

# Checking the Pulse of our Membership



WASHINGTON STATE COALITION OF  
MENTAL HEALTH PROFESSIONALS AND CONSUMERS

Advocates for Ethical Mental Health Care

[www.wacoalition.org](http://www.wacoalition.org)

Fall 2009

## The Coalition: More Now than Ever?

Sue Wiedenfeld, Coalition Chair

Perhaps you long-term Coalition members remember: The Coalition began in 1993 in response to Health Care Reform, in an effort to preserve and protect the values of ethical psychotherapy in a time of great uncertainty, change, and risk to the ability to deliver ethical psychotherapy. Managed care was the norm, money went to administrative costs in many cases over treatment, and treatment had great restrictions including extremely limited access to mental health benefits or anything resembling effective psychotherapy.

Here we are, almost 16 years later, and again, health care reform efforts highlight the need for the Coalition. The Coalition, as the only multidisciplinary mental health organization,

offers a way all for mental health professionals to band together to carefully monitor proposals for change and, in response, make our voice heard in support of the values that underlie effective and ethical psychotherapy. While the Coalition has been involved in various efforts over the years, vigilance in a time of health care reform is at the heart of our existence. These are the times to speak out, to make our voice heard, to protect and defend the development of an effective mental health care delivery system.

The Coalition is currently doing its best to respond to expressed needs and concerns of mental health professionals. We are prepared to advocate for

clinicians, as well as patients, in defense of what we know to be effective psychotherapy. Please feel free to contact us with any concerns you have. Stay tuned as we monitor upcoming proposals for change in mental health care delivery.

Thank you for your support of the Coalition. Your membership matters. Please spread the word. This is a time when more members strengthens our message. **Invite your friends to join now ([www.wacoalition.org](http://www.wacoalition.org))**, and know we will continue to do our best to make our message heard and to keep you updated on important recent developments, including what you can do in these challenging times.

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### Coalition members and friends!

Renew your membership today! Keep yourself up to date regarding changes in mental health related to health care reform, and state issues like the changes in the Uniform Medical Plan. Read the several articles in this newsletter about these topics. Don't miss a future Newsletter! This is a time when you will want to track what the Coalition is doing to preserve and protect quality psychotherapy.

Invite a friend to join the Coalition. Forward the on-line newsletter that describes what we do. Remember, The Coalition represents all disciplines. **More members strengthen our message.**

### RENEW TODAY!!

Be sure to give us all your information so we can update our membership for the new directory.  
Renewal form, page 7

The Rules for the Health Information Portability and Administrative Act (HIPAA) have not changed much since they were first implemented in 2003-5. The major changes include the Breach Notification requirement, which went into effect on September 24, 2009; the change from oversight to the Office of Civil Rights; and the increased enforcement of the more than 42,000 complaints that have been filed (more than 3000 of the complaints resulted in civil sanctions).

The primary group against which complaints have been filed is private practitioners! This includes all kinds of health care practitioners, but the Coalition wants members to know that this is an increasing risk for mental health clinicians. Even if you do not have to be HIPAA compliant because you have not sent any patient information electronically, it is wise to be informed about HIPAA Rules, as they are becoming the standard for all privacy and confidentiality complaints. Below is a short review of HIPAA terminology and requirements. Happy HIPAA!

**1. Generally what do the HIPAA Privacy Standards require clinicians to do?**

Clinicians who meet the definition of a “covered entity” under the Privacy

Standards (see below) must 1) Notify patients of their privacy rights with the Notice of Privacy Practice (NPP); 2) Develop privacy policies; 3) Designate a Privacy Officer; 4) Keep all records, paper and electronic, secured, i.e., locked file cabinets and password and/or encrypted computers; 5) Develop Authorization Forms and Business Associate Agreements.

**2. Which clinicians must become HIPAA compliant?**

All clinicians who send health information in electronic form in connection with transactions for which the Secretary of HHS has adopted standards under HIPAA, are “covered entities” (see below). If a clinician is not sending information electronically, he or she technically is not a covered entity under HIPAA. However, it is advisable for all clinicians to become familiar with the HIPAA Privacy Standards as they are likely to become the basis for standard practice in all areas of confidentiality in practice.

