Applicability: UW Medicine

Policy Title: Patient Rights to Request Additional Privacy Protections, Restrictions, and Alternative Communications for Protected Health Information

Policy Number: PP-22

Superseded Policy(ies) or Entity Policy: N/A

Date Established: January 9, 2003

Date Effective: July 1, 2014

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Next Review Date: July 1, 2017

PURPOSE AND SCOPE

UW Medicine provides an individual the right to request additional privacy protections, restrictions and alternative communications for their protected health information (PHI).

This policy is applicable to all UW Medicine entities.

POLICY PRINCIPLES/STATEMENT

See POLICY.

DEFINITIONS

See UW Medicine Compliance Policy: PP00 Glossary of Terms.

POLICY

I. Right to Request Additional Privacy Protection for PHI

Individuals have the right to request additional privacy protections on UW Medicine’s use or disclosure of PHI to carry out treatment, payment or healthcare operations and disclosure of PHI for public health activities.

UW Medicine is not required to agree to an individual's request for restriction, except when a patient has instructed UW Medicine in writing not to make the disclosure to a previous healthcare provider, or to their health plan for self-pay items or services.
In considering requests, UW Medicine will not grant restrictions if continuity of patient care would be impeded.

When UW Medicine approves a request for additional privacy protections UW Medicine must not violate the restriction agreement. UW Medicine cannot agree to restrict patient’s PHI for the following uses and disclosures:

A. When access is required by the Secretary of Health and Human Services to investigate or determine compliance with Federal privacy regulations;

B. When PHI is used in the course of providing emergency treatment;

C. For facility directory services when:
   1. Consent cannot be obtained because the patient is incapable of objecting; or
   2. An emergency prevents the patient from providing consent or objection; and
   3. There is no surrogate decision-maker available.

D. When disclosure is required or permitted under the law;

E. For uses and disclosures for disaster relief purposes to a public or private entity authorized by law or by its charter to assist in disaster relief efforts;

F. For disclosures to appropriate healthcare agencies and other individuals as required for public health activities, including reports of vital events such as births or deaths;

G. For disclosures to government authorities when required for victims of abuse or neglect;

H. For disclosures to healthcare oversight agencies for healthcare oversight activities;

I. When disclosures are in the course of judicial and administrative proceedings or when required for law enforcement purposes;

J. For disclosures for cadaver organ, eye, or tissue donation purposes;

K. For use and disclosure in the course Institutional Review Board (IRB) approved research when the IRB has granted a waiver of authorization requirements;

L. To avert a serious and imminent threat to health or safety of individuals; or

M. Disclosures pertaining to deceased individuals.
When UW Medicine provides restricted information to a healthcare provider outside UW Medicine for the sole purpose of providing emergency treatment, UW Medicine requests that the healthcare provider not further use or disclose the information for another purpose.

An individual may request restrictions on use or disclosure in writing or by completing UH1869 Request to Consider Additional Privacy Protection for Protected Health Information (Attachment A). The request must be submitted to UW Medicine Health Information Management (HIM). The request must be specific in detail as to which individuals or entities are to be denied or limited in use and/or disclosure. The applicable entity HIM department reviews the request and if restrictions are appropriate, recommends final approval from the UW Medicine Chief Privacy Officer or Designee.

The applicable entity HIM department informs the individual of the decision in writing. If UW Medicine agrees to a restriction, the applicable entity HIM department ensures the restriction is appropriately documented in the designated record set, coordinates the restriction request across all UW Medicine entities using Additional Privacy Protections, Restrictions, and Alternative Communications Coordination and Action Form (Attachment D), and implements appropriate controls to honor the restriction.

II. Patient Requests to Restrict Disclosure of PHI to Previous Providers

When a patient requests that their PHI not be shared with a previous provider, The applicable entity HIM department facilitates coordination with the entities and the patient’s current provider(s) to ensure, to the extent permitted under law, that no further PHI is to be shared with the particular provider. The applicable entity HIM department ensures the restriction is appropriately documented in the designated record set and coordinates the restriction request across all UW Medicine entities using Additional Privacy Protections, Restrictions, and Alternative Communications Coordination and Action Form (Attachment D). This may include: documenting the request in the designated record set; setting an “HIM alert” in ORCA to document which provider should no longer receive PHI on the patient; confirming that the provider does not have U-Link access to the patient’s record; sending a letter to the patient’s current provider(s) that no further PHI is to be shared with the particular provider; confirming the Provider’s relationships have been removed in entities’ electronic medical records.

III. Terminating a Restriction Agreement

UW Medicine may terminate its agreement to a restriction if:

A. The individual involved agrees to the termination in writing;

B. The individual agrees to the termination orally and the oral agreement to terminate is documented in the designated record set; or

C. UW Medicine informs the individual that they are terminating the agreement to the restriction and informs the individual that the original agreement to restrict does not
cover PHI created or received after the individual has received the notice of termination.

