

Section 3	Compliance Policies	00/00/03	- Effective
Subject 6.2	HIPAA: Privacy and Disclosure		- Revised
Policy 6.2.23	Use & Disclosure of PHI for Public Health & Safety	Compliance Office	- Reviewed
			- Author

Use & Disclosure of PHI for Public Health & Safety

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 a patient authorization:

- when allowed by law;
- for reporting of abuse, neglect or domestic violence;
- to avert a serious and imminent threat to the health or safety of a person or the public; and
- to law enforcement officials for law enforcement purposes.

Use & Disclosure Required by Law

UTMB personnel may use or disclose PHI to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.

UTMB personnel must meet the requirements pertaining to disclosures relating to victims of abuse, neglect, or domestic violence; judicial and administrative proceedings; and disclosures for law enforcement purposes.

Use & Disclosure for Abuse, Neglect or Domestic Violence

UTMB personnel may use or disclose PHI for abuse, neglect, or domestic violence

- to the extent the disclosure is required by law and the disclosure complies with, and is limited to, the relevant requirements of such law;
- if the individual agrees to the disclosure; or
- to the extent the disclosure is expressly authorized by statute or regulation and:

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Use & Disclosure for Abuse, Neglect or Domestic Violence (cont'd)

- A. UTMB, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or other potential victims; or
- B. If the individual is unable to agree because of incapacity, a law enforcement or other public official may authorize to receive the report if:
 - a. the PHI sought is not intended to be used against the individual; and
 - b. an immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.

Informing the individual

In making a disclosure permitted for reporting abuse, neglect or domestic violence, UTMB personnel must promptly inform the individual, in the exercise of professional judgment, that such a report has been or will be made, except if:

1. UTMB believes informing the individual would place the individual at risk of serious harm; or
2. UTMB would be informing a personal representative, and UTMB reasonably believes the personal representative is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interests of the individual as determined by UTMB.

Serious Threat to the Health or Safety of the Public

UTMB may, consistent with applicable law and standards of ethical conduct, use or disclose PHI, if UTMB, in good faith believes the use or disclosure:

- A. Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; **except** a use and disclosure may not be made if the information is learned by UTMB:

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Serious Threat to the Health or Safety of the Public (cont'd)

- In the course of treatment which is designed to alter or change the desire to commit the criminal conduct which would be the basis for making a disclosure, or
 - When an individual initiates or is referred to UTMB for treatment, counseling, or therapy
- B. Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat;
- C. It is necessary for law enforcement authorities to identify or apprehend an individual:
- a. Because of a statement by an individual admitting participation in a violent crime that UTMB reasonably believes may have caused serious physical harm to the victim; or
 - b. Where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody.

Limitations and Good Faith related to the Serious Threat

UTMB may only release the statement relating to the serious threat and the PHI related to the serious threat. If UTMB acts in good faith upon its belief, then UTMB will be protected for disclosures related to the serious threat.

Law Enforcement Purposes

Only Health Information Management (HIM) can disclose PHI pursuant to a court order or subpoena. (For details see IHOP Policy 6.2.20, *Use and Disclosure of PHI for Judicial or Administrative Proceedings.*)

UTMB may disclose PHI:

1. As required by law including laws that require the reporting of certain types of wounds or other physical injuries, except for laws pertaining to public health or domestic abuse; or

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Law Enforcement Purposes (cont'd)

2. In compliance with and as limited by the relevant requirements of:
 - A. A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;
 - B. A grand jury subpoena; or
 - C. An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that:
 - a. The information sought is relevant and material to a legitimate law enforcement inquiry;
 - b. The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and
 - c. De-identified information could not reasonably be used. For a more detailed description, see IHOP HIPAA policy, De-identification of PHI (policy #).

Identification and Location Purposes

UTMB may disclose PHI in response to a law enforcement official's request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that: UTMB only discloses the following information:

- o Name and address;
- o Date and place of birth;
- o Social security number;
- o ABO blood type and Rh factor;
- o Type of injury;
- o Date and time of treatment;
- o Date and time of death, if applicable; and
- o A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair, scars, and tattoos.

Except as permitted in the paragraph above, UTMB may not disclose for the purposes of identification or location any PHI related to the individual's DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissue.

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Victims of a Crime

UTMB may disclose PHI in response to a law enforcement official's request for such information about an individual who is or is suspected to be a victim of a crime, other than disclosures that are subject to this section, if:

1. The individual agrees to the disclosure; or
 2. UTMB is unable to obtain the individual's agreement because of incapacity or other emergency circumstance, provided that:
 - A. The law enforcement official represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred, and such information is not intended to be used against the victim;
 - B. The law enforcement official represents that immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure; and
 - C. The disclosure is in the best interests of the individual as determined by the covered entity, in the exercise of professional judgment.
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Deceased Individuals

UTMB will disclose PHI about a deceased individual to law enforcement officials for the purpose of alerting law enforcement of the death of the individual if UTMB has a suspicion that such death may have resulted from criminal conduct. (*i.e.*, situations where the death of the individual falls under a situation outlined in IHOP Policy 9.15.1 or 9.15.2, the medical examiner's offices shall have jurisdiction.)

Crime on Premises

UTMB may disclose to a law enforcement official PHI that UTMB believes in good faith constitutes evidence of criminal conduct that occurred on UTMB premises.

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Reporting Crime in Emergencies

1. A UTMB health care provider providing emergency health care in response to a medical emergency, other than such emergency on UTMB premises, may disclose PHI to a law enforcement official if such disclosure appears necessary to alert law enforcement to:
 - A. The commission and nature of a crime;
 - B. The location of such crime or of the victim(s) of such crime; and
 - C. The identity, description, and location of the perpetrator of such crime.

2. If a UTMB health care provider believes that the medical emergency described in the above paragraph of this section is the result of abuse, neglect, or domestic violence of the individual in need of emergency health care, paragraph above of this section does not apply and any disclosure to a law enforcement official for law enforcement purposes is subject to the policy on abuse, neglect, or domestic violence at the beginning of this policy.

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. §164.501
 45 C.F.R. §164.512(c)
 45 C.F.R. §164.512(j)
 45 C.F.R. §164.512(f)
 45 C.F.R. §164.512(a)
 Tex. Occ. Code §159.004
 Texas Health & Safety Code §181.103