

## Patient Rights Related to Protected Health Information (PHI)

COMP.104

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<b>Applicability:</b>	UW Medicine Affiliated Covered Entity
<b>Policy Title:</b>	Patient Rights Related to Protected Health Information (PHI)
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## **PURPOSE**

This policy establishes the obligations of UW Medicine with respect to patients' rights regarding their protected health information (PHI).

## **DEFINITIONS**

See [UW Medicine Compliance Glossary](#).

## **POLICY**

UW Medicine protects the rights of patients with respect to PHI in the designated record set, as afforded by the Health Insurance Portability and Accountability Act (HIPAA) and in accordance with all State and Federal laws and regulations, as outlined in this policy. These rights include:

- Notice of Privacy Practices
- Request for Additional Privacy Protections for PHI
- Access, Inspect or Request a Copy of PHI
- Request an Amendment to PHI
- Accounting of Disclosures of PHI
- Right to File a Complaint

### **I. Notice of Privacy Practices**

UW Medicine notifies patients, except as specifically stated in this policy, of:

- The types of uses and disclosures of their PHI that UW Medicine may make,
- Their individual patient rights with respect to their PHI, *and*
- UW Medicine's responsibilities with respect to their PHI.

UW Medicine provides each patient with a copy of its [Joint Notice of Privacy Practices](#) (Notice) (see also <http://www.uwmedicine.org/nopp>) and collects a signed acknowledgement that the patient or personal representative/surrogate decision maker has been provided a copy of the Notice. This requirement does not apply to inmates or in emergency treatment situations.

#### **A. Distribution of the Notice**

1. The Notice is available in paper and electronic formats posted in clear and prominent service delivery locations (not limited to emergency areas, admitting, registration and clinic appointment desks), and on UW Medicine websites. The Notice may be provided electronically if the patient agrees. Patients may request both paper and electronic versions of the Notice.
2. Workforce members provide patients with a copy of the Notice no later than the day of the patient's first encounter for clinical services. When care delivery is initiated electronically (as in the case of emails to patients or telemedicine), the Notice is electronically delivered to the patient no later than the date of the first service delivery. In an emergency treatment situation, the Notice is provided to the patient as soon as reasonably practicable.
3. UW Medicine posts and distributes the most current version of the Notice by the effective date of revision.

#### **B. Acknowledgement of the Notice**

1. Except in emergency treatment situations, workforce members make a good faith effort to obtain a signed acknowledgement from the patient or the personal representative/surrogate decision maker that the patient received the Notice. Workforce members address any patient questions about the Notice before the acknowledgement is signed.
2. When workforce members are unable to obtain a signed acknowledgement or the patient refuses to sign, efforts to obtain acknowledgement and the reasons why the acknowledgement was not obtained are documented. Workforce members shall make subsequent regular attempts to obtain a signed acknowledgement form.
3. All individually signed acknowledgements and any documents that explain why an acknowledgement could not be obtained are retained as part of the designated record set for the same period of time applied to the rest of the contents of the designated record set.
4. Patients may ask to opt out of receiving fundraising communications when they are asked to acknowledge receipt of the Notice. If this occurs, the workforce member obtaining the acknowledgement documents the patient's opt-out request.

#### **C. Revisions to the Notice of Privacy Practices**

UW Medicine promptly revises and redistributes its Notice whenever there is a material change to its use or disclosure of PHI, its legal duties, patient rights regarding PHI or the privacy practices described in the Notice. The Notice must contain the new effective date; the effective date may not be earlier than the date the revised Notice is available. Material changes may not be operationalized prior to the effective date of the revised Notice, except when the change is required by law.

## II. Requests for Additional Privacy Protections for PHI

Patients may request additional privacy protections, restrictions and alternative communications for their PHI.

A patient may request restrictions on the use or disclosure of PHI to carry out treatment, payment or healthcare operations, or disclosures of PHI for public health activities. UW Medicine must consider but is not required to agree to a patient'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.

