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Department: UW Medicine Compliance

Subject: PP-20 Minimum Necessary Requirements for Use & Disclosure of Protected Health Information

Policy Number: 20

Effective Date: September 28, 2007

Review Date: September 28, 2007

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***Policy:***

**I. Scope of the Minimum Necessary Requirement**

Minimum necessary<sup>1</sup> is based on a “need-to-know”, and is the “limited” health information required to accomplish the intended purpose of the use<sup>2</sup> or disclosure<sup>3</sup> or request. UW Medicine<sup>4</sup> must make a reasonable effort to ensure that the use, disclosure or request of Protected Health Information (PHI) is limited to the minimum necessary. The minimum necessary requirement does not apply to:

- Disclosures to or requests by a provider for treatment,
- Disclosures pursuant to patient authorization,
- Disclosures to the individual,
- Disclosures made to U.S. Department of Health and Human Service (HHS) for compliance and enforcement purposes,
- Uses or disclosures required by law, and
- The uses or disclosures required to comply with the federal privacy regulations.

**II. Minimum Necessary Uses of PHI**

- A) UW Medicine identifies those persons or classes of persons in its workforce who need access to PHI to carry out their job responsibilities;  
**and**

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<sup>1</sup> See “Definitions” section for further description of “minimum necessary”.

<sup>2</sup> See “Definitions” section for further description of “use”.

<sup>3</sup> See “Definitions” section for further description of “disclosure”.

<sup>4</sup> 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.

- B) For each person or class of persons, UW Medicine identifies the information to which access is needed and any conditions appropriate to such access.
- C) UW Medicine makes reasonable efforts to limit access and uses a role-based model to identify appropriate levels of access to PHI. When possible, UW Medicine utilizes technology to assist in restricting the flow of information, to account for how information is used and shared, and to monitor the effectiveness of these practices. UW Medicine strives to reach an appropriate balance between access required for treatment, payment, and health care operations<sup>5</sup> (TPO) and the individual's privacy.
- D) PHI is strictly confidential and is to be accessed and used only in performance of official duties.

### **III. Minimum Necessary Disclosures of PHI**

- A) For disclosures made on a routine or recurring basis, UW Medicine implements policies and procedures that limit the PHI disclosed to the amount reasonably necessary to achieve the purpose of the disclosure. This may include the development of standard disclosure protocols (i.e. specific agencies or request type). Examples of routine or recurring disclosures include but are not limited to: Public Health (like Child Immunizations) and Registry reporting (like Cancer and Trauma). See procedure II: "*Disclosure of Minimum Necessary PHI For Routine or Recurring Requests.*"
- B) For all non-routine or non-recurring requests for disclosure, a case-by-case review and determination is required to limit the PHI disclosed to what is reasonably necessary to achieve the purpose of the disclosure. UW Medicine departments develop criteria designed to guide the case-by-case review to ensure that only the information that is reasonably necessary to achieve the purpose of the disclosure is disclosed. See procedure III: "*Disclosure of Minimum Necessary PHI For Non-Routine and/or Non-Recurring Requests.*"
- C) UW Medicine may rely, if reasonable under the circumstances, on a requested disclosure as the minimum necessary for the stated purpose when:
  - 1) Making disclosures to certain public officials, see separate UW Medicine Privacy Policies: *PP-16a Use & Disclosure of Protected Health Information (PHI) Permitted for Public Health Activities, PP-16b*

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<sup>5</sup> See "Definitions" section for further description of "treatment, payment, and health care operations".

*Use & Disclosure of Protected Health Information (PHI) Permitted for Employers, PP-16c Use & Disclosure of Protected Health Information (PHI) Permitted for health Oversight Activities, PP-16d Use & Disclosure of Protected Health Information (PHI) Permitted for Decedents, PP-16e Use & Disclosure of Protected Health Information (PHI) Permitted to Avert a Serious Threat to Health or Safety, PP-16f Use & Disclosure of Protected Health Information (PHI) Permitted for Specialized Government Functions, PP-16g Use & Disclosure of Protected Health Information (PHI) Permitted for Judicial and Administrative Proceedings, PP-16h Use & Disclosure of Protected Health Information (PHI) Permitted for Law Enforcement Purposes, and PP-16i Use & Disclosure of Protected Health Information (PHI) Permitted for Victims of Abuse, Neglect or Domestic Violence* for a detailed discussion of this issue,

- 2) The information is requested by another covered entity,
- 3) The information is requested by a members of UW Medicine's workforce<sup>4</sup> or a business associate,<sup>5</sup> for the purpose of providing professional services to UW Medicine **or**
- 4) Requestor submits documentation or represents that the information is for an IRB-approved research project, see UW Medicine Privacy Policy: *PP-18- Use & Disclosure of Protected Health Information (PHI) for Research.*

#### **IV. Minimum Necessary Requests for PHI**

- A) When UW Medicine is requesting PHI from others, UW Medicine must limit its request to what is reasonably necessary to accomplish the intended purpose.
- B) When the request is made on a routine and recurring basis, UW Medicine departments must implement policies and procedures that limit the PHI requested to the amount reasonably necessary to carry out the purpose of the request.
- C) When the request is non-routine or non-recurring, UW Medicine departments must develop criteria to limit the request for PHI to the information reasonably necessary to accomplish the purpose and review requests for disclosure on a case-by-case basis.
- D) UW Medicine may not request an entire medical record from another covered entity unless access to the entire medical record is specifically

justified as the amount of information reasonably necessary to accomplish the request.

