Applicability: UW Medicine

Policy Title: Patients’ Access to Their Protected Health Information and Designated Record Set

Policy Number: PP-23

Superseded Policy or Entity Policy: N/A

Date Established: April 28, 2003

Date Effective: June 15, 2015


Next Review Date: June 15, 2018

PURPOSE AND SCOPE
This policy describes the right of patients to seek access to their own Protected Health Information (PHI), and explains how UW Medicine will facilitate that right.

POLICY PRINCIPLES/STATEMENT
UW Medicine recognizes and facilitates a patient's right to access, inspect and obtain copies of his/her PHI contained in the designated record set.

DEFINITIONS
1. Designated record set: a group of records consisting of one or more of the following types of information:
   a. Medical and billing records about patients;
   b. Information about health plan enrollment, payment, claims adjudication and case or medical management record systems; and
   c. Other information used to make decisions about patients.

2. Workforce: faculty, employees, volunteers, trainees, students and other persons whose conduct, in the performance of work for UW Medicine or its business associate, is under the direct control of UW Medicine or its business associate, whether or not they are paid by UW Medicine or its business associate (45 CFR § 160.103).
I. Right of Access

A. Patients have the right to:

1. Access, inspect and obtain copies of their PHI contained within the designated record set.

2. Request that their PHI, whether in paper or electronic form, is transmitted to another person.

   The request must:
   a. Be in writing;
   b. Be signed by the patient;
   c. Clearly identify the designated recipient;
   d. Include the location to which it should be sent.

   (A standard patient authorization is not required.)

3. Be provided with a convenient time and place to access, inspect or obtain a copy of the PHI or receive it by mail.

4. Receive their PHI in the form and format requested if it is readily producible in such form and format or, if not, in a readable hard copy or other form and format as agreed to by UW Medicine and the patient.

5. Request that PHI be provided in electronic format when the designated record set is maintained electronically.

B. Patients do not have the right to request access to their PHI when it resides in one of the following:

1. Psychotherapy notes

2. Records compiled for use in a civil, criminal or administrative proceeding.

II. Processing a Patient’s Request for Access

A. Access for review or copying of information requires a written request from the patient to the UW Medicine entity’s health information management release of information service area. Use of the UW Medicine Form UH0626 (PP.08 Attachment A: Patient Authorization to Disclose, Release and/or Obtain Protected Health Information) is recommended, but any written request from the patient triggers a UW Medicine obligation to respond.
UW Medicine provides patients copies in electronic or paper form. If the patient requests to access, inspect and/or obtain copies of their PHI contained within the designated record set across multiple UW Medicine entities, the entity receiving the request will facilitate the process with other UW Medicine entities.

B. UW Medicine responds to written requests within fifteen (15) working days after receipt of the request.

Within this time period, UW Medicine either makes the information available or provides written notice to:

1. Inform the patient that the information does not exist;
2. Deny the request in whole or in part; or
3. Inform the patient that there will be a delay in responding, including the reason for the delay and the expected date of completion.

When the information is in use or when unusual circumstances delay handling of the request, UW Medicine may extend the time for response up to twenty-one (21) working days from the date the request is received. In these cases, UW Medicine must provide the patient with a written explanation of the reason for the delay and indicate the anticipated date when the records will be produced.

C. If the requested PHI is integrated with unrequested PHI or PHI for which access would be denied, UW Medicine and the patient may consider an alternative approach, such as a summary of the PHI requested or an explanation of the PHI to which access has been provided. The patient must agree in advance to such a summary or explanation and to the fees imposed.

D. UW Medicine charges the patient the cost-based fees in accordance with Health Insurance Portability and Accountability Act (HIPAA). Current cost-based fees for paper copies are documented in the “.allowed amount for charging requestors for copies of records” spreadsheet found at http://depts.washington.edu/comply/docs/ROI_Charging_Matrix.pdf.

UW Medicine charges the labor costs of $26.00 per hour in responding to requests from the patient for electronic copies (or summary or explanation) of medical records. The fee for electronic copies is based solely on the time it takes to copy the records.

