

Section 3	Compliance Policies	00/00/03	- Effective
Subject 6.2	HIPAA: Privacy and Disclosure		- Revised
Policy 6.2.14	Minimum Necessary Use & Disclosure of PHI	Compliance Office	- Reviewed
			- Author

Minimum Necessary Use & Disclosure of PHI

Audience

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).

Policy

For purposes other than those listed below, the use and disclosure of PHI must be limited to the minimum necessary to satisfy the request or to complete the task. However, if the use or disclosure is for treatment purposes, no limitation to the use and disclosure shall apply.

This minimum necessary provision shall **NOT APPLY** to the use and disclosure of PHI:

- For treatment purposes;
- For information requested by the individual to whom it belongs;
- For information requested pursuant to a valid authorization by the individual;
- For compliance with standardized Health Insurance Portability and Accountability Act (HIPAA) transactions;
- For required disclosures to the Department of Health and Human Services (DHHS) for enforcement purposes; or
- For instances required by law.

Use and Disclosure Limitations

All persons who handle PHI in any manner are expected to know and abide by the following protocols:

1. Determining Workforce Access to PHI: Access to the PHI will be granted based on the individual's role and determined by the department head. UTMB will identify:
 - a. Those persons or classes of persons in the UTMB workforce, including students and trainees, who need access to PHI to carry out their duties; and conditions appropriate to such access.
 - b. Requests for Uses or Disclosures of PHI – Except in emergency situations, any person requesting PHI from the medical record custodian must include the requestor's name, unique identifier, and the amount of information requested.

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Use and Disclosure Limitations (cont'd)

2. Audits: Health Information Management (HIM) will be responsible for facilitating random checks to ensure the minimum necessary standard is being applied when using and disclosing PHI, and HIM will forward the audit results to the Privacy Office.

3. Requests for Uses or Disclosures of Entire Medical Records – Medical record custodians must not release the entire medical record to internal departments or business associates unless necessary. For example, a health care provider should request the specific volume containing the time period of the particular patient visit at issue, instead of the entire set of volumes.

4. Good Faith Reliance – The medical record custodian may rely on the belief that the PHI requested is the minimum amount necessary to accomplish the purpose of the request when:
 - a. The information is requested by another person previously approved for access;
 - b. The information is requested by a professional (such as an attorney or accountant) providing professional services either as an employee or as a business associate;
 - c. Making disclosure to entities or agencies related to health related purposes that do not require consent, authorization, or opportunity to agree or object and that official represents that the information is the minimum necessary or is required by law;
 - d. IRB or privacy board documentation represents that proposed research meets the minimum necessary standard;
 - e. A requester asserts that the information is necessary to prepare a research protocol; or
 - f. A requester asserts the information is for research on decedents.

In general, PHI used internally at UTMB may be used by UTMB personnel for treatment purposes. PHI may not be released beyond UTMB without authorization and documentation.

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Minimum Necessary Use and Disclosure, Continued

Use and Disclosure Limitations (cont'd)

Disclosures for Payment

- Only the minimum necessary PHI shall be disclosed for payment functions, as provided through contractual agreement. Persons handling PHI in a payment context shall refrain from publicizing patient diagnosis information. This policy shall apply to checks collected, credit card paper receipts, and envelopes and invoices sent to consumers.

Disclosures Required by Law

- Disclosures Ordered by a Court or Administrative Tribunal - The minimum necessary standard does not apply to disclosures ordered from an administrative tribunal or by order of court. Only the information directly requested by such an order is to be provided.
- PHI About a Victim of a Crime or Abuse - The minimum necessary standard shall apply to information released to law enforcement regarding victims of crime or abuse. However, if the law requires information to be released, then the disclosure will be in compliance with the subpoena, statute, or law.

Disclosures for Worker's Compensation

- PHI may be disclosed to comply with Worker's Compensation laws and regulations without consent, authorization, or opportunity to object by the patient, but such disclosure shall still only be the minimum necessary. Requests for entire records should be scrutinized and approved by the medical record custodian.

Disclosures to Family and Friends

- Persons with access to and authority to disclose PHI may only make disclosures in accordance with *IHOP HIPAA policy #6.2.2, Uses and Disclosures of PHI to Family and Friends*.

Minimum Necessary Use and Disclosure for Students

Students and trainees are to adhere to the minimum necessary standard. Students and trainees are not exempt from following the rules outlined in this policy. Students are considered to be part of the treatment process if they are actively involved the patient's care, and therefore are not limited in their access or use of the patient's medical information.

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Minimum Necessary Use and Disclosure, Continued

Use and Disclosure Limitations (cont'd)

Minimum Necessary Use and Disclosure for Educational Purposes

Faculty, staff, students, and trainees are to use de-identified information when in a classroom setting, and the patient's identifying information (i.e. name, DOB, address, etc.) is not needed for the educational purpose.

Reference *IHOP policy #, De-identification of PHI.*

Discipline

All supervisors are responsible for enforcing this policy. Individuals who violate this policy will be subject to the appropriate and applicable disciplinary process, up to and including termination or dismissal.

References

- 45 C.F.R. §164.514(b)
 - 45 C.F.R. §164.514(d)
 - 45 C.F.R. §164.506
 - 45 C.F.R. §164.512(b)
 - 45 C.F.R. §164.512(f)(3)
 - 45 C.F.R. §164.512(l)
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