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**University of Wisconsin-Madison  
Policy and Procedure**

Policy Number: 3.11  
Policy Title: Sale of Protected Health Information Generally Prohibited  
Effective Date: September 22, 2014  
Last Revisions Date: September 22, 2014  
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**I. Policy**

The HIPAA Privacy Rule and HITECH regulations prohibit covered entities from selling a patient's protected health information absent an authorization from the patient. UW-Madison does not sell patient protected health information without patient authorization to do so.

**II. Definitions**

- A. **Disclosure:** The release, transfer, provision of access to, or divulging in any manner of PHI by an individual within the HCC or ACE with a person or entity outside the HCC or ACE.
- B. **Payment:** The activities undertaken by a health care provider to obtain payment for the provision of care or by a health plan to provide reimbursement for the provision of care.
- C. **Protected Health Information ("PHI"):** Health information or health care payment information, including demographic information collected from an individual, which identifies the individual or can be used to identify the individual. PHI does not include student records held by educational institutions or employment records held by employers.
- D. **Research:** A systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge.
- E. **Sale of Protected Health Information:** A disclosure of PHI by a covered entity or business associate, if applicable, where the covered entity or business associate directly or indirectly receives remuneration from or on behalf of the recipient of the PHI in exchange for the PHI.
- F. **Treatment:** The provision, coordination, or management of health care and related services.

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- G. University of Wisconsin Affiliated Covered Entity (“UW ACE”): The UW-Madison Health Care Component (except University Health Services and the State Laboratory of Hygiene), the University of Wisconsin Medical Foundation and the University of Wisconsin Hospital and Clinics. See Privacy Policy # 1.2 “Designation of the University of Wisconsin Affiliated Covered Entity (UW ACE)”.
- H. Use: The employment, application, utilization, examination or analysis by an individual within the UW HCC or UW ACE, or the sharing of PHI with an individual within the UW HCC or the UW ACE.
- I. UW-Madison Health Care Component (“UW HCC”): Those units of the University of Wisconsin-Madison that have been designated by the University as part of its health care component under HIPAA. See Privacy Policy # 1.1 “Designation of UW-Madison Health Care Component”.

**III. Procedures**

- A. UW-Madison does not sell protected health information except pursuant to a patient authorization.
- B. Sale of protected health information does not include a disclosure of protected health information:
  - a. For public health purposes as otherwise permitted by the Privacy Rule (e.g., as a limited data set pursuant to a data use agreement for purposes of conducting public health activities).
  - b. For research purposes where the only remuneration received by the covered entity or business associate is a reasonable cost-based fee to cover the cost to prepare and transmit the protected health information for such purposes.
  - c. For treatment and payment purposes.

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- d. For the sale, transfer, merger, or consolidation of all or part of the covered entity and for related due diligence.
- e. To or by a business associate for activities that the business associate undertakes on behalf of a covered entity, or on behalf of a business associate in the case of a subcontractor, and the only remuneration provided is by the covered entity to the business associate, or by the business associate to the subcontractor, if applicable, for the performance of such activities.
- f. To the patient at the patient's request.
- g. Required by law.
- h. For any other purpose permitted by the Privacy Rule, where the only remuneration received by the covered entity or business associate is a reasonable, cost-based fee to cover the cost to prepare and transmit the protected health information for such purpose or a fee otherwise expressly permitted by other law.

**IV. Documentation Requirements**

The UW HCC unit must document and maintain all patient/client authorizations for the sale of their protected health information for a period of at least six years, from the date of its creation or the date when it last was in effect, whichever is later.

**V. Forms**

None.

**VI. References**

- 45 CFR 164.502 (HIPAA Privacy Rule)

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**VII. Related Policies**

None.

**VIII. For Further Information**

For further information concerning this policy, please contact the UW-Madison HIPAA Privacy Officer or the appropriate unit HIPAA Privacy Coordinator or sub-Coordinator. Contact information is available within the “Contact Us” tab at [hipaa.wisc.edu](http://hipaa.wisc.edu).

**Reviewed By**

UW-Madison HIPAA Privacy Officer  
UW-Madison Office of Legal Affairs

**Approved By**

Interim HIPAA Privacy and Security Operations Committee