### A. Requests for Restrictions

1. The request must be in writing and specific in detail as to which individuals or entities are to be denied or limited in use and/or disclosure.
2. The applicable Health Information Management (“HIM”) department reviews the request and informs the patient of the decision in writing.
3. In considering requests, UW Medicine does not agree to restrictions if continuity of patient care would be impeded.
4. UW Medicine also does not agree to restrict the following uses and disclosures of a patient’s PHI:
  - a. When use or disclosure is required by the Secretary of Health and Human Services (HHS) 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 there is no surrogate decision-maker available *and*:
    - Consent cannot be obtained because the patient is incapable of objecting; *or*
    - An emergency prevents the patient from providing consent or objection.
  - 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 of 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.

5. When UW Medicine agrees to a restriction on its use or disclosure of a patient's PHI, the restriction is documented in the designated record set. The applicable HIM department coordinates the restriction across all UW Medicine entities and implements appropriate controls to honor the restriction.
6. Workforce members shall not violate the terms of a restriction agreement.
7. 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.
8. When a patient requests that their PHI not be shared with a previous provider, the applicable HIM department facilitates coordination with the other entities and the patient's current provider(s) to ensure, to the extent permitted under law, that no further PHI is shared with the particular provider. The applicable HIM department ensures the restriction is appropriately documented in the designated record set and coordinates the restriction request across all UW Medicine entities.

#### **B. Terminating a Restriction Agreement**

UW Medicine may terminate its agreement to a restriction if:

1. The patient agrees to the termination in writing;
2. The patient agrees to the termination orally and the oral agreement to terminate is documented in the designated record set; *or*
3. The applicable HIM department notifies the patient that it is terminating the agreement to the restriction and informs the patient that the original restriction agreement does not cover PHI created or received after the patient has received the notice of termination.

The applicable HIM department communicates the termination of the restriction agreement across all UW Medicine entities.

#### **C. Request for Restrictions on Disclosures of PHI to Health Plans when Patients Self-Pay**

UW Medicine agrees to a patient's request to restrict disclosure of PHI about the patient to a health plan if:

1. The disclosure is for the purpose of carrying out payment or healthcare operations and is not otherwise required by law; *and*
2. The PHI pertains solely to a healthcare item or service for which the patient, (or person other than the health plan on behalf of the patient), has self-paid UW Medicine in full prior to the service.

Patients may request this restriction through the applicable HIM department. UW Medicine billing departments shall not disclose this restricted information to the health plan for those items or services.

#### **D. Request for Alternative Forms of and/or Confidential Communications**

Patients may request alternative means or locations for receiving communications of PHI other than those that UW Medicine typically employs. If a patient makes a reasonable request to have PHI communicated in a specific manner, UW Medicine shall accommodate such request, unless UW Medicine has a basis for determining that the request is unreasonable.

1. If the alternate form of communication requested is either email or text messaging, the recipient entity informs the patient of the privacy risks of unencrypted email or texts and documents that the patient was advised of the risks. See the [Risks of Using Email](#). Where feasible, patients should be directed to use the [applicable patient portal system](#).
2. For patient records requests and system-wide implementation of communication by alternative means or at alternative locations:
  - Patients must submit written requests for communication by alternative means or at alternative locations to the applicable HIM department. Patients are not required to provide an explanation for the request.
  - The applicable HIM department determines whether to accommodate the request and notifies the patient of the determination in writing.
  - UW Medicine may contact the patient to discuss arrangements for billing the charges for healthcare services, if the alternative communications request conflicts with standard UW Medicine billing practices.
  - The applicable HIM department implements controls within UW Medicine enterprise systems to honor approved requests and coordinates approved requests for communication by alternative means or at alternative locations across all UW Medicine entities.

### **III. Requests to Access, Inspect or Request a Copy of PHI**

Patients have the right, with certain exceptions, to:

- Access, inspect and obtain copies of their PHI contained within the designated record set;
- Request in writing that their PHI, whether in paper or electronic form, be transmitted to another person;
- Be provided with a convenient time and place to access, inspect or obtain a copy of the PHI or receive it by mail; *and*
- Request that PHI be provided in electronic format when the designated record set is maintained electronically.

