Applicability: UW Medicine

Policy Title: Use & Disclosure of Protected Health Information Permitted for Victims of Abuse, Neglect or Domestic Violence

Policy Number: PP-16j

Superseded Policy(ies) or Entity Policy: N/A

Date Established: April 10, 2003

Date Effective: July 1, 2014

Dates Revised: December 14, 2006; February 17, 2010; July 30, 2013

Next Review Date: July 1, 2017

PURPOSE AND SCOPE
This policy describes the circumstances in which UW Medicine may use or disclose protected health information (PHI) for victims of abuse, neglect or domestic violence when the purpose of the use or disclosure is not for treatment, payment, healthcare operations nor authorized by the patient.

This policy is applicable to all UW Medicine entities.

POLICY PRINCIPLES/STATEMENT
See POLICY.

DEFINITIONS
1. Abuse or neglect means injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child or vulnerable adult by any person under circumstances which indicate that the child’s or vulnerable adult’s health, welfare, and safety is harmed.

2. Reasonable cause means a person witnesses or receives a credible written or oral report alleging abuse, including sexual contact, or neglect of a child.

3. Vulnerable adult means 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.¹

See UW Medicine Compliance Policy: PP.00 Glossary of Terms.

¹ RCW 74.34.020.
POLICY
Heightened standards of confidentiality are required when using or disclosing PHI pertaining to sexually transmitted diseases (STDs), acquired immunodeficiency syndrome (AIDS), or human immunodeficiency virus (HIV), mental health records, drug and alcohol treatment records or sexual assault counseling. A disclosure of PHI of heightened confidentiality requires a valid patient authorization or a federal or Washington State court order.

I. UW Medicine Must Disclose PHI for Abuse of Vulnerable Adults and Children

A UW Medicine workforce member who has reasonable cause to believe that a vulnerable adult or a child has suffered abandonment, abuse or neglect must report the incident. It is a misdemeanor offense for any person\(^2\) required by law to report suspected abuse or neglect of children or vulnerable adults to knowingly fail to do so. The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is a reasonable cause to believe that the abuse or neglect occurred. The report must include the identity of the accused, if known. The reporting requirement does not apply to the discovery of abuse or neglect that occurred during childhood, if it is discovered after the child has become an adult.

A. Disclosure of PHI for vulnerable adult or child abuse, including copies of all relevant medical records, must be made without authorization of the parents/guardian to any of the following:

1. Child Protective Services, Washington State Department of Social and Health Services (DSHS);
2. Adult Protective Services, DSHS;
3. Law enforcement;
4. County Prosecuting Attorney;
5. County Coroner;

Signed authorization is required for any other person/agency.

B. UW Medicine will promptly inform the patient or Personal Representative/Surrogate Decision Maker that a report has been made unless:

1. UW Medicine believes informing the individual would place the patient 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 such a disclosure would not be in the best interest of the patient.

\(^2\) Practitioner, registered or licensed nurse, social service counselor, psychologist, and pharmacist.
II. UW Medicine May Disclose PHI for Victims of Domestic Violence

A. 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 authorization for release of information.

B. If the adult injured as a result of domestic violence 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, a disclosure may be made to the extent expressly authorized by law.

III. Documentation of Disclosures

The disclosure must be documented in the designated record set and retained in electronic or written format in accordance with record retention policies and procedures. See UW Medicine Compliance Policy: PP-25 Accounting of Disclosures of Protected Health Information.

REGULATORY/LEGISLATION/REFERENCES

- 42 CFR Part 2 – Confidentiality of Alcohol and Drug Abuse Patient Records
- 45 CFR Parts 160 and 164; Section 164.512 – Uses & Disclosures for Which Consent, Authorization or Opportunity to Agree or Object Is Not Required
- RCW 26.44.020 – Definitions
- RCW 26.44.030 – Duty and Authority to Make Reports of Child Abuse or Neglect
- RCW 70.02 – Medical Records - Healthcare Information Access and Disclosure
- RCW 70.96A.150 – Records of Alcoholics and Intoxicated Persons
- RCW 71.05.120 – Mental Health Records
- RCW 74.34.035 – Reports –Mandated and Permissive–Contents–Confidentiality

PROCEDURE ADDENDUM(s) REFERENCES/LINKS

- UW Medicine Compliance Policy: PP-00: Glossary of Terms
- UW Medicine Compliance Policy: PP-25: Accounting of Disclosures of Protected Health Information

Cross References
UW Medicine entity 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

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

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</td>
<td>UW Medicine Compliance</td>
<td>UW Medicine Compliance</td>
</tr>
<tr>
<td>Author</td>
<td>Owner</td>
<td>Auditor</td>
<td>Endorser</td>
</tr>
<tr>
<td>UW Medicine Compliance</td>
<td>UW Medicine</td>
<td>UW Medicine Compliance</td>
<td>UW Medicine Executive Compliance Committee</td>
</tr>
</tbody>
</table>

APPROVALS

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