Agreement terminations must be communicated to the individual through the applicable entity HIM department. UW Medicine HIM communicates the termination of the restriction agreement across all UW Medicine entities using Additional Privacy Protections, Restrictions, and Alternative Communications Coordination and Action Form (Attachment D).

IV. Right to Request Restriction of Disclosures of PHI to Health Plans when Patients Self-Pay

UW Medicine agrees to the request of an individual to restrict disclosure of protected health information about the individual to a health plan if:

A. The disclosure is for the purpose of carrying out payment or health care operations and is not otherwise required by law; and

B. The PHI pertains solely to a healthcare item or service for which the individual, (or person other than the health plan on behalf of the individual), has self-paid UW Medicine in full prior to the service.

Patients may request this restriction through the applicable entity HIM department. See Request to Restrict Disclosure of Healthcare Items or Service to Health Plans when Patients Self Pay Out of Pocket (Attachment C).

The applicable entity HIM department processes these requests. For those items and services that meet the self-pay criteria, the applicable entity HIM department will take steps may include: Creating a “Private from Payer” account type to the encounter associated with the patient’s request in Epic; setting the “Consent Restricted” flag in ORCA; and adding a guarantor account note stating the amount paid and details of the request.

Each UW Medicine billing system will not disclose this restricted information to the health plan for those items or services.

V. Requirements for Alternative and/or Confidential Communications

A request for communication by alternative means or at alternative locations must be in writing and submitted to the applicable entity HIM department. Individuals requesting alternative confidential communications are not required to provide an explanation for the request. The applicable entity HIM department determines whether to accommodate a request, and will provide the individual a determination of the request in writing.

Examples of alternative and/or confidential communications include but are not limited to:

A. Verbal versus written communications;
B. Written versus verbal communications;
C. Electronic versus paper;
D. Fax versus postal mail;
E. Postal mail directed to an alternate address; and
F. Phone calls directed to an alternate phone number.

UW Medicine may request information as to how billing for healthcare services will be made, if the alternative communications request conflicts with UW Medicine billing practices. The applicable entity HIM department implements controls within UW Medicine enterprise systems to honor approved requests and coordinates the request for communication by alternative means or at alternative locations across all UW Medicine entities (using PP-22 Attachment D: Additional Privacy Protections, Restrictions, and Alternative Communications Coordination and Action Form).

Requests for Emailing Patient Information

Patients may want to use email to facilitate communication. Federal regulations impose a "duty to warn" patients of risks associated with unencrypted email. UW Medicine must document in the medical record that patients have been advised of the risks associated with email communications (for example: the email could potentially be read by a third party). See the Risks of Using Email: http://www.uwmedicine.org/global/compliance/pages/risks-of-using-email.aspx.

Upon receipt and documentation of this notification, the patient has the right to request communication via email. Where feasible, patients should be directed to use eCare (a secure, internet tool that connect patients to their care team and personal health information) https://ecare.uwpn.org/mychart/default.asp.

Requests for Texting Information to Patients

If a patient requests to contacted via text message, the workforce member must warn the patient of the risks of using a text message (the message is sent in plain text and may be intercepted, forwarded, stored in multiple locations, and delivery is not guaranteed), and document in the medical record that patients have been advised of the associated risks. If the patient stills request that text messaging be used and the technology for accommodating this request is available then brief text messaging using the minimum necessary information may be used (for example: “Your appointment has been set for 4/4/14 at 10:30 am.”).

REGULATORY/LEGISLATION/REFERENCES

- 45 CFR Part 160 and 164; Section 164.522 - “Rights to request privacy protection for protected health information”
- 45 CFR Part 160 and 164; 164.502 (c) - “Standard: Uses and disclosures of protected health information subject to an agreed upon restriction”
- 45 CFR Parts 160 and 164; Section 164.510(a) - “Standard: Use and disclosure for facility directories”
- 45 CFR Part 160 and 164; Section 164.512(b) - “Standard: Uses and disclosures for public health activities”
• American Recovery and Reinvestment Act – Subtitle D Privacy
• RCW 70.02.050 – Disclosure without patient’s authorization – Permitted and mandatory disclosures

PROCEDURE ADDENDUM(s) REFERENCES/LINKS
UW Medicine Compliance Policy: PP-00 Glossary of Terms

Forms:
• UW Medicine Compliance Policy: PP-22: Attachment A: Request to Consider Additional Privacy Protection for Protected Health Information UH1869
• UW Medicine Compliance Policy: PP-22: Attachment B: No longer in use
• UW Medicine Compliance Policy: PP-22: Attachment C: Request for Restricting PHI to Health Plans for Out of Pocket Expenses UH2923
• UW Medicine Compliance Policy: PP-22: Attachment D: Additional Privacy Protections, Restrictions, and Alternative Communications Coordination and Action Form

Additional Contacts
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ROLES AND RESPONSIBILITIES
Defined within POLICY.

AUTHORITIES

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

Date

Approved Version

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