**V. Minimum Necessary for displayed PHI**

UW Medicine staff must minimize the use of PHI for white boards. If patient names need to be used, workforce members should only use patients' initials or last name with the first initial. The patient's full name may be used in instances where last name with first initial could cause patient safety issues. Under no circumstance should medical conditions be associated with the patient name in public areas.

UW Medicine may use patient sign-in sheets or call out patient names in waiting rooms, so long as the information disclosed is appropriately limited. The HIPAA Privacy Rule explicitly permits the incidental disclosures that may result from this practice, for example, when other patients in a waiting room hear the identity of the person whose name is called, or see other patient names on a sign-in sheet. However, these incidental disclosures are permitted only when reasonable safeguards and minimum necessary principles are implemented. For example, the sign-in sheet may not display medical information that is not necessary for the purpose of signing in (like the medical problem for which the patient is seeing the physician).

**VI. Minimum Necessary for Appointment Reminders and Telephone Messages**

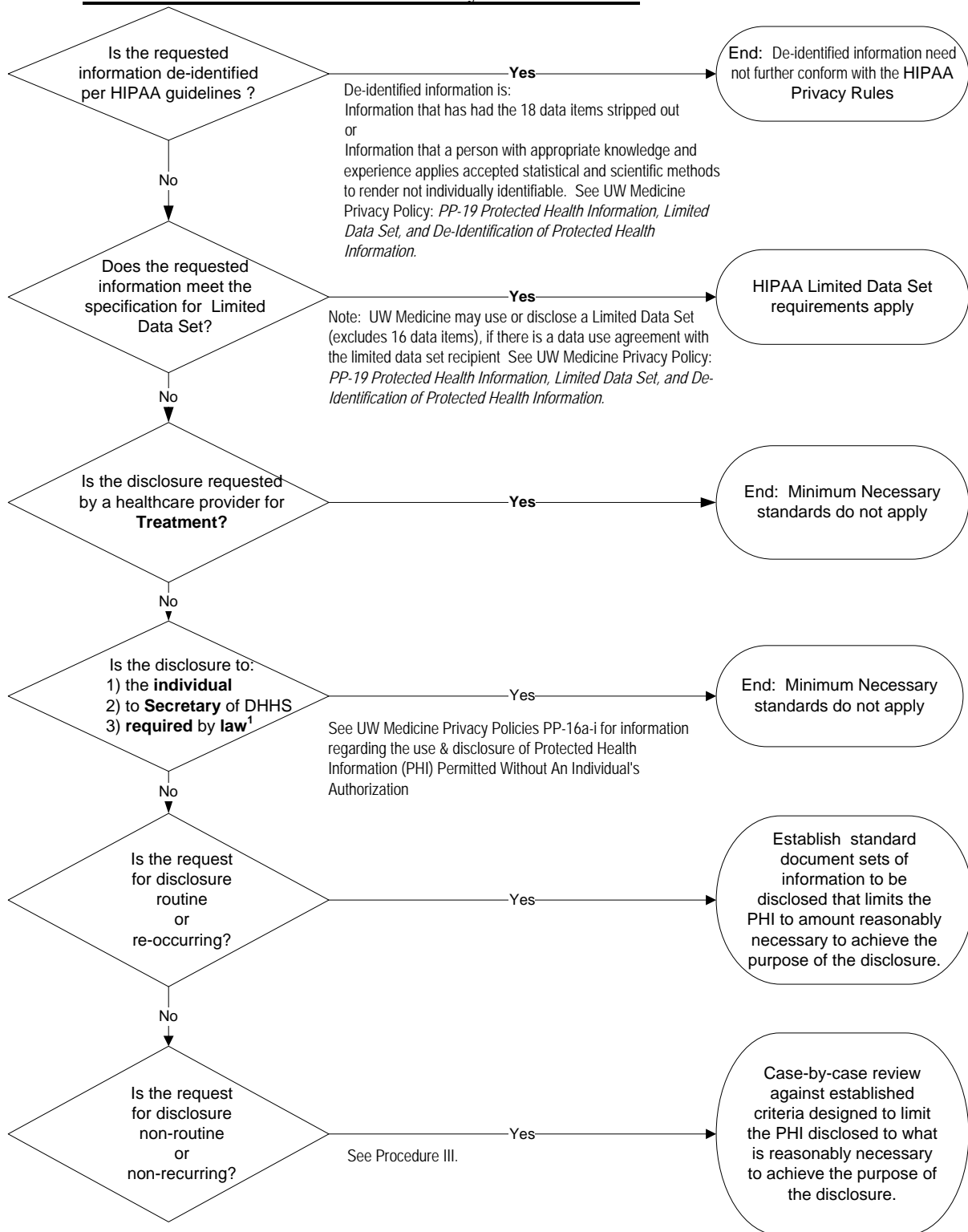
UW Medicine staff must minimize the amount of PHI disclosed when leaving appointment reminders or telephone messages. For example, when leaving a message, UW Medicine workforce members should only leave their name, number, and other information necessary to confirm an appointment, or ask the individual to call back.