A manager of health information management may waive this fee on a case-by-case basis for extenuating circumstances (for example, financial hardship or special circumstances). Healthcare professionals may provide patients with copies of their records at no cost to the patient, in order to facilitate patient care.
NOTE: To facilitate communication to the requestor for incomplete requests, see EXAMPLE Letter – Incomplete Request (Attachment B).

E. Adult patients, emancipated minors, patients over the age of 16 who can consent for their care, or patients deemed as a mature minor by their healthcare professional can access their PHI online through secure internet tools that connect patients to their care team and PHI, such as eCare.

UW Medicine may revoke the access accounts of patients who do not abide by the required terms and conditions for use of these secure internet tools.

For information regarding proxy access, see UW Medicine Compliance policy: PP.14 Access & Disclosure of Protected Health Information to a Minor or Personal Representatives/Surrogate Decision-Makers.

III. Processing a Workforce Member’s Request for Access

Workforce members may access their own PHI through their entity-based approved process. In doing so, UW Medicine workforce members must comply with all applicable restrictions governing the use of entity equipment for private purposes, whether during or outside of working hours, including WAC 292-110-010.

Accessing the records of family members is not allowed without an authorization from the patient for electronic access by their workforce family member. The authorization must be submitted through Health Information Management and scanned into the electronic health record system. Accessing the record for a family member minor between the ages of 13-17 years of age is strictly prohibited due to WA State Law protecting the records of minors. Access audits are performed regularly and workforce members who access the record of a family member without proper authorization will face disciplinary action. See UW Medicine Compliance policy: PP.08 Use & Disclosure of Protected Health Information Requiring Authorization for authorization information; Section II.E above for information about eCare; and PP.14 Access & Disclosure of Protected Health Information to a Minor or Personal Representatives/Surrogate Decision-Makers for information regarding proxy access.

IV. Denial of Access

If UW Medicine denies access in whole (see sample letter: Reviewable Grounds for Denial Whole – Attachment D) or in part (see sample letter: Reviewable Grounds for Denial Partial – Attachment C), the entity processing the request must:

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1 Workforce members in all entities, with the exception of Valley Medical Center (VMC), who have access to UW Medicine clinical information systems may access their personal PHI. VMC workforce members may only access their personal PHI using MyChart or the VMC Health Information Management (HIM) Release of Information process.
A. To the extent possible, provide the patient access to the other requested information contained in the designated record set;

B. Provide a written denial to the patient within fifteen (15) working days of determination that includes the following information:

1. The basis for the denial;

2. A statement of the patient’s review rights including a description of how such rights may be exercised;

3. A description of how the patient may file a complaint with UW Medicine or with the Office for Civil Rights (OCR), see UW Medicine Compliance policy: PP-05 Complaints and Incidents Related to Privacy and Information Security;

4. The names or titles and telephone numbers of the designated entity contact person/office;

C. Place a copy of the denial letter in the designated record set.

If UW Medicine does not maintain the requested information but knows where the information is located, the entity receiving the request must tell the patient where to direct the request.

If UW Medicine denies a patient’s request for examination and copying because the access required is likely to endanger the life or physical safety of the patient or another person, then UW Medicine shall inform the patient of his/her right to select another healthcare professional to examine and copy the patient’s health record.2

V. Denial of Access - Unreviewable Grounds for Denial

UW Medicine may deny a patient access without providing an opportunity for review in the following circumstances (see sample letter: Unreviewable Grounds for Denial – Attachment E):

A. Where the patient has no right of access:

1. Psychotherapy notes;

2. Information compiled for use in a civil, criminal, or administrative proceeding;

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2 This is consistent with RCW 70.02.090(3).
B. When acting under the direction of a correctional institution, UW Medicine may deny an inmate’s request to obtain information when the access would jeopardize the health, safety, security, custody or rehabilitation of the patient or other inmates, the safety of any officer, employee or person at the correctional institution or the safety of a person responsible for transporting the inmate.