**3. What is a “covered entity”?**

A covered entity is defined under the Privacy Standards as any health plan, health care clearinghouse, or health care

provider who transmits health information in electronic form in connection with transactions for which the Secretary of HHS has adopted standards under HIPAA. In practice, most clinicians who bill insurance electronically are covered entities. For help in determining whether you are a covered entity, see the decision tool at: <http://www.cms.hhs.gov/hipaa/hipaa2/support/tools/decisionsupport/default.asp>.

**4. What is Protected Health Information (PHI)?**

Protected Health Information (PHI) is health information that is identifiable to a specific individual and that is maintained or transmitted by a covered entity in any form, whether in oral, paper, or electronic form.

**5. What does “minimum necessary” mean in disclosing PHI?**

Minimum necessary” is a description of the principle behind all disclosures of PHI, except for those made between health care providers for treatment purposes. This means that the information disclosed is the “minimum necessary” for the specific disclosure, i.e., information being disclosed for payment purposes does not require information about the treatment progress. The major exception to the “minimum necessary” principle is when the treatment itself is being discussed, i.e., in supervision or consultation.



**6. What is a “Business Associate”?**

A Business Associate is a person or entity that performs certain functions or activities, on behalf of a covered entity, that involve the disclosure of PHI. Examples of Business Associates are a third-party administrator, an accountant, or a secretary who transcribes information for TPO purposes.

**7. What is the “Notice of Privacy Practices” (NPP)?**

The Notice of Privacy Practices informs a patient about the privacy practices of the clinician. The NPP must include information about how the clinician may disclose PHI about the patient; the rights of the patient to have access to the record; who is responsible for the development and implementation of the NPP; and the right of the patient to correct the record, among other information. The patient must sign the NPP at the first date of service except in emergency situations.

**8. Can patient information be disclosed for marketing purposes?**

Patient information cannot be disclosed for marketing purposes without an Authorization form signed by the patient. The definition of

*(Continued on page 4)*

IF YOU ARE NOT GETTING E-MAILS ABOUT OUR EVENTS, please E-mail us with your CURRENT E-mail address: [wacoalition@verizon.net](mailto:wacoalition@verizon.net). This is the best way to get Coalition news.

The Coalition has been concerned about the way that the changes to the Uniform Medical Program mental health benefits administration have been handled. The need to cut reimbursement rates in this terrible economy is somewhat understandable; the lack of notice to clinicians and discussion about the process was not. Here follows a brief description of what has happened over the past six months. As a result of the legal rejection of the Aetna contract, a new Request for Proposal has been sent to insurers who wish to become the administrator for the UMP. It is likely that the contract will be awarded early in 2010. I am in discussion with the Health Care Authority, the oversight body for UMP, about the problems we saw with the original contract with Aetna. I will keep you updated on the progress of these talks.

May, 2009

The Health Care Authority announced that Aetna would take over administration of UMP benefits as of January 1, 2010, and that all UMP providers had to become Aetna providers as of October 1, 2009, to continue as UMP providers. In addition, higher deductibles for UMP enrollees would also go into effect January 1, 2010.

June, 2009

United Behavioral Health Care filed a lawsuit claiming that they were treated

unfairly by HCA in giving Aetna the UMP contract.

July, 2009

I met with Rep. Mary Lou Dickerson, who contacted John Williams, Deputy Director of the Health Care Authority about the 30-40% cut in rates for mental health clinicians in moving from current UMP rates to proposed Aetna rates.

August, 2009

I received information from John Williams through Rep. Dickerson's office about the proposed changes, partly a response to a group in southwestern Washington who said the Aetna network is not sufficient to cover all the UMP enrollees in their area. I also talked with Lynn Kennedy, Executive Assistant to Steven Hill, HCA Director, about the way that the changes will be implemented and got some contact information for Aetna executives.

September 4, 2009: I talked with Kris Frank, Aetna Western Regional Legislative Director. He informed me of Aetna's plan to have several representatives come to Seattle to meet with major mental health associations individually to discuss the reimbursement changes. Mr. Frank expressed the intent of Aetna to offer rates that were consistent with the rest of the insurance market in Washington for mental health reimbursement.

September 11, 2009

A summary judgment was granted in United Behavioral Health Care's lawsuit to rescind the Aetna contract to cover UMP administration. HCA was charged with reworking their contract process.

