

## UTMB HANDBOOK OF OPERATING PROCEDURES

|               |  |                      |            |
|---------------|--|----------------------|------------|
| Section 2     | General Administrative Policies and Services | mm/dd/yy             | -Effective |
| Subject 2.19  | Computers/Automated Information Systems      | mm/dd/yy             | -Revised   |
| Policy 2.19.7 | <b>Electronic Mail Policy</b>                | Information Services | -Author    |

# Electronic Mail Containing Protected Health Information (PHI)

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## **Introduction**

The Health Insurance Portability and Accountability Act (HIPAA) privacy and security standards establish mandatory guidelines for protecting a patient's Protected Health Information (PHI). This policy sets the rules for the use and disclosure of PHI through email.

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## **Audience**

UTMB email policies and standards apply equally to all individuals granted access privileges to any UTMB information resource with the capacity to send, receive, or store electronic mail.

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## **Definitions**

**Electronic Mail System:** Any computer software application that allows electronic mail to be communicated from one computing system to another.

**Electronic Mail (email):** Any message, image form, attachment, data, or other communication sent, received, or stored within an electronic mail system.

**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:** The provision, coordination, or management of health care related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or for the referral of a patient for health care from one health care provider to another.

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### **Ownership**

Electronic mail sent, received, or stored on computers owned, leased, administered, or otherwise under the custody and control of UTMB is the property of UTMB.

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### **General Rules**

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- All emails containing communication concerning treatment must be in accordance with *IHOP 2.19.7, Email Use*.
  - Email containing PHI must be treated with the same degree of privacy and confidentiality as the patient's medical record.
  - UTMB will make all email messages sent or received, concerning the treatment of a patient, part of the patient's medical record as required in by *IHOP Policy 9.2.19, Loose Medical Document Handling*, at the close of the dialogue to become a part of the medical record.
  - UTMB personnel may use and disclose PHI through UTMB's internal email system (i.e. to other addresses with "UTMB.edu") as long as the email is for treatment, payment, or health care operations as outlined within *Policy #.##.#, General Uses and Disclosures*.
  - UTMB personnel may not send or forward any PHI outside the UTMB network via email unless specifically authorized by the patient, unless the communication is with the patient and it meets the other requirements of this policy.
  - When using email, UTMB personnel must limit the information transmitted to the minimum necessary to meet the requester's needs (*see Policy #. #. #, Minimum Necessary Use & Disclosure*) and use de-identified PHI (*see Policy #. #. #, De-identification of PHI*) whenever applicable.
  - UTMB personnel shall not compile patient email address for marketing or fundraising purposes or supply patient email addresses to any third party for advertising, solicitations, or any other use.
  - In addition, all external disclosures of PHI through email to persons other than the patient must be in compliance with *Policy #. #. #, Uses and Disclosures based on Patient Authorization* and in compliance with *Policy ## on Accounting of Disclosures*.
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### **Responding to Unwanted Emails**

If UTMB personnel receives unwanted email from a patient or a prospective patient and either does not have an Agreement for UTMB and Patient e-Communication in place or does not wish to communicate with the patient over email, the individual should respond to the patient with the following statement:

“As a result of my concern for you well being, please contact my office to schedule an appointment to discuss any and all issues regarding the state of your health. Either I do not respond to email communication at this time or I believe an office visit is the appropriate method to address your concerns. You may reach my office by contacting 777-777-7777.”

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### **Prerequisites for Patient Email Communications**

Both the patient and the provider must agree to communicate via email on non-emergent and non-urgent matters.

Both the patient and the provider must complete the Agreement for UTMB and Patient e-Communications.

- Both the patient and the provider must respond to patient email only after the Agreement for UTMB and Patient e-Communications is signed.
  - A copy of the signed Agreement for UTMB and Patient e-Communications is given to the patient and the original is forwarded to Health Information Management HIM for filing in the medical record.
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### **Email Correspondence between UTMB Personnel and Patients**

- It is the responsibility of each UTMB faculty or staff member to make sure the patient has signed the Agreement for UTMB and Patient e-Communications before corresponding through email. If the agreement has not been signed allowing correspondence via email, UTMB personnel must have the patient sign an agreement before any further correspondence is initiated.
- All email correspondence between a provider and patient must be in accordance with Agreement for UTMB and Patient e-Communications.
  
- UTMB personnel must respond within 2 business days, unless the individual is on leave and not in the office or in clinic.
- If an action is taken based upon an email from a patient, you must respond to the patient's email notifying them of the action taken.
- UTMB will make all email messages sent or received, concerning the treatment of a patient, part of the patient's medical record as required in by *IHOP Policy 9.2.19, Loose Medical Document Handling*, at the close of the dialogue to become a part of the medical record.

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### **Topics of Email Communication**

- In general, email communication should be used to address administrative issues, relay follow-up information, and answer questions following a face to face evaluation and consultation. Initial evaluation and diagnosis and topics of a sensitive nature should not be communicated through email. The health care provider should use "due care" in corresponding with the patient through email for treatment.
  - The following topics are appropriate for e-mail communication:
    - Prescriptions/refills,
    - General medical advice after an initial FACE-TO-FACE visit,
    - Lab test results.
  - Examples of inappropriate topics include:
    - Discussion of HIV status,
    - Workmen compensation claims,
    - Psychiatric disorders, and
    - Urgent matters are not appropriate for e-mail communication.
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### **Content of Email to Patients**

- Emails should be considered the same as a formal letter to the patient. Email communication lends itself to a sense of informal conversation; thus providers need to be aware of the tendency for informality which may be inappropriate.
  - Include the in the footer, “To my patients, please note email is not necessarily confidential and should be used for routine matters only. Urgent or emergent issues should be handled by telephone. Emails may not be read in a timely manner if I am out of the office.”
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### **Email Correspondence between Physicians**

Physicians may email other UTMB physicians regarding patient matters if the email is sent within the UTMB system and is not patient specific (*see Policy #. #. #, De-identification of PHI*). However, formal consultations for a specific patient should use the Physician Order Entry system or the written consultation process.

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### **Accounting for Email Disclosures**

When disclosing PHI through email to a thrid party, the release must be documented and accounted for as outlined in *IHOP policy #.#.#, Accounting of Disclosures*.

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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.

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