C. When an active research project includes treatment, UW Medicine may temporarily deny access to PHI provided that:

1. The patient agreed to the denial when the patient agreed to participate in the research; and

2. The healthcare professional has informed the patient that access to the information would be available at the completion of the research.

D. UW Medicine may deny a patient’s access to PHI in records that are subject to the Privacy Act, 5 U.S.C. 552a, applicable to federal agencies.

E. UW Medicine may deny a patient access to requested information if that information was provided by someone other than the healthcare professional under a promise of confidentiality and the access would likely reveal the source of the information.

F. When access to the PHI is otherwise prohibited by law.

VI. Denial of Access - Reviewable Grounds for Denial

UW Medicine must provide the patient an opportunity for review within ten (10) business days of receipt if a patient’s access is denied for any of the following reasons:

A. A licensed healthcare professional, exercising professional judgment, determines that the access requested is likely to endanger the life or physical safety of the patient or another person.

B. The PHI makes reference to another person (not including the healthcare professional) and a licensed healthcare professional, exercising professional judgment, determines that the access requested is likely to cause substantial harm to the person referenced.

C. The healthcare information was compiled and is used solely for litigation, quality assurance, peer review, or administrative purposes.

D. The request for access is made by the patient’s personal representative or surrogate decision maker and a licensed healthcare professional, exercising professional judgment, determines that providing access to the personal representative or surrogate decision maker is likely to cause substantial harm to the patient or another person.
VII. Denial of Access – Patient Appeal Process

All patient requests for review of access denials must be promptly referred to UW Medicine Compliance. If the reason for denial is reviewable per section VI above, UW Medicine Compliance works with the entity’s Medical Director’s Office to designate a healthcare professional who was not directly involved in the denial as the reviewing official.

The designated reviewing official determines, within a reasonable period of time, whether or not to deny access to the records requested. The reviewing official provides a written notice of the final determination to the patient and forwards a copy to the Release of Information Service Area. If other actions are required, the Release of Information Service Area carries out the reviewing official’s final determination.

**Exception:** When access is denied because knowledge of the information is likely to endanger the life or physical safety of a person(s), the patient has the right to request review by a healthcare professional selected by the patient. The healthcare professional selected by the patient must be authorized by state law to practice the same type of healthcare services that are the subject of the records.

VIII. Documentation Requirements

UW Medicine will document and retain in electronic or written format in accordance with the entity’s record retention policies and procedures:

A. The designated record set that is accessible by patients; and

B. The titles of the persons or offices responsible for receiving and processing requests for access by patients.

REGULATORY/LEGISLATION/REFERENCES

- 45 CFR Parts 160 and 164; Section 164.524
- Privacy Act (5 U.S.C. 552a)
- RCW 70.02 Medical Records - Healthcare Information Access and Disclosure
- WAC 246-08-400 – How much can a health care provider charge for searching and duplicating health care records?
- WAC 292-110-010  Use of state resources
- INFORMED CONSENT MANUAL for UW Medicine

PROCEDURE ADDENDUM(s) REFERENCES/LINKS

- UW Medicine Compliance Policy: PP-00: Glossary of Terms
- UW Medicine Compliance Policy: PP-05: Complaints and Incidents Related to Privacy and Information Security
• UW Medicine Compliance Policy: PP-08 Use & Disclosure of Protected Health Information Requiring Authorization
• UW Medicine Compliance Policy: PP-08 Attachment A Patient Authorization to Disclose, Release or Obtain Protected Health Information (UH0626) http://depts.washington.edu/comply/docs/PP_08_A.pdf
• UW Medicine Compliance Policy: PP-14: Access & Disclosure of Protected Health Information to a Minor or Personal Representatives/Surrogate Decision-Makers

Forms/Instructions
• UW Medicine Compliance Policy: PP-23 Attachment B: Incomplete Request example letter http://depts.washington.edu/comply/docs/PP_23_B.docx

ROLES AND RESPONSIBILITIES
Defined within POLICY.

AUTHORITIES

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APPROVALS

UW Privacy Official
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