**(From HCA Website) For Immediate Release:**  
09/11/2009

September 11, 2009, an Administrative Law Judge (ALJ) indicated he would rule in favor of United Health Care's motion for summary judgment in regard to the UMP 2010 procurement. He will remand the procurement back to the Health Care Authority (HCA). Once the ALJ has issued a formal written ruling, HCA will review that ruling with the Attorney General's office. In the meantime, HCA will review fall-back plans and determine how to proceed. HCA will continue to provide updates on further developments.

September 15, 2009

HCA is determining how to respond to the legal decision and will have information available by the end of the week.

**Moving Ahead**

While there are many issues in flux, there are some basic questions about the changes to UMP administration that can be answered:

1. Will UMP choose a new administrator for its plans? *Yes, they will have a third-party administrator, most likely Aetna or UBHC.*
2. Will current Aetna or UBHC in-network providers be included as UMP providers? *Yes, all current Aetna or UBHC in-network providers will automatically become UMP providers. All current UMP providers who are not in the network chosen will need to join that network to continue as UMP providers and accept the network rates.*
3. Why did the drastic cut in fees (by 30-45%) proposed in the Aetna contracts occur? *The state is in a huge financial crisis and all areas are being cut, including UMP coverage.*



Laura Groshong

*The contracts with Aetna or UBHC will lower reimbursement rates. UMP enrollees will see far higher deductibles and premiums.*

4. If the Aetna contract is implemented, why would co-pays for out-of-network providers be increased by 40%, and the 90808 code no longer be reimbursed?

*These were part of the cost containment mechanisms offered by Aetna and are used in other plans, though not supported by most mental health associations.*

5. What are the next steps to resolving the current legal rescinding of the UMP contract with Aetna?

*The Health Care Authority will decide by early next week whether to re-open the contract process, appeal the decision, or take some other action.*

The Coalition will be working with HCA to carefully monitor the way the administration of UMP mental health benefits is resolved. Individual clinicians can send a letter expressing their concern about the changes in the UMP reimbursement rates to HCA, once they are known, to John Williams, Deputy Director, Health Care Authority, P O Box 42684, Olympia, WA 98504-2684 or [john.williams@hca.wa.gov](mailto:john.williams@hca.wa.gov).

Join the Coalition	
Dues	
Member	\$65
Student	\$15
Consumer	Free
Organization	\$124

marketing in the HIPAA Standards is information about the patient sold to another individual or entity to market their services and/or services offered by a provider or entity not related to health care (e.g., a clinician is also a gardener and wants to send information about his/her services in this area to another clinician's patients; or a health care insurer wants to send an enrollee information about house insurance).

### 9. What is TPO (Treatment, Payment, and Health Care Operations)?

TPO refers to information disclosed by the clinician as follows:

- 1) **"Treatment"** – for purposes of coordinating or consulting on a patient's treatment or referring a patient for treatment;
- 2) **"Payment"** – for purposes of obtaining reimbursement for treatment provided, collections, utilization review activities, or determining eligibility; and
- 3) **"Health Care Operations"** – for purposes of conducting administrative, legal or other functions necessary to support treatment and payment including audits, quality assessment, or assessment of benefit plans.



TPO can be disclosed after a patient has signed the NPP and an initial Authorization form without needing further Authorization forms.

### 10. If a clinician sends information by fax to an insurance company regarding payment of a claim, has the clinician engaged in a standard transaction in "electronic form"?

Phone calls and paper faxes are not considered to be within the meaning of "electronic form" under the Privacy Standards. In other words, according to the most recent guidance that we have from HHS, a health care provider will not be deemed to be a covered entity merely by faxing claims information to an insurance company. However, faxes sent by computer are considered to be in "electronic form" and therefore, may be considered to be a transaction that could trigger covered entity status for a clinician.

### 11. Are special kinds of software necessary to comply with HIPAA standards?

No. It is necessary to have a password computer and to make "reasonable efforts" to send PHI on secure servers, including establishment of a firewall. Encryption at this time is

desirable but not required, though the passage of the HITECH Act last year may lead to encryption and audit trails being required in the near future.

### 12. What are "Psychotherapy Notes"?

The HIPAA Privacy Standards define Psychotherapy Notes as notes recorded by a mental health professional documenting or analyzing the contents of conversation during a counseling session **and** that are separated from the rest of the individual's medical record. Records meeting the definition of psychotherapy notes maintain additional protection under the Privacy Standards. Disclosures of psychotherapy notes to third parties generally require prior patient authorization.

