
Department: UW Medicine Compliance

Subject: PP-16i Use & Disclosure of Protected Health Information (PHI)
Permitted for Victims of Abuse, Neglect or Domestic Violence

Policy Number: 16i

Effective Date: April 10, 2003

Review Date: December 14, 2006

Policy:

In certain circumstances UW Medicine¹ may use or disclose protected health information (PHI) for victims of abuse, neglect or domestic violence.

Definitions:

- Abuse or neglect - “injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child by any person under circumstances which indicate that the child’s health, welfare, and safety is harmed.”²
- Vulnerable adult - any person, sixty years of age or older, who has the functional, mental, or physical inability to care for himself or herself, an adult living in a nursing home, boarding home, or adult family home, an adult of any age with a developmental disability, an adult with a legal guardian, or an adult receiving care services in his or her own family’s home.³

I. Abuse of Vulnerable Adults, Children or Victims of Domestic Violence (See Procedure (I) – *Disclosure of Protected Health Information (PHI) Regarding Victims of Abuse, Neglect or Domestic Violence.*)

- A) UW Medicine staff may disclose PHI about an individual whom they believe to be a victim of domestic violence to government authorities authorized by law to receive reports of such abuse:

¹ 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 Physician’s Eastside Specialty Center; Hall Health Primary Care Center; and University of Washington Physicians.

² RCW 26.44.020.

³ RCW 74.34.020.

- 1) If the individual or legally authorized surrogate agrees to the disclosure;
 - 2) To the extent the disclosure is expressly authorized by law **and**
 - a) UW Medicine believes the disclosure is necessary to prevent serious harm to the individual or other potential victims (Please see the Cross Reference Topics section for your entity's policies and procedures regarding "duty to warn") **or**
 - b) The individual is unable to agree because of incapacity and an authorized law enforcement officer or public official represents that the PHI sought is not intended to be used against the individual and that an immediate enforcement activity that depends upon disclosure would be materially and adversely affected by waiting until individual is capable of giving authorization.
- B) UW Medicine staff may disclose PHI about a vulnerable adult to the Department of Social and Health Services when staff have reasonable cause to believe that: abandonment, abuse, financial exploitation or neglect of a vulnerable adult occurred or abuse or neglect of a child. (In reaching this determination staff should follow entity specific policies and procedures. Please see the Cross Reference Topics section for your entity's policies and procedures regarding "vulnerable adults" and child abuse and neglect reporting)
- If the abuse includes sexual or physical assault, UW Medicine staff must also report to law enforcement in addition to the Department of Social and Health Services.
- C) UW Medicine will promptly inform the individual that a report(s) (described in policy sections (I)(A) or (I)(B)) have been or will be made unless:
- 1) UW Medicine believes informing the individual would place that individual at risk of serious harm; **or**
 - 2) UW Medicine would be informing a person who they believe may be responsible for the abuse, neglect, or injury and disclosure of information to this person would not be in the best interest of the individual.

II. Documentation of Disclosures

UW Medicine will document in the designated record set and retain in electronic or written format a record of all disclosures in accordance with the entity's record retention policies and procedures. See UW Medicine Privacy

Policy: *PP-25 Accounting of Disclosures of Protected Health Information (PHI)*.

Procedures:

I. Disclosure of Protected Health Information (PHI) Regarding Victims of Abuse, Neglect or Domestic Violence (Policy Section I)

UW Medicine workforce members will provide physical and emotional care to adult and child victims of alleged or suspected abuses and/or neglect.

UW Medicine shall comply with Washington State law in reporting obvious or suspected injury, abuse, exploitation, negligent treatment or maltreatment, and/or abandonment of children and vulnerable adults to the Washington State Department of Social and Health Services.

It is a misdemeanor offense for any person required by law to report suspected abuse or neglect of children or vulnerable adults to knowingly fail to do so. State law also protects from litigation any health personnel who report abuse with reasonable cause to suspect its occurrence.

While there are no mandatory reporting requirements on behalf of competent adults injured as a result of domestic violence, the UW Medicine workforce member will assist victims in involving appropriate law enforcement if the victim chooses this action and gives consent for a release of information. If children are at risk in a domestic violence situation, Children's Protective Service must be notified.