The above rights are not applicable to:

- Psychotherapy notes;
- PHI compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding.

UW Medicine HIM departments facilitate the above patient rights. HIM departments shall provide 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 HIM and the patient. HIM departments may charge the patient a reasonable, cost-based fee.

#### A. Requests for Access to PHI

1. Patient access to PHI in the designated record set requires a written request from the patient to the applicable HIM department. A standard patient authorization is not required, but any written request from the patient triggers a UW Medicine obligation to respond.
2. Patients may request that UW Medicine send their PHI to a designated third party. Such requests must:
  - a. Be in writing;
  - b. Be signed by the patient;
  - c. Clearly identify the designated recipient; *and*
  - d. Include the location to which it should be sent.
3. Patients may use UW Medicine patient portals (e.g., MyChart) to access their PHI.
  - a. Adult patients and emancipated minors may be granted full access to the patient portal.
  - b. Patients 13 years and older but under age 18 may be granted limited access to their PHI so long as the limited access is configured to comply with UW Medicine's general patient information privacy policies.
  - c. UW Medicine may revoke patient portal access to users who do not abide by the patient portal's terms and conditions.
4. Proxy access to the patient portal allows a person other than the patient to have access to the patient's PHI through the patient portal.
  - a. Patients under 13 years old. A parent, guardian or other person acting in loco parentis may be granted full proxy access to the patient portal.
  - b. Patients 13 years and older but under age 18. Limited patient portal proxy access may be granted to the patient's parent, guardian, or other person acting in loco parentis so long as access is configured to comply with UW Medicine's general patient information privacy policies. Full patient portal proxy access may be granted when a healthcare professional determines that the adolescent patient has diminished capacity and that proxy access is in the patient's best interest.
  - c. Adult patients. Patient portal proxy access for an adult patient's chart is allowed when the adult patient or their guardian has authorized that proxy access can be granted to a representative.
  - d. UW Medicine may revoke proxy access to the patient portal to users who do not abide by the patient portal's terms and conditions.

5. Except for Valley Medical Center (VMC), workforce members who are also UW Medicine patients may access their own PHI or an adult family member's PHI in the electronic health record through their entity-based approved process.
  - a. VMC workforce members may only access their personal PHI using [MyChart](#) or through the VMC HIM Release of Information department and may not access their family members' electronic health record using UW Medicine clinical information systems unless performing authorized job duties.
  - b. Accessing the records of adult family members is not allowed without first 1) obtaining a signed HIPAA authorization granting electronic access to PHI from the family member, and 2) submitting the authorization form to the applicable HIM department to be scanned into the electronic health record system.
  - c. Workforce members may not access records of family members under the age of 18 unless performing authorized job duties.
  - d. Workforce members may not utilize Epic Care Everywhere to access either their own PHI or their family member's PHI at non-UW Medicine treatment locations unless they are performing authorized job duties.

#### **B. Response to Patient Requests for Access**

1. The applicable HIM department responds to written requests within 15 working days after receipt of the request. Within this time period, the applicable HIM department either makes the PHI available or provides a written response to:
  - a. Inform the patient that the PHI does not exist in the UW Medicine designated record set; if UW Medicine does not maintain the requested PHI but knows where the PHI is located, the HIM department receiving the request tells the patient where to redirect the request;
  - b. Deny the request in whole or in part; *or*
  - c. Inform the patient that there will be a delay in responding, including the reason for the delay and the expected date of completion.
2. UW Medicine may extend the time for response up to 21 working days from the date the request is received (that is, six additional working days) when the PHI is in use or when unusual circumstances delay handling of the request. In such cases, the applicable HIM department 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.
3. UW Medicine provides patients copies of PHI in electronic or paper form. If the patient requests to access, inspect and/or obtain copies of PHI contained within their designated record set across multiple UW Medicine entities, the HIM department receiving the request facilitates the process with other UW Medicine entities.
4. 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 if the requested PHI is integrated with unrequested PHI or PHI for which access would be denied. The patient must agree in advance to such a summary or explanation and to the fees imposed.