### 13. Does a patient have the right to read his or her medical records or the Psychotherapy Notes?

HIPAA specifically allows patients the right to review their medical records with the clinician present or privately. Psychotherapy Notes can only be reviewed with the permission of the clinician and belong to the clinician, while the Medical Record belongs to the patient. The clinician can withhold permission for the patient to



review his or her records if the clinician believes it would be detrimental to the well-being of the patient.

### 14. What are the penalties for HIPAA violations?

Civil penalties are \$100 for each violation up to \$25,000 per year. More than 3000 civil penalties have been imposed as a result of HIPAA complaints. Criminal penalties are up to \$250,000 in fines and up to 10 years in jail. No criminal convictions have yet been imposed for HIPAA violations.

### 15. What is "breach notification"?

"Breach notification" is the notifying of a patient whose PHI has been released without prior authorization that the "breach" has occurred. Any personal information or medical information is considered PHI and must be reported if it is stolen or inadvertently released by the therapist.

#### CONTACT US

Email: [wacoalition@verizon.net](mailto:wacoalition@verizon.net)

Website: [www.wacoalition.org](http://www.wacoalition.org)

# Checking the Pulse of our Membership



This .In an effort to learn more about our members and plan for future events and workshops, we asked each of you to complete a brief survey. This was sent out via "snail mail" in April and again in June for those who might have missed it (this time electronically). It was important for us to hear from everyone.

Apparently you thought so as well. Nearly 48% of our membership responded.

The survey results reflect diversity in professional practice as well as a wide range of member interests and concerns. For example, respondents were nearly evenly split on keeping two sets of patient records; although one out of four used outcome tools when required by insurance panels, only one used them when not required. Issues of interest (item 9) included electronic health records and understanding HIPPA. Also, there seems to be a growing concern with what we might call "professional identity." Other issues and concerns you would like to see the Coalition address in 2009 and beyond (item 11) tell us we have much to do! Nearly everyone who responded indicated concerns about the privacy of patient records, equally ranking lack of patient and therapist control of MH records and misuse of records by insurers and drug companies.

Thank you again for taking the time to respond. In the months ahead, we

will work hard to shed light on these and other issues facing us as mental health professionals and consumers. We are starting off with some HIPAA pointers in this issue by Laura Groshong, our Coalition lobbyist who keeps us all well informed about MH legislative activity at the state and national levels.

Following are the survey results.

1. Do you belong to any panels that require you to use outcome tools?

YES 20%  
NO 80%

2. Do you use outcome tools on your own?

YES 6% (shared goals and objectives, commercial, self-developed)  
NO 94%

3. Do you work with managed care or fee for service (included indemnity plans)

YES 65% (Aetna, Premera, Uniform, First Choice Health Plan, EAPs)  
NO 35%

4. Are you a Medicare Provider?

YES 46%  
NO 54%

5. Are you a Medicaid Provider?

YES 13%  
NO 86%

6. Do you keep two sets of records about the patient to comply with HIPAA?

YES 54% (Progress notes and psychotherapy notes)  
NO 46%

7. Have you ever had your records subpoenaed, and were you required to

release them?

YES 38% (various legal activities, divorce, MVA, LTD, etc.)

NO 63% (my attorney said separate notes made no difference)

8. What are your main concerns about the privacy of patient records? (Check all that apply)

- Lack of patient control of MH records
- Lack of therapist control of MH materials
- Misuse of records by insurers and drug companies for marketing purposes
- Use of records for life insurance decisions

9. Which of the following issues are of interest to you – please rank from most to least

- a. Electronic Health Records
- b. Understanding HIPAA
- c. Responding to a complaint against me
- d. Increased competition in MH among clinicians – differentiation of practice confusion among consumers regarding MH providers
- e. Client base and professional identity
- f. Lost income
- g. Increased contact with other members (for professional and networking purposes)

10. Which option would you prefer for a CEU workshop/presentation?

25% Weekday evening  
75% Saturday morning

11. What other concerns/issues would you like the Coalition to address in 2009?

- Mental health care providers voice in national health care reform
- Provider compensation from insurance companies
- Representation of Provider rights with insurance companies
- Standardization of health insurance mental health administrative requirements
- Medicare approval for LMHCs and LMFTs
- Possible prescriptive powers for licensed mental health providers
- Client base and professional identity
- Privacy issues related to psychotherapy

