

UNIVERSITY OF WYOMING

HIPAA POLICY 3.4

DE-IDENTIFIABLE HEALTH INFORMATION, LIMITED DATA SET REQUEST AND DATA USE AGREEMENT

- I. **PURPOSE:** PHI that does not identify an individual is not individually identifiable health information. If information is de-identified, it is not subject to the HIPAA Privacy Rules. The purpose of this policy is to ensure that PHI is properly de-identified when used without patient authorization or when re-identified as required by HIPAA and to provide guidance with respect to information presented as a limited data set or with a Data Use Agreement.

- II. **DE-IDENTIFICATION OF PHI:** Health information that does not identify an individual with respect to which there is not a reasonable basis to believe that the information can be used to identify an individual is not considered individual identifiable health information.
 - a. **Application:** To the extent de-identified information can be used or disclosed in lieu of PHI, none of the complex requirements of the HIPAA laws apply.
 - b. **Methods for De-identification:** Information can be de-identified by two methods:
 - i. **Statistical Approach:** Requires that a person with appropriate knowledge and experience of generally accepted statistical methods for rendering information not individually identifiable apply those methods or principles and determines that the risk is very small that the information could be used, alone or in combination with other reasonably available information by an anticipated recipient to identify an individual who is the subject of the information. The expert must document the methods used and the results of the analysis.
 - ii. **Safe Harbor Approach:** Requires that the following identifiers of the individual or relatives, employers, or household members of the individual are removed, provided the UW Covered Component does not have actual knowledge that the remaining information could be used alone or in combination with other information to identify the individual:
 1. Names;
 2. All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code if, according to the current publicly available data from the Bureau of the Census:
 3. The geographic unit formed by combining all zip codes with the same three initial digits contains more than 20,000 people; and
 4. The initial three digits of a zip code for all such geographic units containing 20,000 or fewer people is changed to 000.
 3. All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older;
 6. Telephone numbers;

7. Fax numbers;
8. Electronic mail addresses;
9. Social security numbers;
10. Medical record numbers;
11. Health plan beneficiary numbers;
12. Account numbers;
13. Certificate/license numbers;
14. Vehicle identifiers and serial numbers, including license plate numbers;
15. Device identifiers and serial numbers;
16. Web Universal Resource Locators (URLs);
17. Internet Protocol (IP) address numbers;
18. Biometric identifiers, including finger and voice prints;
19. Full face photographic images and any comparable images; and
20. Any other unique identifying number, characteristic, or code, except as permitted by paragraph (c) of this section; and
21. The covered entity does not have actual knowledge that the information could be used alone or in combination with other information to identify an individual who is a subject of the information.

- c. **Re-Identification:** A UW Covered Component may, but is not required to do so, assign a code or other means of record identification to allow information de-identified under this section to be re-identified, provided that:
 - i. **Code Derivation.** The code, key or other means of record identification is not derived from or related to information about the individual and is not otherwise capable of being translated so as to identify the individual; and
 - ii. **Code Security.** The UW Covered Component does not use or disclose the code or other means of record identification for any other purpose, and does not disclose the mechanism for re-identification.

III. LIMITED DATA SET: A UW Covered Component may use or disclose a limited data set that meets the requirements of this policy, if it enters into a Data Use Agreement with the limited data set recipient.

- a. **Definition of Data Set:** A limited data set is PHI that excludes the following direct identifiers of the individual or relatives, employers or household members of the individual:
 - i. Names;
 - ii. Postal address information, other than town or city, State, and zip code;
 - iii. Telephone numbers;
 - iv. Fax numbers;
 - v. Electronic mail addresses;
 - vi. Social security numbers;
 - vii. Medical record numbers;
 - viii. Health plan beneficiary numbers;
 - ix. Account numbers;
 - x. Certificate/license numbers;

- xi. Vehicle identifiers and serial numbers, including license plate numbers;
 - xii. Device identifiers and serial numbers;
 - xiii. Web Universal Resource Locators (URLs);
 - xiv. Internet Protocol (IP) address numbers;
 - xv. Biometric identifiers, including finger and voice prints; and
 - xvi. Full face photographic images and any comparable images.
- b. **Permitted Purposes:** A UW Covered Component may use or disclose a limited data set under this section only for the purposes of research, public health, or health care operations, and use PHI to create a limited data set that meets the requirements of this section for the UW Covered Component, another covered entity, or a business associate for such purpose.
- c. **Data Use Agreement:** A UW Covered Component may use or disclose a limited data set only if the Covered Component obtains a Data Use Agreement that meets the requirements of this section. A Data Use Agreement between the UW Covered Component and the limited data set recipient must:
- i. Establish the permitted uses and disclosures of such information by the recipient. The Agreement may not authorize the recipient to use or further disclose the information in a manner that would violate the requirements of the Privacy Rule if done by the UW Covered Component;
 - ii. Establish who is permitted to use or receive the limited data set;
 - iii. Provide that the recipient will:
 1. Not use or further disclose the information other than as permitted by the Agreement or required by law;
 2. Use appropriate safeguards to prevent use or disclosure of the information other than as provided for by the Data Use Agreement;
 3. Report to the UW Covered Component any use or disclosure of the information not provided for by its Data Use Agreement of which it becomes aware;
 4. Ensure that any agents to whom it provides the limited data set agree to the same restrictions and conditions that apply to the limited data set recipient with respect to such information; and
 5. Not identify the information or contact the individuals.
- d. **Compliance:** A UW Covered Component is not in compliance if it knew of a pattern of activity of the recipient that constituted a material breach or violation of the data use agreement, unless the UW Covered Component took reasonable steps to cure the breach or end the violation and, if such steps were unsuccessful, discontinued disclosure of PHI to the recipient and reported the problem to the Secretary of DHHS. A Covered Component that is a limited data set recipient and violates a Data Use Agreement will be in violation of the requirements of this policy.

IV. REFERENCES/APPLICABLE LAW

- a. 45 C.F.R. Section 164.514 (a)-(c)

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