

Section 6	Compliance Policies	- Effective
Subject 6.2	Privacy and Disclosure	- Revised
Policy 6.2.9	Fax Transmittal of PHI	- Reviewed
		Compliance Office - Author

Fax Transmittal 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

Medical Record Custodian: The person or department who is responsible for the maintenance, retention, access, data integrity, and data quality of PHI. The medical record custodian must ensure that the medical record(s) in their possession is maintained confidentially and only released with proper authority. The following are examples of authorized medical record custodians: Health Information Management (HIM), Radiology, Pathology, Community-Based Clinics (CBC).

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 #.#.#, *General Use and Disclosure*.

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Fax Transmittal of PHI, continued

Policy

UTMB protects the facsimile transmittal of PHI and holds individuals responsible for following the proper procedure when PHI is sent via facsimile. UTMB protects the confidentiality and integrity of confidential medical information as required by law, professional ethics, and accreditation requirements. This policy defines the minimum guidelines and procedures that must be followed when transmitting patient information via facsimile.

Guidelines

All personnel must strictly observe the following standards relating to facsimile communications of patient medical records:

- PHI will be sent by facsimile only when the original record or mail-delivered copies will not meet the needs for TPO. For example, personnel may transmit PHI by facsimile when urgently needed for patient care or required by a third-party payer for ongoing certification of payment for a patient.
- Information transmitted must be limited to the minimum necessary to meet the requester's needs.
- Except as authorized by the individual's consent to TPO, or federal or state law, a properly completed and signed authorization must be obtained before releasing PHI (see Policy#.#.#, *General Uses and Disclosures*). The following types of medical information are protected by federal and/or state statute and may NOT be faxed or photocopied without specific written patient authorization, unless required by law.
 - Confidential details of:
 - Psychotherapy (records of treatment by a psychiatrist, licensed psychologist or psychiatric clinical nurse specialist)
 - Other professional services of a licensed psychologist
 - Social work counseling/therapy
 - Domestic violence victims' counseling
 - Sexual assault counseling
 - HIV test results (Patient authorization required for EACH release request.)
 - Records pertaining to sexually-transmitted diseases
- Alcohol and drug abuse records are protected by federal confidentiality rules (42 CFR Part 2)

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Guidelines (cont'd)

- The [Facsimile Cover Letter](#) must be used to send faxes containing PHI. All pages plus the cover page of all confidential documents to be faxed must be marked "Confidential" before they are transmitted.
- Personnel must make reasonable efforts to ensure that they send the facsimile transmission to the correct destination including:
 - Preprogramming frequently used numbers into the machine to prevent misdialing errors.
 - Periodically and/or randomly checking all speed-dial numbers to ensure their currency, validity, accuracy, and authorization to receive confidential information.
 - For a new recipient, the sender must verify the fax number by requesting the recipient submit a faxed or email request for PHI, which would include the fax number of the recipient.
 - Periodically reminding those who are frequent recipients of PHI to notify UTMB if their fax number is to change.

Procedure for Faxes Sent Successfully

For TPO purposes

The department sending the fax for TPO purposes is not required to maintain a copy of the fax transmittal or fax confirmation sheet. However, it is at the discretion of the department whether a copy is maintained for future reference.

For Non-TPO purposes

Individuals faxing medical information for non-TPO purposes (external) and without a signed authorization from the patient must account for the Non-TPO disclosure in accordance with the IHOP Policy X.X.X, *Accounting of Disclosure*.

Procedure for Misdirected Faxes (for both TPO and non-TPO purposes)

If a fax transmission containing PHI is not received by the intended recipient because of a misdial, check the internal logging system of the fax machine to obtain the misdialed number.

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Procedure for Misdirected Faxes (for both TPO and non-TPO purposes) (cont'd)

- If possible, a phone call (supplemented by a note referencing the conversation) should be made to the recipient of the misdirected fax requesting that the entire content of the misdirected fax be destroyed. If the recipient cannot be reached by phone, a fax using the [Letter for Misdirected Fax](#) should be sent to the recipient requesting that the entire content of the misdirected fax be destroyed.
- The fax confirmation sheet or activity report should be sent along with the Misdirected Fax Cover Letter to HIM. It is the responsibility of the department sending the misdirected fax to forward this information to HIM.

Misdirected faxes will be recorded in the Accounting of Disclosure Database by HIM as described in Policy X.X.X, *Accounting for Disclosure*.

Receipt of Faxes Containing PHI

Fax machines used for patient care or patient related services shall not be located in areas accessible to the general public but rather must be in secure areas, and the department director or designee is responsible for limiting access to them.

- Each department is responsible for ensuring that incoming faxes are properly handled.
- When receiving faxed PHI:
 - Immediately remove the fax transmission from the fax machine and deliver it to the recipient.
 - Manage PHI received via fax as confidential in accordance with policy.
 - Destroy, or follow sender's instructions for patient information faxed in error and immediately inform the sender.

Enforcement

All supervisors are responsible for enforcing this policy. Individuals who violate this policy are subject will be subject to the disciplinary process for faculty, staff, students, or volunteers.