Action
Disclosure of PHI for vulnerable adults or child abuse or domestic violence, including copies of the medical record may be made: A) Without the authorization of the parents/guardian to any of the following: 1) Child Protective Services, DSHS, 2) Adult Protective Services, DSHS, 3) Law Enforcement Officers, 4) County Prosecuting Attorney, or 5) County Coroner. B) Signed authorization required for any other person/agency.

II. Disclosure of Protected Health Information (PHI) to Report of Child Abuse and Neglect (Policy Section I)

UW Medicine physicians, nurses, social workers, psychologists, pharmacists or any other workforce member who may detect or otherwise observe instances of abuse, abandonment, exploitation or neglect of children when acting in his/her professional capacity or within the scope of his/her employment, shall comply with state reporting regulations as specified in RCW 26.44.030.

Step	Action
1	When any workforce member has reasonable cause to believe a child has suffered abuse or neglect, he/she notifies the social worker and physician.
2	Medical, social work, and security protocols shall be followed, when applicable.
3	If assessment indicates reasonable cause to believe abuse or neglect of a child may have occurred, an immediate verbal report shall be made to Department of Social and Health Service/Child Protective Service (CPS). This report will be made at the first opportunity and in no case longer than 48 hours after there is reasonable cause to believe that the child has suffered abuse or neglect. Reporting is typically coordinated by social work or with social work consultation.
4	Social worker or designated workforce member makes record of the disclosure(s).
5	The social worker or designated workforce member will promptly inform individuals that a report has been made unless: <ol style="list-style-type: none"> 1. UW Medicine believes informing the individual would place that individual at risk of serious harm, or 2. UW Medicine would be informing a legally authorized surrogate who they believe is responsible for the abuse, neglect, or injury and disclosure of information to this person would not be in the best interest of the individual.

III. Disclosure of Protected Health Information (PHI) for Report Suspected Abuse, Neglect, Exploitation or Abandonment of Vulnerable Adults (Policy Section I)

Step	Action
1	When any workforce member has reasonable cause to believe that abandonment, abuse, financial exploitation, or neglect of a vulnerable adult has occurred, he/she will notify the social worker and physician.

2	Medical and social work protocols shall be followed, when applicable.
3	If assessment indicates reasonable cause to believe abuse or neglect of a vulnerable adult may have occurred, an immediate verbal report shall be made to Department of Social and Health Service/Adult Protective Service. Reporting is typically coordinated by social work or with social work consultation.
4	Social worker or designated workforce member makes record of the disclosure(s).
5	The social worker or designated workforce member will promptly inform individuals that a report has been made unless: <ol style="list-style-type: none"> 1. UW Medicine believes informing the individual would place that individual at risk of serious harm, or 2. UW Medicine would be informing a legally authorized surrogate who they believe is responsible for the abuse, neglect, or injury and disclosure of information to this person would not be in the best interest of the individual.

IV. Documentation & Retention of Disclosures

Action
UW Medicine entities will retain a record of all disclosures in either a hard copy or electronic version in the designated record set. See UW Medicine Privacy Policy: <i>PP-25 Accounting of Disclosures of Protected Health Information (PHI)</i> .

Cross Reference:

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

HMC:

- 130.1 ABUSE/NEGLECT: CHILD
- 130 ABUSE/NEGLECT: VULNERABLE ADULTS
- 5.17 ABUSE/NEGLECT: IDENTIFYING, MANDATED REPORTING & DOCUMENTING

UWMC:

- 5-1 Abuse and Neglect: Identifying, Mandated Reporting and Documenting

HPCC:

P&P2000, Administration Manual, II-Administration, P&P-abuse

P&P2000, Administration Manual, XV-Safety, Security. Emergency Prep, P&P-duty

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.** RCW 26.44.030 - Duty and Authority to Make Reports of Child Abuse or Neglect
 - IX.** RCW 74.34.035 - Reports--Mandated and Permissive--Contents—Confidentiality
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UW Privacy Officer: _____ Date: _____
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