### C. Charging for Requests for Access

- a. UW Medicine may charge for labor costs in responding to requests from the patient for electronic copies (or for a summary or explanation) of their medical records.
- b. The fee for electronic copies is based solely on the time it takes to copy the records.
- c. The applicable HIM department may waive this fee on a case-by-case basis for extenuating circumstances (for example, financial hardship or special circumstances).
- d. Healthcare professionals may provide patients with copies of their records at no cost to the patient in order to facilitate patient care.

### D. Denial of Access

The applicable HIM department does the following if it denies the request for access in whole or in part:

- To the extent possible, provide the patient access to the other requested PHI contained in the designated record set;
- Provide a written denial to the patient within 15 working days of determination that includes the following information:
  - The basis for the denial;
  - A statement of the patient's appeal/review rights including a description of how to submit an appeal/review request;
  - A description of how the patient may file a complaint with UW Medicine or the Office for Civil Rights (OCR);
  - The name or title and telephone number of the designated entity contact person/office;
  - If the request for access was denied because the access is likely to endanger the life or physical safety of the patient or another person, inform the patient of their right to request that another healthcare professional review the decision to deny access to the PHI.
- Place a copy of the denial letter in the designated record set.

#### 1. Unreviewable grounds for denial

UW Medicine may deny a patient access without providing an opportunity for review in the following circumstances:

- a. Where the patient has no right of access:
  - Psychotherapy notes;
  - PHI compiled in reasonable anticipation of or for use in a civil, criminal, or administrative action or proceeding.
- b. When acting under the direction of a correctional institution, UW Medicine may deny an inmate's request to obtain PHI 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:
  - The patient agreed to the denial when the patient agreed to participate in the research; *and*
  - The healthcare professional has informed the patient that access to the PHI would be available at the completion of the research.
- d. When the records are subject to the Privacy Act, 5 U.S.C. § 552a, applicable to federal agencies.
- e. When the PHI that was provided by someone other than a healthcare professional under a promise of confidentiality and the access would likely reveal the source of the PHI.
- f. When access to the PHI is otherwise prohibited by law.

## **2. Reviewable grounds for denial**

UW Medicine provides the patient an opportunity for review within ten (10) business days of receipt of UW Medicine's response 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 PHI 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.

## **E. Patient Appeal/Review Process**

Workforce members shall promptly refer all patient requests for appeal/review of access denials to UW Medicine Compliance. If the reason for denial is reviewable per the preceding section, 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 applicable HIM department. If other actions are required, the HIM department carries out the reviewing official's final determination.

**Exception:** When access is denied because knowledge of the PHI 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.

#### IV. Right to Request an Amendment to PHI

Patients may request that healthcare providers correct or amend their PHI in the designated record set for as long as the PHI is maintained by UW Medicine. UW Medicine must review the requested amendment, may accept or deny the requested amendment, and must observe specific requirements pertaining to its response, record keeping, future disclosures, and documentation. Additionally, UW Medicine must take certain actions upon learning that a patient's healthcare information has been amended by another entity.

##### A. Requests for Amendment

Patient requests for correction or amendment must be made in writing and must state a reason for the requested change. All requests for corrections or amendments to the medical record shall be forwarded to the applicable HIM department for processing.

##### B. Responding to Requests for Amendment

Within 10 calendar days of receipt of the request, the applicable HIM department shall do one of the following:

- **Communicate the acceptance or denial of the amendment to the patient in writing.** The HIM department shall acknowledge the request, identify the specific PHI requested to be corrected or amended, verify the author(s) and forward the request for amendment to the identified author(s) with a request for review and determination of acceptance. If the author(s) is no longer a UW Medicine workforce member, the HIM department shall forward the request for amendment to the author's manager. The author(s) shall accept or deny the requested amendment and inform the HIM department of the decision, and the HIM department shall communicate the decision to the patient; *or*
- **Inform the patient that UW Medicine does not maintain the record.** If UW Medicine does not maintain the record, the HIM department shall provide the patient with the name and address, if known, of the person who maintains the record; *or*

- **Inform the patient in writing that more time is needed.** The communication shall include the reasons for the delay and notify the patient that action on the requested amendment can be expected on a specified date that is within 21 calendar days of the date that the original request was received. Only one extension is permissible.

