Policy Level: UW Medicine Compliance

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

Policy Number: 20

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Definitions

- **Disclosure**: Release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.

- **Healthcare Operations**: UW Medicine healthcare operations are those business functions required for managing and delivering health and medical services. These include all business processes relating to the following:
  
  **Business Focused Activities**
  - Business management and general administrative functions (e.g., HIPAA compliance),
  - Business planning and development (e.g., cost management analyses, planning-related analyses, formulary development, payment methods and coverage policies),
  - Disclosure of protected health information for legal and regulatory purposes,
  - Internal grievance resolution,
  - Customer service, provided health information is not disclosed,
  - Accreditation, certification, licensing or credentialing activities,
  - Health insurance contracting (e.g., underwriting, premium rating, reinsurance of risk relating to claims),
  - Medical review, legal services and auditing functions (e.g., fraud and abuse detection and compliance programs).

  **Clinically-Focused Activities**
  - Quality assessment including outcomes evaluation,
  - Patient safety activities,
  - Population-based activities relating to improving health or reducing health care costs,
  - Clinical guidelines and clinical protocol development,
  - Case management and care coordination,
  - Patient contact regarding treatment alternatives,
  - Performance evaluation for healthcare professionals,
  - Training programs for students, practitioners and non-healthcare professionals.
• **Payment:** All activities undertaken by UW Medicine to obtain reimbursement for treatment that has been provided including the following activities:
  o Eligibility determination for coverage,
  o Coordination of benefits among third-parties and patients for cost-sharing responsibilities,
  o Adjudication or subrogation of health benefit claims,
  o Risk adjustment of amounts due,
  o Payment under a contract for reinsurance,
  o Healthcare data processing that supports billing, claims management and collection,
  o Utilization reviews.

• **Treatment:** Treatment is defined as a healthcare professional’s provision, coordination and management of healthcare and related services. These healthcare services cross the continuum of care and include but are not limited to primary and specialty outpatient care, inpatient hospitalization, step-down and extended facility care, emergency medicine, and referral activities.

• **Use:** The sharing, employment, application, utilization, examination, or analysis of individually identifiable health information within UW Medicine.

**Policy**

**I. The Minimum Necessary Requirement**
Minimum necessary is based on a need-to-know, and is the limited Protected Health Information (PHI) required to accomplish the intended purpose of the use or disclosure or request. UW Medicine makes reasonable efforts to ensure that the use, disclosure or request of PHI is limited to the minimum necessary. The minimum necessary requirement does not apply to:

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

UW Medicine may not use, disclose or 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 purpose of the request.
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

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. Where 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 healthcare operations and the individual’s privacy.

D) PHI is 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 departments implement 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 immunizations) and Registry reporting (like cancer and trauma).

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.

When UW Medicine receives a request for a disclosure of PHI, the workforce member is responsible for determining the purpose of the disclosure and the authority of the requester. The designated record set is reviewed by the workforce member to identify the information that meets the purpose of the request and to limit the information to be disclosed to what is reasonably necessary to accomplish the purpose for which the request is made.

If the document(s) identified include more than the minimum information necessary to meet the purpose of the request, the workforce member may:
1. Request an additional authorization,
2. Redact or remove information outside of the minimum necessary, or
3. Provide a written narrative summary.

The workforce member prepares the documents for disclosure following release of information procedures including redaction, reproduction/transfer of PHI, logging of the request and disclosure, and appropriately charging for the disclosure of the information.

For routine and recurring disclosures, each UW Medicine department identifies, on a minimum necessary basis, what information is appropriate to disclose.

C) UW Medicine may rely, if such reliance is reasonable under the circumstances, on a requested disclosure as the minimum necessary for the stated purpose when:


2) The information is requested by another covered entity;

3) The information is requested by a members of UW Medicine’s workforce or a business associate, 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 Compliance Policy: PP-18 Use & Disclosure of Protected Health Information for Research.
IV. Minimum Necessary: Requests for PHI

A) UW Medicine limits its requests for PHI from other providers to what is reasonably necessary to accomplish the intended purpose.

B) For requests that are routine and recurring UW Medicine departments implement practices that limit the PHI requested to the amount reasonably necessary to carry out the purpose of the request.

C) Request for PHI that are non-routine or non-recurring, UW Medicine departments use the following 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.
   - Determine the purpose of the request. The information requested must be related directly to the stated purpose. For example, the entire medical record shall be disclosed only if it is clearly demonstrated that each part of the medical record is related to the reason the request is being made.
   - Identify and request the data elements required to fulfill the purpose of the request. To the extent possible, the request should be specific both as to the documents being requested and the applicable time period.
   - Verify that the minimum amount of data necessary to complete the request has been requested and that purpose could not be achieved by requesting deidentified information.

D) When UW Medicine receives the records, the requester determines if the PHI needs to be maintained within the UW Medicine designated record set and forwards 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 secure disposal processes.

V. Minimum Necessary: Displayed PHI

UW Medicine staff must minimize the use of PHI displayed in patient care areas (e.g. white boards). If patient names are used, only patients’ initials or last name with the first initial should be displayed. 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, as long as the information disclosed is appropriately limited. Incidental disclosures, like 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, are permitted only when reasonable safeguards and minimum necessary principles are implemented. For examples: 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) or calling for Ms. Smith or Beth, not the full name.

VI. Minimum Necessary: Appointment Reminders and Telephone Messages

UW Medicine workforce minimizes 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, the UW Medicine entity they are calling from, and other information minimally necessary to confirm an appointment, or ask the individual to call back.

A limited message may also be left with a family member or other person who answers the phone when the patient is not home. Workforce members should use professional judgment to determine the limited information to be disclosed and that the disclosure is in the best interest of the patient.

References

- 45 CFR 164.502(a)(1) “Permitted uses and disclosures”.
- 45 CFR Parts 160 and 164; Section 164.502(b) “Uses & Disclosure of Protected Health Information–Minimum Necessary”.
- 45 CFR Parts 160 and 164; Section 164.514(d) – “Other Requirements Relating To Uses & Disclosures Of Protected Health Information – Minimum Necessary”.

Approvals

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Additional Contacts

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