

Section 6 Subject 6.2	Compliance Policies Privacy and Disclosure	00/00/03	- Effective - Revised - Reviewed
Policy 6.2.26	Patient's Right to Amend PHI	Compliance Office	- Author

Patient's Right to Amend 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).

Definition

Designated Record Set: A group of records maintained by or for UTMB that are:

- A. The medical records and billing records about patients maintained by or for UTMB;
- B. The enrollment, payments, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
- C. Used, in whole or in part, by or for UTMB to make decisions about patients.

Policy

Patients have a right to amend information collected and maintained about them in their designated record set.

Guidelines

All personnel must strictly observe the following standards:

1. An individual has the right to have UTMB amend PHI or a record about the individual in a designated record set for as long as the PHI is maintained in the designated record set.
2. UTMB may deny an individual's request for amendment, if it is determined that the PHI or record that is the subject of the request:
 - o Was not created by UTMB, unless the individual provides a reasonable basis to believe that the originator of the PHI is no longer available to act on the requested amendment;
 - o Is not part of the designated record set;
 - o Would not be available for inspection under the Access and Denial of Patient Request for PHI Policy; or
 - o Is accurate and complete.

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Guidelines (cont'd)

3. The individual must make the request to amend the PHI in writing with a reason to support a requested amendment. The request should be on the attached form at the end of this policy.
4. UTMB must accept all requests to amend PHI in the designated record set; however, UTMB is not required to act on the individual's request if it is in accordance with item 2.
5. UTMB must act on the individual's request for an amendment no later than 60 days after receipt of such a request. If UTMB is unable to act on the amendment within the required 60 day time limit, UTMB may extend the time for such action by no more than 30 days, provided that:
 - o UTMB provides the individual with a written statement of the reasons for the delay and the date by which action on the request will be completed; and
 - o UTMB may have only one such extension of time for action on a request for an amendment.
6. If the amendment is granted, in whole or in part,
 - o UTMB must make the appropriate amendment to the PHI or record that is the subject of the request for amendment by, at a minimum, identifying the records in the designated that are affected by the amendment or appending or otherwise providing a link to the location of the amendment.
 - o UTMB must inform the individual in a timely manner that the amendment is accepted and obtain the individual's identification of and agreement to have UTMB notify the relevant persons with which the amendment needs to be shared.
 - o UTMB must make reasonable efforts to inform and provide the amendment within a reasonable time, to:
 - a. Persons identified by the individual as having received PHI about the individual and needing the amendment; and

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- b. Persons, including business associates, that UTMB knows have the PHI that is the subject of the amendment and that may have relied, or could foreseeably rely, on such information to the detriment of the individual.
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Denial of Amendment

If the requested amendment is denied, in whole or in part, UTMB must provide the individual with a timely, written denial. The denial must use plain language and contain:

- o The basis for the denial, in accordance with procedure two (2) on page one (1) in this policy;
- o The individual's right to submit a written statement disagreeing with the denial and how the individual may file such a statement;
- o A statement that, if the individual does not submit a statement of disagreement, the individual may request that UTMB provide the individual's request for amendment and the denial with any future disclosures of the PHI that is the subject of the amendment; and
- o A description of how the individual may complain to UTMB or the Secretary of the Department of Health and Human Services (HHS) in accordance with the UTMB Privacy Complaint Process.

Additionally, UTMB must permit the individual to submit a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such disagreement. UTMB may reasonably limit the length of a statement of disagreement.

UTMB may prepare a written rebuttal to the individual's statement of disagreement. Whenever such a rebuttal is prepared, a copy of the rebuttal must be provided to the individual who submitted the statement of disagreement.

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Denial of Amendment (cont'd)

UTMB must, as appropriate, identify the record or PHI in the designated record set that is the subject of the disputed amendment and append or otherwise link the individual's request for an amendment, the denial of the request, the individual's statement of disagreement, if any, and the rebuttal, if any, to the designated record set.

For future disclosures:

1. If a statement of disagreement has been submitted by the individual, UTMB must include the patient's request for an amendment, the denial of the request, the patient's statement of disagreement and the rebuttal, if any, or an accurate summary of any such information, with any subsequent disclosure of the PHI to which the disagreement relates.
2. If the individual has not submitted a written statement of disagreement, UTMB must include the individual's request for amendment and its denial, or an accurate summary of such information, with any subsequent disclosure of the PHI only if the individual has requested such action.
3. When a subsequent disclosure is made using a standard transaction that does not permit the additional material to be included with the disclosure, UTMB may separately transmit the material required to the recipient of the standard transaction.

Amendment Process

Please refer to the [PHI Amendment Process](#) flow chart for an overview of the process regarding patient right to amend PHI.

Patients may request to have their PHI amended by submitting a [Request for Correction/Amendment of Protected Health Information Form](#) with HIM. All requests to amend PHI must be sent to Patient Services for investigation and clarification. Patient Services will be responsible for maintaining all original amendment forms.

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Amendment Process (cont'd)

Patient Services has the authority to amend or correct any PHI that is determined to be a routine revision and would not require a review from a UTMB medical staff member (*e.g.* patient's name is spelled incorrectly on a laboratory test). If an amendment requests requires further investigation from a UTMB medical staff member, Patient Services shall forward the request for amendment to the committee established for the purpose of managing patient privacy rights under HIPAA ("committee") for review.

The committee is responsible for reviewing all amendment requests sent by Patient Services for non-routine corrections and amendments to patient PHI. The committee will determine if the physician associated with the PHI under review is currently at UTMB. If so, the committee will forward the request for amendment to the UTMB physician and await a decision by the physician on the request. If the physician is no longer at UTMB, the committee will appoint a UTMB healthcare provider to review the request.

Once the physician regarding the request for amendment has reached a decision, the committee will send a final letter outlining their decision to the patient and HIM. HIM will be responsible for documenting the decision of the committee and making the necessary changes, if applicable, to the PHI in the medical record.

Amendments Received from Other Entities

If UTMB is informed by another provider or payer of an amendment they have made to an individual's PHI within the outside entities' designated record set, UTMB must amend the PHI in designated record sets that have been received from those outside entities. However, UTMB does not have to amend the PHI in the UTMB designated record set based upon an outside determination, unless UTMB has relied on the outside entities' findings.

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.