## Who Ya Gonna Call !?!?!?!?

**Coalition Helpline: 206-444-4304**

**Who's My Legislator: 1-800-448-4881  
(State and Federal)**

**Legislative Hotline: 1-100-562-6000**

# Meet New Coalition Board Member

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*... not enough attention is being paid to the importance of ethical mental health care as essential to the overall health of our patients*

Hello! My name is Christopher Olsen. As a new board member for the Coalition, I have been asked to provide a brief biography for the newsletter. I have a master's degree in clinical psychology from Pacific University School of Professional Psychology. My master's thesis topic was on session limits dictated by managed care companies and the ethical and professional impact upon the psychotherapist/patient relationship.

I am a Licensed Mental Health Counselor in private practice in Seattle, working with tweens, teens, adults, and couples. Prior to going into private practice I worked for more than twenty years in the mental health field for private mental health agencies and in higher education working with students with learning, psychological,

and physical conditions.

My life is filled with raising my two-plus-year old son, who is the greatest joy in my life. Being a father to him has been the most rewarding and challenging experience of my life thus far. I enjoy spending time playing with my son and wife whether its cooking, playing at the park, or helping him learn to ride his tricycle. He reminds me of the importance of wonder, joy, and emotional communication as central to growth and development.

My interest in being a Coalition board member is my concern that not enough attention is being paid to the importance of ethical mental health care as essential to the overall health of our patients. Numerous studies indicate that mental health treatment on an outpatient basis is cost effective in terms of

reducing much higher inpatient costs and costly medical treatment and missed days at work. Despite the importance of mental health treatment, it concerns me that choice and quality is being dictated by the insurance industry and not between provider and patient. I stand behind the mission of the Coalition to preserve choice, confidentiality, and quality mental health care as a basic right in our country. I look forward to serving you as member of the Coalition.

Feel free to contact me, as a member of the board, with questions or concerns you may have, (206) 436-9855 or e-mail christopherjolsen@yahoo.com.

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*Update Your E-mail and Postal Addresses by Using this Form  
or E-mailing Changes to [www.wacoalition@verizon.net](mailto:www.wacoalition@verizon.net)*

Name _____	
Address _____ _____	
Phone _____	Fax _____
E-mail _____	
OK to publish information in the Directory?	Yes _____ No _____
Willing to help with specific tasks?	Yes _____

# It's Time to Renew Your Membership

## The Coalition

of Mental Health Professionals and Consumers  
P. O. Box 30087 • Seattle, Washington 98103  
206-444-4304

Your dues support the Coalition's efforts to preserve ethical mental health treatment. Your dues also provide funding that supports legislative efforts, continuing education programs, our Web site, a Helpline, the newsletter, brochures, and publishing our directory.

**Thank you for your continued support! It makes possible what we do. Please renew promptly to be listed in this year's directory.**

Send this form to:  
THE COALITION, ATTN: MEMBERSHIP  
P. O. Box 30087  
Seattle, WA 98103

NAME \_\_\_\_\_ Degree \_\_\_\_\_

ADDRESS (if different from last renewal)

City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

PHONE Work (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ Home (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Fax (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ Email \_\_\_\_\_

\_\_\_\_\_ Please check if you do not want your information published in the Membership Directory

\_\_\_\_\_ Please check if you are willing to volunteer for the Coalition

\_\_\_ occasional time-limited tasks \_\_\_\_\_ I will help with political efforts

\_\_\_ ask me about other needs you have \_\_\_\_\_ I will help with newsletter or membership (circle)

Legislative District: WA: \_\_\_\_\_ National: \_\_\_\_\_

Don't know? Call 1-800-448-4881

### I/WE can support the Coalition at the following level:

#### Organizational Membership:

\_\_\_ \$125 \_\_\_ \$175 \_\_\_ \$225

#### Professional Membership:

\_\_\_ \$65 \_\_\_ \$115 \_\_\_ \$250

#### Student Membership:

\_\_\_ \$15 \_\_\_ \$25 \_\_\_ \$65

#### Consumer Membership:

FREE!

Fall 2009

**THANK YOU** for supporting **THE COALITION**

**The Coalition** of Mental Health  
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