#### 1. Accepting a requested amendment

If the request for amendment is accepted, the applicable HIM department shall:

##### a. **Place the amendment in the record.**

- Identify the specific records affected; and
- Append the new document or provide a written or electronic linkage from the old document to the new amended document.

##### b. **Inform the patient.**

- Send the patient a letter informing the patient that the amendment has been granted.
- The letter shall include a copy of the original request.
- Additionally, the letter shall request from the patient the identity of all persons with whom the amendment must be shared and the patient's agreement that UW Medicine will notify those persons of the amendment.

##### c. **Inform others.**

- Make reasonable effort within 10 calendar days to inform or provide the amended PHI to the persons identified by the patient, to third party payors or insurers, and to any persons, including business associates, known to have the PHI that is subject to the amendment.
- The purpose of notifying such other individuals is to reduce the chances they might rely on previously incorrect information to the detriment of the individual.

##### d. **Include the amendment in all future disclosures of the designated record set.**

#### 1. Denying a requested amendment

##### a. **Reasons for denial.** A request for amendment may be denied only for one or more of the following reasons:

- The PHI or record in question was not created by UW Medicine. However, this is not a reason to deny a request for amendment if the individual provides a reasonable basis to believe that the originator is no longer available to act;
- The PHI or record in question is not contained in the individual's designated record set;
- The PHI or record in question is accurate and complete; or
- The PHI or record in question would not be available for inspection for one or more of the following reasons:
  - It consists of psychotherapy notes;

- It consists of information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding;
- It was obtained by UW Medicine in the course of research and the research is still ongoing; provided that the individual consented to denial of access at the time they consented to participate in the research and that UW Medicine has informed the individual the right of access will be reinstated upon completion of the research;
- It is contained in records subject to the Privacy Act, 5 USC Section 552a, so long as that act's denial requirements are met;
- It was obtained from a confidential source and access to the PHI would reveal the source;
- Access to the PHI or record in question is likely to endanger the safety of the individual or another person;
- The PHI or record makes reference to another person and access is likely to cause substantial harm to that other person; *or*
- A personal representative is questioning the PHI or record and access is likely to cause substantial harm to the individual or another person.

**b. Response to the patient.** If a request for amendment is denied, the applicable HIM department shall:

- Send the patient a written denial letter within the 10-calendar day window or the 21 calendar day extended window (the 21-day window includes the initial 10 days).
- Include the following information in the denial letter and, as applicable, carry out the associated actions:
  - Clearly state the reason for denial.
  - Inform the patient of their right and the method to submit a written statement disagreeing with the denial which includes specific reasons for the disagreement.
  - Inform the patient that UW Medicine may prepare a written rebuttal to the patient's statement of disagreement and must provide a copy of the rebuttal to the patient.
  - Inform the patient that if they choose to submit a statement of disagreement, that statement as well as any rebuttal by UW Medicine will be attached to the document which is subject to the denied amendment and will be included with any future disclosures of that document.
  - Inform the patient of UW Medicine's obligation to include the amendment request and the denial in the patient's designated record set, whether or not the patient submits a letter of disagreement.
  - Inform the patient that if they choose not to submit a statement of disagreement, they have the right to request, in writing, that the request for amendment and the denial be included in any future disclosures of the disputed records.
  - Inform the patient how a complaint may be submitted to UW Medicine Compliance; the contact information must be included.
  - Inform the patient that they may submit a complaint to OCR within 180 days of the denial, either in writing or electronic form, naming

UW Medicine and describing the acts or omissions that are the subject of the complaint. The telephone number and address for OCR must also be included.

