

Section 3	Compliance Policies	00/00/03	- Effective
Subject 6.2	HIPAA: Privacy and Disclosure		- Revised
Policy 6.2.21	Use & Disclosure of PHI for Health Oversight Reporting	Compliance Office	- Reviewed
			- Author

Use & Disclosure of PHI for Health Oversight Reporting

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

Disclosure: The release, transfer, provision of access to, or divulgence in any other manner, of information to any organization external to UTMB.

Use: With respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within UTMB.

Policy

UTMB may disclose PHI without an authorization to a health oversight agency for oversight activities authorized by law, including audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight of:

1. The health care system;
2. Government benefit programs for which health information is relevant to beneficiary eligibility;
3. Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; or
4. Entities subject to civil rights laws for which health information is necessary for determining compliance.

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Exception to Health Oversight Activities

The following scenario is NOT to be considered health oversight activity:

- o The individual is the subject of the investigation or activity, **and** the investigation or other activity is **not** directly related to:
 - A. The receipt of health care;
 - B. A claim for public benefits related to health (e.g. claims for Food Stamps); **or**
 - C. Qualification for, or receipt of, public benefits or services when a patient’s health is integral to the claim for public benefits or services.

Joint Activities or Investigations

If a health oversight activity or investigation is related to a claim for public benefits not related to health, the joint activity or investigation shall be considered a health oversight activity for purposes of this policy.

Disclosures by Whistleblowers

All UTMB personnel are strongly encouraged to report conduct that is unlawful or otherwise violates professional or clinical standard to the Office of Institutional Compliance. UTMB is not considered to have violated the requirements of this policy if a member of its workforce or a business associate discloses PHI, provided that:

1. The workforce member or business associate believes in good faith that UTMB has engaged in conduct that is unlawful or otherwise violates professional or clinical standards, or that the care, services, or conditions provided by UTMB potentially endangers one or more patients, workers, or the public; and
2. The disclosure is to:
 - A. A health oversight agency or public health authority authorized by law to investigate or otherwise oversee the relevant conduct or conditions of UTMB;
 - B. An appropriate health care accreditation organization for the purpose of reporting the allegation of failure to meet professional standards or misconduct by UTMB; or

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Disclosures by Whistleblowers (cont'd)

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- C. An attorney retained by or on behalf of the workforce member or business associate for the purpose of determining the legal options of the workforce member or business associate with regard to the conduct described above.
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Disclosures by UTMB Personnel Who are Victims of a Crime

UTMB is not considered to have violated the requirements of this policy, with just cause, if a member of its workforce who is the victim of a criminal act discloses PHI of the suspected perpetrator to a law enforcement official, provided that:

1. The PHI disclosed is about the suspected perpetrator of the criminal act; and
 2. The PHI disclosed is limited to:
 - A. Name and address;
 - B. Date and place of birth;
 - C. Social security number;
 - D. ABO blood type and rh factor;
 - E. Type of injury;
 - F. Date and time of treatment;
 - G. Date and time of death, if applicable; and
 - H. Description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair, scars and tattoos.
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Enforcement

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. §164.502(j)
 45 C.F.R. §164.512(d)
 Texas Health and Safety Code §181.103
