

## UNIVERSITY OF WYOMING

### HIPAA POLICY 3.3 (B)

#### PERMITTED DISCLOSURES WITHOUT INDIVIDUAL'S AUTHORIZATION

#### USES AND DISCLOSURES REQUIRING AN OPPORTUNITY FOR THE INDIVIDUAL TO AGREE OR OBJECT

- I. **PURPOSE:** The purpose of this policy is provide for uses and disclosures of PHI without an individual's authorization but which require an opportunity for the individual to agree or object to the disclosure. This policy applies to UW Covered Components that provide direct healthcare.
  
- II. **FACILITY DIRECTORIES:** A UW Covered Component may maintain a directory of individuals at its facility, including the individual's name, location, condition in general terms and the individual's religious affiliation and release the information as follows:
  - a. A UW Covered Component may disclose directory information to members of the clergy or to other persons who ask for the individual by name.
  - b. The UW Covered Component must inform an individual of the PHI that it may include in a directory and the persons to whom it may disclose such information (including disclosures to clergy of information regarding religious affiliation) and provide the individual with the opportunity (oral or written) to restrict or prohibit some or all of the uses or disclosures.
  - c. If the opportunity to object cannot practicably be provided because of the individual's incapacity or an emergency treatment circumstance, the UW Covered Component may use or disclose some or all of the PHI permitted by this section for the facility's directory if such disclosure is:
    - i. Consistent with a prior expressed preference of the individual, if any, that is known to the covered health care provider; and
    - ii. In the individual's best interest as determined by the covered health care provider, in the exercise of professional judgment.
  
- III. **INDIVIDUAL'S CARE AND NOTIFICATION PURPOSES TO FAMILY MEMBERS:** The general rule is that a UW Covered Component may disclose to a family member, other relative, or a close personal friend of the individual, or any other person identified by the individual, the PHI directly relevant to such person's involvement with the individual's care or payment for that care, unless expressly prohibited by the individual or personal representative. A UW Covered Component may also use or disclose PHI to notify or assist in notifying a family member, other relative, or c lose personal friend of the individual, or any other person identified by the individual, of the individual of a brief confirmation of the individual's general health status unless expressly prohibited by the individual or the personal representative.
  - a. **Individual Present:** If the individual is present or otherwise available prior to the use or disclosure permitted above and has the capacity to make health care decisions, the UW

Covered Component may use or disclose the PHI if it obtains the individual's agreement, it provides the individual with the opportunity to object (oral or written) and the individual does not express an objection, or it reasonably infers from the circumstances based on the exercise of professional judgment that the individual does not object.

- b. **Individual not Present:** If the individual is not present or the opportunity to object cannot practicably be provided because of incapacity or emergency, the UW Covered Component may disclose only the PHI directly relevant to such person's involvement with the individual's care if the UW Covered Component has determined that the disclosure is in the individual's best interest. A UW Covered Component may use its professional judgment and its experience with common practice to make reasonable inferences of the individual's best interest in allowing a person to act on behalf of the individual to pick up filled prescriptions, medical supplies, X-rays, and other similar forms of PHI.
  - c. **Individual is Deceased:** A UW Covered Component may disclose to a family member, other relative, or a close personal friend of the individual, or any other person identified by the individual who were involved in the individual's care or payment for health care prior to the individual's death, protected health information of the individual that is relevant to such person's involvement, unless doing so is inconsistent with any prior expressed preference of the individual that is known to the covered entity.
    - i. Disclosures permitted under this section would not apply to more than a limited disclosure; for example, a complete disclosure of the entire medical record is not permitted unless the family member is also the personal representative.
  - d. **Emergency:** A UW Covered Component may use or disclose to emergency services, health care and relief agencies, a brief confirmation of the individual's health status for the purpose of coordinating with such entities uses or disclosures of PHI to notify or assist in notifying a family or household member of the individual. The requirements of (1) and (2) apply to such uses and disclosures to the extent the UW Covered Component determines they do not interfere with the ability to respond to the emergency circumstance.
- IV. DISASTER RELIEF:** PHI may be disclosed for notification purposes to public or private entities authorized by law or charter to assist in disaster relief efforts for the purpose of coordinating with such entities.
- V. REFERENCES/APPLICABLE LAW:**
- a. 45 C.F.R. Section 164.510

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