- c. Documentation of the denial.** The applicable HIM department identifies the specific PHI associated with the denied amendment request and appends or otherwise links the following within the designated record set:
- The patient's request for amendment,
  - UW Medicine's written denial of the requested amendment,
  - The patient's statement of disagreement, if any, *and*
  - UW Medicine's rebuttal statement, if any.
- d. Future disclosures.** In response to future requests for disclosure of the patient's PHI, the HIM department responding to the disclosure request follows the requirements below in determining whether or not to disclose correspondence related to amendment denials in the disclosure.
- If the patient submitted a written statement of disagreement with the denial, the HIM department includes in the disclosure:
    - The patient's request for an amendment, UW Medicine's written denial of the request, the patient's statement of disagreement, and any UW Medicine rebuttal statement; *or*
    - A summary of this information.
  - If the patient has not submitted a written statement of disagreement with the denial, the HIM department may disclose the following only if the patient requested such action:
    - The patient's request for amendment and UW Medicine's denial, *or*
    - A summary of the request and denial.

When the method of disclosure does not allow for inclusion of the information described above due to size, type, or data content, the HIM department may deliver the information separately.

### **C. Notice of Amendment from Another Covered Entity**

Workforce members who receive notice from another covered entity of an amendment to a patient's PHI that is contained in the patient's UW Medicine designated record set shall forward the notice to the applicable HIM department. The HIM department shall identify a UW Medicine provider involved in the patient's care (preferably the primary care provider), inform the provider of the additional documentation and amend the documentation in the designated record set.

#### **D. Documentation Requirements for an Amendment**

UW Medicine HIM departments shall maintain procedures for receiving and processing requests for designated record set amendments. The procedures shall include:

- Identification of the persons responsible for receiving and processing requests for amendments; *and*
- Retention of the request and amendment documentation in written or electronic form for at least six years from the date the documents were created.

#### **V. Right to an Accounting of Disclosures of PHI**

Upon request, UW Medicine provides patients with an accounting of disclosures of their PHI made up to six years prior to date of the request, with the following exceptions:

- Disclosures made to carry out treatment, payment or healthcare operations;
- Disclosures made to individuals about themselves;
- Disclosures made that were incidental to a use or disclosure otherwise permitted or required for treatment, payment or healthcare operations (for example, when a copy machine technician pulls a jammed piece of paper out of the machine that contains PHI);
- Disclosures made to carry out an individual's authorization;
- Disclosures made for a UW Medicine entity's facility directory;
- Disclosures made to persons involved in the individual's care;
- Disclosures made for purposes of notifying one responsible for the individual's care and for which the individual had an opportunity to agree or object;
- Disclosures made for national security or intelligence purposes;
- Disclosures made to correctional institutions or law enforcement in custodial situations; *and*
- Disclosures of a limited data set made in accordance with a specific data use agreement.

UW Medicine temporarily suspends a patient's right regarding any accounting of disclosures made to a health oversight agency or law enforcement official if requested to do so by the agency in writing.

UW Medicine provides patients with one free accounting every 12 months, but may charge a fee for additional accountings.

##### **A. Documenting Disclosures of PHI**

UW Medicine maintains logs to track the disclosure of PHI that does not meet one of the exceptions listed at the beginning of Section V of this policy.

1. Workforce members who make such a disclosure of PHI shall document the disclosure in the applicable accounting of disclosure database or via the applicable form.

2. Workforce members shall report all potentially inappropriate disclosures of PHI to UW Medicine Compliance for investigation. When an inappropriate disclosure is confirmed, UW Medicine Compliance shall document the disclosure in the applicable accounting of disclosure database or via the applicable form, or assure the documentation is completed by the applicable workforce member.

#### **B. Patient Requests for Accounting of Disclosures of PHI**

Workforce members shall direct patients who seek an accounting of disclosures of their PHI to make the request in writing to UW Medicine Compliance.

