

UNIVERSITY OF WYOMING

HIPAA POLICY 4.3

RIGHT TO REQUEST RESTRICTIONS ON USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

- I. **PURPOSE:** Patients have the right to request restrictions on their protected health information (“PHI”). This policy provides guidance for when and how an individual may request restriction of their PHI and to outline the processes set out by UW Covered Components who provide direct treatment to patients in processing such requests.

- II. **INDIVIDUAL RIGHTS:** A UW Covered Component must allow individuals or their designated personal representative an opportunity to request a restriction of the uses or disclosures of PHI about the individual to carry out treatment, payment, or healthcare operations; and disclosures regarding the individual’s care and notification purposes.
 - a. A UW Covered Component is not required to agree to a patient’s request for restriction, unless:
 - i. The disclosure is for the purpose of carrying out payment or health care operations and is not otherwise required by law; AND
 - ii. The PHI pertains solely to a health care item or service for which the individual, or person other than the health plan on behalf of the individual, has paid the covered entity in full.

- III. **PROCEDURE:**
 - a. **Form:** All requests from the patient should be in writing using the form approved by the UW Covered Component.
 - b. **Evaluation of Request:** The UW Covered Component’s Privacy Officer should evaluate the request to determine whether it should be granted or denied. Factors that may be considered include but are not limited to the following:
 - i. Whether the restriction would cause the UW Covered Component to violate applicable federal or state law or professional standards, including medical ethical standards;
 - ii. Whether the UW Covered Component’s information systems make it unfeasible to accommodate the request;
 - iii. Whether the restriction will impede the UW Covered Component’s ability to provide treatment to the patient;
 - iv. Whether the patient is prepared to make alternative payment arrangements if the restriction will impede the ability of an insurance plan to provide coverage by restricting the UW Covered Component’s disclosures to insurers; and
 - v. Whether the restriction appears to be in the best interests of the patient.
 - c. **Notification to Patient:** The patient must be notified in writing of the UW Covered Component’s decision to grant or deny the request.
 - i. If the patient’s request is approved, the notice should specify the restriction the UW Covered Component has agreed to abide.
 - ii. If the patient’s request is denied, the notice should specify the reason for the denial.

- d. **If Restrictions Granted:** If a restriction is approved, all practice and medical staff involved in the patient's care must be notified.
 - i. A copy of the granted restrictions shall be placed in the front of the medical record.
 - ii. The applicable computer system should be updated to reflect the restriction.
 - iii. All staff members must review the record to determine restrictions before using or disclosing the patient's PHI
- e. **Exceptions to Restrictions Granted:** If a UW Covered Component agrees to restrictions, it must not use or disclose PHI in violation of the restriction, except in the following instances the UW Covered Component may use or disclose PHI even when restrictions have been granted:
 - i. **Emergency:** The individual who requested the restriction is in need of emergency treatment and the restricted PHI is needed to provide emergency treatment.
 - 1. The applicable staff member must instruct individuals to whom PHI was disclosed for emergency treatment not to further use or disclose the information.
 - ii. **HHS:** The disclosure is required by the Secretary of HHS.
 - iii. **Facility Directories:** The disclosure is for facility directories.
 - iv. **Permitted by Law:** No authorization or opportunity to agree or object is required by law. (See policy on Uses & Disclosures Not Requiring Patient Authorization).

- IV. **TERMINATION OF RESTRICTION:** A UW Covered Component may terminate or modify its agreement to a restriction if:
- a. **Individual Agrees:** The termination of the restriction is requested by the patient.
 - i. The patient should document the modification or termination on a form approved by the UW Covered Component and sign it.
 - ii. The modification/termination of restrictions should be placed in front of the medical record.
 - iii. The individual may orally agree to the termination, however the oral agreement must be documented by the UW Covered Component.
 - b. **UW Covered Entity Initiates Termination:** The UW Covered Component requests termination of the restriction.
 - i. Any practice or medical staff member who believes there is good reason to modify or terminate a restriction can present the reason to the senior management of the UW Covered Component.
 - ii. If the UW Covered Component senior management determines that a modification or termination is granted, it should be documented on a form approved by the UW Covered Component.
 - iii. The modification/ termination of restrictions should be placed in the front of the medical record and/or file.
 - iv. The UW Covered Component must inform the individual it is terminating or modifying its agreement to the restriction; however the termination is only

effective with regard to PHI created or received after it has so informed the individual.

V. **REFERENCES/APPLICABLE LAW:**

- a. 45 C.F.R. Section 164.522

Revised August 2015

