

UTMB HANDBOOK OF OPERATING PROCEDURES

Section 6	Compliance Policies	00/00/02	-Effective
Subject 6.1.4	General Compliance Issues		-Revised
Policy 6.1.4	<b>Business Associates With Access to PHI</b>	Compliance Office	-Reviewed -Author

## Business Associates With Access to PHI

### Audience

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The information in this document applies to all UTMB faculty, staff, students, volunteers, and any other contractors or agents granted access to Protected Health Information (PHI).

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### Definition

***Business Associate*** is a person or entity who provides certain functions, activities, or services for or to UTMB, involving the use and/or disclosure of PHI.

- A business associate is not a UTMB employee.
  - A business associate may include one of the additional components of the University of Texas system, other medical schools or other health care providers.
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### Policy

UTMB protects the confidentiality and integrity of confidential medical information as required by law, professional ethics, and accreditation requirements.

UTMB is not liable for privacy violations of its business associates and is not required to actively monitor or oversee the means by which its business associates carry out safeguards, or the extent to which the business associates abide by the requirements of the contract. However, UTMB is required to act if it becomes aware of a practice or pattern that constitutes a material breach of this policy.

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### Standards

All personnel must strictly observe the following standards relating to business associates:

- UTMB must enter into contracts with business associates that contain specific language. Legal Affairs will provide the language for contracts.
  - The contract must include language that provides that the business associate will:
    - Not use or further disclose the information other than as permitted or required by the contract or as required by law;
    - Use appropriate safeguards to prevent use or disclosure of the information other than as provided for by its contract;
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## **Business Associates With Access to PHI,** continued

### **Standards (cont'd)**

- Report to UTMB any use or disclosure of the information not provided for by its contract of which it becomes aware;
  - Ensure that any agents, including a subcontractor, to whom it provides PHI received from, or created by, or on behalf of UTMB, agree to the same restrictions and conditions that apply to the business associate with respect to such information;
  - Make available PHI in accordance with the UTMB policy on Patient Access to PHI.
  - Make available PHI for amendment and incorporate any amendments to PHI in accordance with the UTMB policy on Patient's Right to Amend or Correct PHI;
  - Make available the information required to provide an accounting of disclosures in accordance with the UTMB policy on Accounting of PHI Disclosures;
  - Make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created by, or on behalf of, UTMB, available to U. S. Department of Health & Human Services (HHS) for purposes of determining UTMB's compliance; and
  - At termination of the contract, if feasible, return or destroy all PHI received from, or created by or on behalf of, UTMB that the business associate still maintains in any form and retain no copies of such information. If such return or destruction is not feasible, extend the protections of the contract to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- In the event UTMB becomes aware of a pattern or practice of the business associate that constitutes a material breach or violation of the business associate's obligations under its contract, UTMB must take reasonable steps to cure the breach or to end the violation, as applicable.

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## **Business Associates With Access to PHI, continued**

**Standards  
(cont'd)**

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In the event that the business associate can not or will not remedy the practice or pattern, UTMB must terminate the contract if feasible. Where termination is not feasible, contact the UTMB Privacy Office for reporting to HHS, as required.

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**Enforcement**

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All supervisors are responsible for enforcing this policy. Individuals who violate this policy will be subject to the disciplinary process for faculty, staff, students, or volunteers.

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**References**

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45 C.F.R. §164.502(e)(1)  
45 C.F.R. §160.103  
Texas Health & Safety Code §181.001(b)(1)(A)

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