#### **C. Temporary Suspension of Accounting of Disclosures of PHI**

UW Medicine does not provide an accounting of disclosures of PHI to a patient if a health oversight agency or law enforcement official has requested temporary suspension, for the time specified by such official, if the official provides the hospital with a written statement that such an accounting would be reasonably likely to impede the agency's activities and that specifies the time for which a suspension is required.

3. Subpoenas issued by a federal grand jury or by a Washington Special Inquiry Judge that state that the recipient may not disclose receipt of the subpoena would constitute a written statement suspending the hospital's obligation to account for that disclosure.
4. If the official's request for suspension is made orally, the hospital must:
  - a. Document that the official made the request, specifying the official's identity and specifying that the official represented that making such an accounting would be reasonably likely to impede the agency's activities.
  - b. Temporarily suspend the right to an accounting of disclosures subject to the request and limit the temporary suspension to no longer than 30 days from the date of the oral request unless a written statement is submitted during that time.

#### **D. Responding to Requests for Accounting of Disclosures of PHI**

1. UW Medicine Compliance shall provide the patient with a written accounting of disclosures that occurred during the six years (or less if the patient requests a shorter time frame) prior to the date of the request.
2. UW Medicine Compliance shall respond to the patient's request for an accounting of disclosures no later than 60 days after receipt of the request. UW Medicine Compliance shall acknowledge receipt of the request and include the estimated date that the accounting of disclosures will be provided. If UW Medicine Compliance is unable to provide the accounting within the 60 days of the request, a 30 day extension may be made provided that:
  - a. The patient is sent a written statement of the reason for the delay along with the expected date the accounting will be provided; *and*
  - b. Only one extension period is taken.

3. UW Medicine Compliance shall ensure that all applicable disclosures are included in the accounting of disclosures report. Compliance shall obtain accountings from all UW Medicine entities and review the medical record for accountings of disclosures.
  - a. The accounting shall include the following four elements for each disclosure:
    - i. The date of the disclosure;
    - ii. The name of the entity or person who received the PHI and the address (if known);
    - iii. A brief description of the PHI disclosed;
    - iv. A brief purpose statement that reasonably informs the individual of the basis for the disclosure or, in lieu of such statement:
      - a. A copy of a written request for disclosure made by the Secretary of the HHS for compliance review purposes; *or*
      - b. A copy of a written request for disclosure as required by law. This includes but is not limited to the following examples:
        - For public health activities;
        - For victims of abuse or neglect;
        - For health oversight activities;
        - For judicial or administrative proceedings;
        - For law enforcement purposes;
        - For decedents;
        - For cadaver organ, eye or tissue donation purposes;
        - For research purposes;
        - To avert a serious threat to health or safety;
        - For specialized government functions; *or*
        - For workers' compensation cases.
4. Prior to providing the accounting of disclosures to the patient, UW Medicine Compliance reviews the disclosures to determine if knowing about any of the disclosures may put the patient in harm's way.

#### **E. Charging for an Accounting of Disclosures**

1. UW Medicine does not charge a patient for the first accounting of disclosures in any 12-month period.
2. UW Medicine may impose a reasonable charge for any additional requests made by the same patient within the same 12-month period. In such cases, UW Medicine provides the patient with:
  - a. Advance notice of the fee; *and*
  - b. The opportunity to withdraw or modify the request.

## F. Documentation Requirements for an Accounting of Disclosures

UW Medicine maintains the following documentation for a minimum of six years for each patient request for an accounting of disclosures:

- Copy of the patient's request;
- Information relating to the disposition of the request; *and*
- Copy of the written accounting provided to the patient.

## VI. Right to File a Complaint

Patients are informed about their right to file a complaint in the [Joint Notice of Privacy Practices](#) (see also <http://www.uwmedicine.org/nopp>). UW Medicine promptly manages patient privacy complaints in accordance with applicable policies.

