

Practical Implications of the Changes to UW Medicine Compliance Policies

**UW MEDICINE COMPLIANCE
SEPTEMBER 2013**



Groupings for Slides

1. Leadership
2. Clinic managers
3. All Workforce
4. Health Information Management
5. Emergency Departments
6. Registration, Admitting
7. Social Work
8. Public Safety
9. Providers
10. Nurse managers
11. Patient Financial Services
12. Financial counseling
13. IT Services - Security
14. IT Services – Help Desk
15. Contact Center
16. Advancement
17. News & Community Relations
18. Human Subjects Division
19. Health Care Components



Overview

Most of the policy changes in this presentation are required to comply with final regulations implementing provisions of the HITECH Act issued by the Department of Health and Human Services on January 17, 2013.

These provisions address how UW Medicine may use or disclosure PHI, provide expanded rights for patients requesting access to their PHI, and clarify breach notification requirements.



SALE OF PHI

**PP-03: Administrative Requirements of UW Medicine's
Privacy Program & the Joint Notice of Privacy Practices for
UW Medicine and Other Providers**

**Changed to reflect that patient authorization is now required
before the sale of PHI**



1. All workforce members must:
 - a. Cooperate with all compliance investigations. Failure to cooperate will not prevent the investigation from proceeding and may result in a second investigation for non-cooperation.
 - b. Immediately notify UW Medicine Compliance if they receive a complaint or become aware of an incident.
2. The Privacy, Confidentiality, and Information Security Agreement (PCISA) has been updated.



CHANGES TO DISCLOSURES REQUIRING AUTHORIZATION

To make it easier for the patient and to simplify the process - the Authorization to Disclose, the Authorization to Obtain, and the Authorization for an Individual's Access were combined into one form: http://depts.washington.edu/comply/docs/PP_08_A.pdf



Compound Authorizations for Research

A compound authorization for the use or disclosure of protected health information for a research study may be created with:

- another authorization for the same research study,
- an authorization for the creation or maintenance of a research database or repository, **or**
- a consent to participate in research.



CONDITIONED PROVISIONS

- If the authorization includes future use of the data for secondary research, it must describe those purposes adequately enough for the individual to expect their PHI could be used or disclosed for future research.
- Where UW Medicine has conditioned the provision of research-related treatment on the provision of one of the authorizations, any compound authorization must clearly differentiate between the conditioned and unconditioned components.
- For the unconditioned components, workforce must provide the individual with an opportunity to opt in to the research activities described in the authorization.



Expanding the Definition of Business Associate

A person or entity, other than a member of the workforce, who creates, receives, **maintains**, or transmits PHI or performs certain functions, activities or services for or on behalf of UW Medicine.

The term “maintain” was added to include vendors that facilitate data transmission and storage such as cloud computing vendors.



Impact of Changes for Business Associates

UW Medicine must revise all existing BAAs by September 23, 2014, to extend certain Privacy and Security Rule requirements to business associates (e.g., mandate to adopt administrative, technical and physical safeguards for electronic PHI)



DISCLOSURES REGARDING DECEASED PATIENTS

UW Medicine may disclose information about a deceased patient to family members and others who were involved in the patient's care or payment for care prior to death

UNLESS

Doing so is inconsistent with any prior expressed preference of the patient that is known to UW Medicine.



Media Inquiries – Deceased Patients

If the media inquires about the condition of a patient, UW Medicine may disclose that the patient is deceased only if the next-of-kin has been notified and the patient's body is still in the hospital.



Disclosure to Persons Involved with Patient's Care

When the patient is not present, workforce may share only the protected health information that is directly relevant to the person's involvement with the patient's care or payment.



Immunization Disclosures

Disclosing proof of immunization to a school in Washington state used to require written authorization.

Now, authorization must still be documented, but it may also be based on verbal agreement from a patient's parent, guardian or other person acting in loco parentis for the patient, or from the patient him/herself, if s/he is an adult or emancipated minor.



PHI of Heightened Confidentiality

- Heightened standards of confidentiality apply to PHI pertaining to STDs/HIV/AIDS, mental health records, drug and alcohol treatment records, or sexual assault counseling.
- Disclosing PHI of heightened confidentiality for employers, deceased patients, correctional institutions, victims of abuse, requires a valid patient authorization or a federal or Washington state court order.



Violent Injury Reporting

The duty to report violent injuries to law enforcement is no longer limited to unconscious patients.

- The state law requires this for hospitals so the policy was changed to limit this to inpatient facilities.



Authorization for Psychotherapy Notes

Added: an authorization for a use or disclosure of psychotherapy notes may only be combined with another authorization for a use or disclosure of psychotherapy notes.



Final Rule on Breach Notification

The breach notification rule's "harm" threshold was replaced with a more objective standard.

Formerly, reportable breach was if potential of patient harm threshold was reached. Now reportable breach is any breach that does not meet the exemption standards.

We believe these changes will result in more notifications.



Risk Assessment for Breach Notification

Factors to Consider:

- Nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
- The unauthorized person who used the PHI or to whom the disclosure was made;
- Whether the PHI was actually acquired or viewed;
- The extent to which risk to the PHI has been mitigated.



Breach Notification

Workforce must report all suspected breaches to UW Medicine Compliance.

The department in which the breach occurs must cooperate with the investigation, assist in remediating identified issues and may be responsible for funding the response and notification of affected patients.

Limited Data Sets are now subject to the same breach notification requirements as PHI.



Self-Pay Restrictions Requests

If a patient wants to self-pay for a service and does not want information shared with their payor:

- Have patient complete form (provide copy to patient and send to HIM for scanning into medical record)
- Contact Compliance (206-543-3098 or comply@uw.edu)
- Establish self-pay amount for visit and have patient pay
- On the day of visit, check in patient under guarantor account type “private from payer”
- Compliance will coordinate with billing, financial counseling and other applicable office



Self-Pay Restrictions (continued)

- The “trigger” for this request isn’t simply that they want to self-pay for services – it’s a request for restricting information to their insurance about that particular visit. If they want that information restricted to insurance, they must self-pay the full amount.
- Patient should know that if they do not pay, we are not required to honor their request and may end up billing insurance at a later date.



Patients' Access to Their Information

- UW Medicine must honor requests for electronic copies of PHI to the patient or a designated recipient if the PHI is maintained electronically.
- UW Medicine must provide the patient a convenient time and place to inspect or obtain a copy of their PHI, or mail the copy of the PHI.



PP-32: New Policy

- Governs the use of photography, video/audio recordings, digital imaging, etc., in the clinical setting for patient care, research, and education.
- When patient images or recordings are needed, they should be created with UW Medicine equipment whenever possible.
- Workforce is responsible for ensuring the security of patient images and recordings in conformance with UW Medicine Information Security Policies.



Questions ?



CONTACT INFORMATION

**For consults and issues,
please contact:**

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comply@uw.edu

206.543.3098