

Section 3	Compliance Policies	00/00/03	- Effective
Subject 6.2	HIPAA: Privacy and Disclosure		- Revised
Policy 6.2.15	Use of Notice of Privacy Practices of PHI	Compliance Office	- Reviewed
			- Author

Use of Notice of Privacy Practices 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).

Definitions

Protected Health Information (PHI): Individually identifiable health information transmitted or maintained in any form or medium, including oral, written, and electronic. Individually identifiable health information relates to an individual's health status or condition, furnishing health services to an individual or paying or administering health care benefits to an individual. Information is considered PHI where there is a reasonable basis to believe the information can be used to identify an individual.

Treatment, Payment, and health care Operations (TPO): Three core functions of providing health care to patients. **Treatment** involves the administering, coordinating and management of health care services by UTMB for its patients. **Payment** includes any activities undertaken either by UTMB or a third party to obtain premiums, determine or fulfill its responsibility for coverage and the provision of benefits or to obtain or provide reimbursement for the provision of health care. **Health care Operations** are activities related to UTMB's functions as a health care provider, including general administrative and business functions necessary for UTMB to remain a viable health care provider. For a more detailed definition of TPO, see Policy 6.2.0, *General Uses and Disclosures*.

Prisoner/Offender: a person incarcerated in or otherwise confined to a correctional institution.

Policy

An individual has a right to adequate notice of the uses and disclosures of PHI that may be made by UTMB, and of the individual's rights and UTMB's responsibilities with respect to PHI. UTMB is required to provide a notice of privacy practices document to all patients, as well as other individuals requesting a copy. Those persons who register or admit patients will be responsible for distributing a copy of the notice to all patients.

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Requirement

UTMB must:

1. Provide the notice no later than the date of the first service delivery, including service delivered electronically (e.g. Telemedicine) to such individual.
2. Make a good faith effort to obtain an initial written acknowledgement of the receipt of notice from the patient and document the receipt of the [Notice of Privacy Practices Acknowledgement Form](#) in Patient Index System (PIDX). Please see the [Notice of Privacy Practices Acknowledgment Form](#).
3. Have the notice available at the service delivery site for individuals to take with them;
4. Post the notice in a clear and prominent location where it is reasonable to expect individuals seeking service from UTMB to be able to read the notice; and
5. Whenever the notice is revised, make the notice available upon request on or after the effective date of the revision.

Exceptions

Emergency Treatment: If UTMB is treating a patient during an emergency situation, UTMB does not have to provide a notice at the time of first service delivery. UTMB may delay the requirement for provision of notice and good faith effort of written acknowledgement until a practicable time before the patient is discharged.

Prisoners: A prisoner receiving medical attention from UTMB does not have a right to receive a copy of the notice of privacy practices. However, UTMB must protect prisoners' PHI.

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Content of Notice

UTMB must provide a notice that is written in plain language and that contains the following elements:

Header. The notice must contain the following statement as a header or otherwise prominently displayed: “THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.”

Uses and disclosures. The notice must contain:

- A description, including at least one example, of the types of uses and disclosures that UTMB is permitted to make for each of the following purposes: Treatment, Payment, and health care Operations (TPO);
- A description of each of the other purposes for which UTMB is permitted or required to use or disclose PHI without the individual’s written authorization;
- A statement that other uses and disclosures will be made only with the individual's written authorization and that the individual may revoke such authorization as provided by (IHOP Policy 6.2.1, *Uses and Disclosures of PHI based on Patient Authorization.*);
- A statement that UTMB may contact the individual to provide appointment reminders or information about treatment alternatives or other health-related benefits and services that may be of interest to the individual; and
- A statement that UTMB may contact the individual for fund-raising purposes.

Individual rights. The notice must contain a statement of the individual’s rights with respect to PHI and a brief description of how the individual may exercise these rights, as follows:

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Content of Notice (cont'd)

- a. The right to request restrictions on certain uses and disclosures of PHI as provided by (IHOP Policy 6.2.28, *Requests for Restricting Uses and Disclosures and Confidential Communications*), including a statement that UTMB is not required to agree to a requested restriction;
- b. The right to receive confidential communications of PHI as provided by (IHOP Policy 6.2.28, *Requests for Restricting Uses and Disclosures and Confidential Communications*);
- c. The right to inspect and attain a copy of the patient's PHI as provided by (IHOP Policy 6.2.31, *Access and Denial of Patient Request for PHI*);
- d. The right to request an amendment to PHI as provided by (IHOP Policy 6.2.26, *Patient Right to Amend PHI*);
- e. The right to receive an accounting of disclosures of PHI as provided by (IHOP Policy 6.2.29, *Accounting of Disclosures of PHI*); and
- f. The right of an individual, including an individual who has agreed to receive the notice electronically, to obtain a paper copy of the notice from UTMB upon request.

Covered entity's duties. The notice must contain a statement that UTMB:

- a. is required by law to maintain the privacy of PHI and to provide individuals with notice of its legal duties and privacy practices with respect to PHI;
- b. is required to abide by the terms of the notice currently in effect; and
- c. reserves the right to change the terms of its notice and to make the new notice provisions effective for all PHI that it maintains. The statement must also describe how it will provide individuals with a revised notice.

Complaints. The notice must contain a statement that individuals may complain to UTMB and to the Department of Health and Human Services (HHS) if they believe their privacy rights have been violated, a brief description of how the individual may file a complaint with UTMB, and a statement that the individual will not be retaliated against for filing a complaint.

Content of Notice (cont'd)

Contact. The notice must contain the name, or title, and telephone number of a person or office to contact for further information.

Effective date. The notice must contain the date on which the notice is first in effect, which may not be earlier than the date on which the notice is

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printed or otherwise published.

Requirements for Electronic Notice

1. UTMB will provide an updated electronic version of the notice of privacy practices on its [website](#).
2. UTMB may provide the notice to an individual by e-mail, if the requirements for communicating with the individual through email is in compliance with the HIPAA *Electronic Mail Policy*, #.##.#. If UTMB knows that the e-mail transmission has failed, a paper copy of the notice must be provided to the individual.
3. Provision of electronic notice by UTMB will satisfy the provision requirements if receipt of the notice by the individual is documented.
4. The individual who is the recipient of electronic notice retains the right to obtain a paper copy of the notice from UTMB upon request.

Documentation of Notice

UTMB must document compliance with the notice requirements by retaining copies of the notices issued by UTMB.

Those persons who register or admit patients will be responsible for distributing the notice to all patients and documenting the receipt of the [Notice of Privacy Practices Acknowledgement Form](#) in Patient Index System (PIDX). UTMB must also keep the original [Notice of Privacy Practices Acknowledgement Form](#) in the official medical record. If a written acknowledgement was not obtained from the patient, UTMB must document the reason for the failure to obtain the written acknowledgement on the [Notice of Privacy Practices Acknowledgement Form](#). Such reason for failure simply may be, for example, that the patient refused to sign after being requested to do so.

Revisions to Notice

UTMB must promptly revise and make available its notice whenever there is a material change to the uses or disclosures, the individual's rights, UTMB's legal duties, or other privacy practices stated in the notice. Except when required by law, a material change to any term of the notice may not be implemented prior to the effective date of the notice in which such material change is reflected.