Individuals may report privacy complaints to:

- UW Medicine Compliance  
Box 358049  
Seattle, WA 98195-8049  
206.543.3098 or 855.211.6193  
[comply@uw.edu](mailto:comply@uw.edu)
- U.S. Department of Health and Human Services  
Office for Civil Rights  
200 Independence Avenue S.W.  
Washington, D.C. 20201  
877.696.6775  
<https://www.hhs.gov/hipaa/filing-a-complaint/index.html>

## **REGULATORY/LEGISLATION/REFERENCES**

- American Recovery and Reinvestment Act of 2009, Pub.L. 111-5, Title XIII, Subtitle D — Privacy.
- Privacy Act, 5 U.S.C. § 552a – Records Maintained on Individuals.
- Privacy of Individually Identifiable Health Information, 45 C.F.R. § 164, Subpart E.
- Revised Code of Washington (RCW) 70.02 Medical Records — Healthcare Information Access and Disclosure.
- Washington Administrative Code (WAC) 246-08-400 Health care providers charging for searching and duplicating health care records.
- WAC 292-110-010 Use of state resources.

## **PROCEDURE ADDENDUM(S) REFERENCES/LINKS**

- [UW Medicine Compliance Glossary](#).
- [104.F1 UH1858 UW Medicine Joint Notice of Privacy Practices \(http://www.uwmedicine.org/nopp\)](http://www.uwmedicine.org/nopp).
- [104.F2 UW Medicine Joint Notice of Privacy Practices \(Text\)](#).
- [104.F3 NoPP Translation: Arabic \(http://www.uwmedicine.org/about/compliance/privacy/arabic\)](http://www.uwmedicine.org/about/compliance/privacy/arabic).

- [104.F4 NoPP Translation: Chinese](http://www.uwmedicine.org/about/compliance/privacy/chinese) (<http://www.uwmedicine.org/about/compliance/privacy/chinese>).
- [104.F5 NoPP Translation: Russian](http://www.uwmedicine.org/about/compliance/privacy/russian) (<http://www.uwmedicine.org/about/compliance/privacy/russian>).
- [104.F6 NoPP Translation: Somali](http://www.uwmedicine.org/about/compliance/privacy/somali) (<http://www.uwmedicine.org/about/compliance/privacy/somali>).
- [104.F7 NoPP Translation: Spanish](http://www.uwmedicine.org/about/compliance/privacy/spanish) (<http://www.uwmedicine.org/about/compliance/privacy/spanish>).
- [104.F8 NoPP Translation: Vietnamese](http://www.uwmedicine.org/about/compliance/privacy/vietnamese) (<http://www.uwmedicine.org/about/compliance/privacy/vietnamese>).
- [104.F9 UH2045 Notice of Privacy Practices Acknowledgment Form](#). (VMC, [see here](#))
- [104.F10 UH1869 Request to Consider Additional Privacy Protection for Protected Health Information](#). (VMC, [see here](#))
- [104.F11 UH2923 Request to Restrict Disclosure of Healthcare Items or Services to Health Plans When Patients Self Pay Out-of-Pocket](#). (VMC, [see here](#))
- [104.F13 UH2078 Amendment Request](#). (VMC, [see here](#))
- [104.F14 UH3162 Documentation of an Accounting of Disclosure](#). (VMC, contact VMC HIM.)
- [103.F1 UH2883 Mandatory Violent Injury Report](#).
- [103.F7 UH0626 Patient Authorization to Disclose, Release or Obtain Protected Health Information](#). (VMC, [see here](#))
- [UW Medicine Accounting of Disclosures Database](#). (VMC workforce contact applicable HIM department)
- [UW Medicine Informed Consent Manual](#). (VMC, [see VMC Risk Management](#))
- Error Correction and Medical Record Changes (UW Medicine) Administrative Policy and Procedure

## **ROLES AND RESPONSIBILITIES**

Defined within POLICY.

## **APPROVALS**

/s/ Beth DeLair  
Beth DeLair  
Chief Compliance Officer, UW Medicine  
Associate Vice President for Medical Affairs, UW

2/20/2024  
Date