UW Medicine may also leave a message with a family member or other person who answers the phone when the patient is not home. The Privacy Rule permits covered entities to disclose limited information to family members, friends, or other persons regarding an individual's care, even when the individual is not present. However, workforce members should use professional judgment to assure that such disclosures are in the best interest of the patient and limit the information disclosed.

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**Procedures:**

**I. Decision Tree - Minimum Necessary for Disclosure**



**II. Minimum Necessary Disclosures of PHI For Routine or Recurring Requests**

Step	Action
1.	Receive request.
2.	Determine the purpose of the disclosure and the authority of the requester.
3	<p>Review the designated record set to identify the information that meets the purpose of the request for PHI and limit the information to be disclosed to what is reasonably necessary to accomplish the purpose for which the request is made.</p> <ul style="list-style-type: none"> <li>• Analyze the requested information to determine the purpose of the requested disclosure</li> <li>• Verify that the dates of service requested do not extend past the time frame necessary to cover the purpose of the disclosure</li> </ul>
4	<p>If the information requested does not exceed more than what is necessary to meet the purpose of the request and if appropriate authority has been established, then the release can be made by preparing the document(s) for disclosure following release of information procedures including reproduction/transfer of PHI, logging of request and disclosure, and charging for services.</p> <p>Conversely, if the document(s) identified include more than the minimum information necessary to meet the purpose of the request, the workforce member must:</p> <ol style="list-style-type: none"> <li>1) Request additional authorization,</li> <li>2) Redact or remove information outside of the minimum necessary, <b>or</b></li> <li>3) Provide a written narrative summary.</li> </ol>
5	For routine and recurring disclosures, each UW Medicine department should identify, on a “minimum necessary” basis, what information is appropriate to disclose.

**III. Minimum Necessary Disclosure of PHI For Non-Routine and/or Non-Recurring Requests**

1	Receive request and verify that it is not a routine or recurring request for disclosure.
2	Determine the purpose of the disclosure.
3	If purpose of disclosure is unknown, return request without PHI.
4	Determine authority of requester to receive PHI.
5	Review the designated record set to identify the information that meets the purpose of the request using the criteria designed to limit the request for PHI to the information reasonably necessary to accomplish the purpose for which the request is made. <ul style="list-style-type: none"> <li>Analyze the requested information to determine the purpose of the requested disclosure</li> <li>Verify that the dates of service requested do not extend past the time frame necessary to cover the purpose of the disclosure</li> </ul>
6	Prepare document for disclosure following release of information procedures including redaction, reproduction/transfer of PHI, logging of request and disclosure, and charging for services.

#### IV. Obtaining PHI From Other Providers

1	UW Medicine workforce will request PHI from other providers by specifically requesting the PHI components necessary to complete the purpose of the request.
2	UW Medicine workforce will not request the entire medical record when only specific components are required to address the purpose of the request.
3	If the requester is unsure what components of the designated record set contain the PHI, specify the PHI needed and the purpose of your request and ask the sender to determine which records to provide.
4	Upon receipt of the records, the requester will determine if the PHI needs to be maintained within the UW Medicine entity’s designated record set. If the medical records documentation will add value to patient care by inclusion in the UW Medicine designated record set, the recipient will forward the records to the entity’s Health Information Management Service Area for inclusion. If the PHI from other providers does not need to be retained the recipient will dispose of the PHI following confidential disposal processes.

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#### References:

- I. 45 CFR Parts 160 and 164; Section 164.514(d) – “Other Requirements Relating To Uses & Disclosures Of Protected Health Information – Minimum Necessary.

- II. 45 CFR Parts 160 and 164; Section 164.502(b) “Uses & Disclosure of Protected Health Information–Minimum Necessary”.
- III. 45 CFR 164.502(a)(1)(iii) – “Permitted uses and disclosures”
- IV. 45 CFR 164.522(b) “Confidential Communications Requirements”

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

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