UW Medicine Privacy Policy: *PP-12 Use & Disclosure of Protected Health Information by Business Associates*.

C) UW Medicine may disclose PHI to a health oversight agency for oversight activities as authorized by law, including:

- 1) Audits as long as there is a written agreement to:
  - a) Remove and/or destroy patient-identifying information at the earliest opportunity, **and**
  - b) Not to further disclose the information except to complete an audit or report unlawful conduct involving fraud in payment of health care by a health care provider or patient or other unlawful conduct by the health care provider,
- 2) Civil, administrative, or criminal investigations, proceedings, or actions,
- 3) Inspections,
- 4) Licensure or disciplinary action; **or**
- 5) Other activities necessary for appropriate oversight of
  - the health care system;
  - government benefit programs for which health information is relevant to beneficiary eligibility;
  - entities subject to civil rights laws for which health information is necessary for determining compliance or
  - entities subject to government regulatory programs for which health information is necessary to determine compliance.

D) Exception.

- 1) A health oversight activity does not include an investigation or other activity in which an individual is the subject of the investigation, **and**
- 2) When such activity is not directly related to:
  - a) Receipt of health care,
  - b) Claim for public benefits related to health, **or**
  - c) Qualification for, or receipt of, public services or benefits when a patient's health is integral to the claim for public services or benefits.

Note: If a health oversight activity or investigation is conducted in conjunction with an oversight activity relating to a claim for public benefits not related to

health, the joint activity or investigation would be considered a health oversight activity and UW Medicine may use or disclose PHI.

**II. Documentation of Disclosures**

UW Medicine documents and retains in electronic or written format a record of all disclosures following record retention policies and procedures in accordance with UW Medicine Privacy Policy: *PP-25 Accounting of Disclosures of Protected Health Information*.

**Procedures:**

**I. Disclosing for Health Oversight Activities**

Step	Action
1	<p>When there is a request to disclose PHI for a health oversight activity without an authorization, the UW Medicine workforce member must verify that request is from an agency that meets the requirements to obtain this information without patient authorization. Including verification that it is not an exception – See policy section (I.)(D).</p> <ol style="list-style-type: none"> <li>1. A public agency or Indian Tribe               <ol style="list-style-type: none"> <li>a. that is authorized by law to oversee the health care system or government programs</li> <li>b. in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant.</li> </ol> </li> <li>2. Includes contractors of such agency or other persons or entities to whom the health oversight agency grants authority.</li> </ol>
2	<p>When the agency meets the requirements, the UW Medicine workforce member must disclose only the PHI as authorized by law, including:</p> <ol style="list-style-type: none"> <li>1) Audits as long as there is a written agreement to:           <ol style="list-style-type: none"> <li>a) Remove and/or destroy patient-identifying information at the earliest opportunity, <b>and</b></li> <li>b) Not to further disclose the information except to complete an audit or report unlawful conduct involving fraud in payment of health care by a health care provider or patient or other unlawful conduct by the health care provider,</li> </ol> </li> <li>2) Civil, administrative, or criminal investigations, proceedings, or actions,</li> <li>3) Inspections,</li> <li>4) Licensure or disciplinary action; <b>or</b></li> <li>5) Other activities necessary for appropriate oversight of           <ul style="list-style-type: none"> <li>• the health care system;</li> </ul> </li> </ol>

	<ul style="list-style-type: none"><li>• government benefit programs for which health information is relevant to beneficiary eligibility;</li><li>• entities subject to civil rights laws for which health information is necessary for determining compliance; or</li><li>• entities subject to government regulatory programs for which health information is necessary to determine compliance.</li></ul>
3	UW Medicine workforce member who discloses the PHI documents and retains in electronic or written format a record of the disclosure following record retention policies and procedures in accordance with UW Medicine Privacy Policy: PP-25 Accounting of Disclosures of Protected Health Information.

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Cross References:

UW Medicine entity’s policies regarding: Release of Information, Medical Records Subpoenaed for Deposition, Release of Information from Satellite Records, and Non-Patient Requests for Medical Records.

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**References:**

- I.** 45 CFR Parts 160 and 164; Section 164.512 – “Uses & Disclosures for Which Consent, Authorization or Opportunity to Agree or Object Is Not Required”.
  - II.** RCW 70.96A.150 – Records of Alcoholics and Intoxicated Persons.
  - III.** RCW 70.02.050 – Disclosure Without Patient’s Authorization
  - IV.** RCW 71.05.390, .120, .445. – Mental Health Records
  - V.** RCW 71.05.620 – Mental Illness Treatment Records: Informed Consent for Disclosure of Information
  - VI.** RCW 70.24.105 – Disclosure of HIV/STD/AIDS Test or Treatment – Exchange of Medical Information
  - VII.** 42 CFR, Part 2 – Confidentiality of Alcohol and Drug Abuse Patient Records
  - VIII.** WAC 246-320-205 - Management of Information
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UW Privacy Officer: \_\_\_\_\_ Date: \_\_\_\_\_  
Johnese M. Spisso, Vice President for Medical Affairs, UW & COO UW Medicine

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