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

Policy Number: 3.9
Policy Title: Verifying Identity and Authority of Persons Seeking Disclosure of
a Patient's Protected Health Information
Effective Date: April 14, 2003
Last Revision Date: July 13, 2014
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I. Policy

When requests for the disclosure of protected health information are received from any person outside of the UW-Madison Health Care Component or the University of Wisconsin Affiliated Covered Entity, such individual's identity and authority must be verified prior to making the disclosure whenever such identity and/or authority of the person is unknown to the staff person receiving the request.

Identity refers to who the person is; authority refers to the basis upon which the person claims to have access to the protected health information.

Knowledge of a requester may take the form of a known or recognized person, organization, or business, or it may be a known phone number, fax number, or mailing address.

II. Definitions

- A. HIPAA: Health Insurance Portability and Accountability Act of 1996.
- B. Protected Health Information ("PHI"): Health information or health care payment information, including demographic information, which identifies the individual or can be used to identify the individual. PHI does not include student records held by education institutions or employment records held by employers.
- C. 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 UW Affiliated Covered Entity".
- D. University of Wisconsin-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" for a listing of these units.

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III. Procedures

A. When the Requester is the Patient

Verification of identity may be accomplished by asking for photo identification (such as a driver's license) if the request is made in person. If the request is made over the telephone or in writing, verification may be accomplished by requesting identifying information such as address, telephone number, birth date, and/or medical record number and confirming that this information matches what is in the patient's record.

B. When the Requester is the Patient's Legally Authorized Representative

Verification of identity may be accomplished by asking for photo identification (such as driver's license) if the request is made in person. Once identity is established, authority in such situations may be determined by confirming the person is named in the medical record as the person's legally authorized representative. Or, if there is no person listed in the medical record as the patient's legally authorized representative, authority may be established by the person presenting a copy of a valid power of attorney for health care or a copy of a court order appointing the person guardian of the person (or guardian ad litem) of the patient. If patient has no health care power of attorney and no guardian, authority may be established by following the applicable hospital or clinic policy establishing when next-of-kin becomes the legally authorized representative.

C. When the Requester is a Public Official (e.g., law enforcement officers, state or federal surveyors, medical examiners, coroners)

1. Identity

If the request is made in person, verification of the identity of a public official should be accomplished by the presentation of an agency identification badge, other official credentials or other proof of government status. If the request is made in writing,

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verification of identity will be accomplished if the request is made on the appropriate government letterhead.

2. Authority

Authority of the public official to have access to PHI should be established by a written statement from the public official of the legal authority under which the information is requested (or, if a written statement is impracticable, an oral statement of such authority).

Note that local law enforcement officials (e.g., city police, county sheriff) are not generally entitled to PHI without a court order or written patient authorization. There are exceptions for reporting and investigation of child abuse/neglect and for reporting gunshot wounds, certain other wounds and burns to local law enforcement officials.

When in doubt about the authority of local law enforcement officials to obtain PHI, contact with the UW-Madison Office of Legal Affairs or the UW HIPAA Privacy Officer.

3. Example

A police officer unknown to staff members requests PHI. The officer's identity may be established by presentation of his/her badge and the officer's authority to have access may be established by the officer's written (or oral) statement of the legal authority under which the information is requested, such as investigation of suspected child abuse (which, under state law, permits a police officer access to PHI without patient authorization).

D. Other Requesters

Procedures for verifying the identity and/or authority of other unknown requesters of PHI will vary according to the circumstances. For example, if a person who is

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not known or recognized presents a written authorization by the patient as the basis for obtaining PHI, the person should be requested to present identification to verify that he/she is the person named in the authorization to receive the PHI. If there are any questions concerning if and/or how to verify identity or authority in particular circumstances, contact the UW-Madison Office of Legal Affairs, the UW HIPAA Privacy Officer, or the applicable Privacy Coordinator.

IV. Documentation Requirements

- A. Any documentation, statements, or representations which are relied upon to make a disclosure under this policy should be filed or noted in the patient's medical record.
- B. For documentation of authority to disclose PHI according to a governmental administrative process, such as from a state agency hearing body, the request must be in writing.
- C. For documentation of disclosures of PHI pursuant to a waiver of authorization by an Institutional Review Board (IRB), the requestor should provide a copy of the IRB waiver.

V. Forms

None.

VI. References

45 CFR 164.514(h) (HIPAA Privacy Rule)

VII. Related Policies

- Policy Number 3.2 "Uses and Disclosures Not Requiring Authorization
- Policy Number 3.3 "Uses and Disclosures Requiring an Opportunity to Agree or to Object"

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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.

Reviewed By

Chancellor
Chancellor's Task Force on HIPAA Privacy
UW-Madison HIPAA Privacy Officer
UW-Madison Office of Legal Affairs

Approved By

Interim HIPAA Privacy and Security Operations Committee