

The Department of Health Information
Management

Confidentiality Handbook

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**"What is
PATIENT
CONFIDENTIALITY?"**

Patient confidentiality is a conscious effort by every healthcare worker to keep private all Protected Health Information (PHI) revealed by the patient while receiving healthcare. It may include the patient's identity, physical or psychological condition, emotional status and financial situation, which could be either in paper or electronic form.

**WHO HAS THE RESPONSIBILITY TO MAINTAIN
PATIENT CONFIDENTIALITY?**

EVERYONE !

That includes all employees, medical staff, volunteers and contracting agents.

UTMB Policy

At the [University of Texas Medical Branch](#), (UTMB), all Protected Health Information (PHI) is confidential and shall not be disclosed without the authorization of the patient, the patient's representative, or unless authorized/required by law.

Confidential PHI shall not be communicated to any person (including healthcare providers) unless that person has a clear need to know (e.g. other physicians and personnel under the direction of the physician who are participating in the diagnosis, evaluation, or treatment of the patient).

Communicating confidential PHI inappropriately, carelessly, or negligently (e.g. casual discussion regarding a patient, discussion in public area, and/or unauthorized release of information while on or off campus) is a breach of confidentiality.

Breach of confidentiality is a serious violation covered by the [UTMB Standards of Employee Conduct](#). Violation of this policy will result in appropriate disciplinary review and action which may include termination.

Who Owns the Medical Record?

Medical Records of patient of the [UTMB](#) are kept as a component of the operation of the hospital and are the business records of the hospital. Although maintained for the benefit of the patient, the Medical Staff, and the hospital, the physical record (e.g. paper or electronic) are the property of the hospital. They are not the property of the patient, or of the patient's attending physician.

Disclosure of Protected Health Information

All requests from external requesters for medical record access must be directed to the [Health Information Management Department](#) (HIM).

Exception:

- Healthcare providers can share recent test results with patient over the phone.
- Healthcare providers may disclose copies (1-2 pgs) of a recent medical report to patient.
- Healthcare providers may mail copies (1-2 pgs) of a recent medical report to the patient.

Reports being disclosed must have been created within the past 30 days (recent reports).

Good practice dictates that no information be released from a patient's medical record except on a "need to know" basis.

There should be evidence that the person requesting information has a legitimate right to the information, which is not inconsistent with the best interest of the patient.

Ethics preclude members of the medical or hospital staff reviewing medical records of relatives without the patients' written authorization.

All medical records are the property of UTMB hospitals. They may only be removed from the Hospital's jurisdiction and safekeeping in accordance with a court order, subpoena or statute.

In Texas, 18-year olds are declared legal adults and have all rights and privileges of adults, such as giving consent for treatment, authorization to release medical information, etc.

For information on minors and emancipated minors, see policy ***Use and Disclosure by and for Personal Representatives/Minors and Deceased Individuals, # 6.2.3.***

Medical record information from non-UTMB sources used to make health care decisions are considered a part of the UTMB medical records and may be subject for redisclosure with a proper authorization

Review of PHI

With a written valid authorization for disclosure of PHI, the patient or their legal representative has the right to review information in their medical record. The information will be made available for examination during regular business hours, (Mon. – Fri. 8:00 a.m. – 4:30 p.m.). Once the Release of Information Section receives the authorization and obtains the medical records, release of information personnel will contact the requester and set up an appointment to review the medical record. The review is made at no charge. A fee is assessed only if they require copies of the medical record.

NOTE: If the record contains mental health information, approval from the patient's physician must be obtained before the patient can review their records.

Release of PHI

As a general rule, all requests for release of PHI should be in writing and on a valid authorization form signed by the patient. **See policy Use and Disclosure of PHI Based on Patient Authorization, # 6.2.1.** If there is a doubt as to the validity of a request or authorization **DO NOT RELEASE THE MEDICAL INFORMATION**. Refer all requests to your team leader or to the Release of Information office.

The Release of Information Section of the HIM Dept. is primarily responsible for disclosing PHI.

Other sections of the HIM Dept. may disclose PHI for continuity of care purposes in urgent and emergency situations. The procedure for disclosing PHI is as follows:

-The non-UTMB healthcare provider who is calling for the PHI is asked to fax a patient's authorization if the patient can sign. The authorization form can be the other healthcare facility's form and must state that the PHI is needed for continuity of care/treatment or words to that effect.

-If the patient cannot sign the caller is asked to fax their request on their letterhead.

-Without a patient's authorization, their written request must contain:

-Patient's name and date of birth. (Ask for Social Security Number **ONLY** if patient cannot be identified by name and DOB).

-Description of PHI to be disclosed

- Name, address, phone number and fax number of the health care facility requesting the PHI
- Purpose of the request (e.g. patient is being seen in their emergency room, treating the patient, continuity of care)
- contact name from the requesting health care facility
- Once the patient's authorization or the written request (as describe above) is received, HIM can retrieve the record (complete or incomplete record) and locate the requested PHI.
- Only the requested PHI should be disclosed – no more. Use the Minimum Necessary Rule.
- PHI selected for disclosure is copied. The original PHI is refiled into the medical record.
- The approved UTMB cover sheet is completed and the copied PHI is faxed to the requesting health care provider.
- The fax number should be dialed carefully to ensure proper disclosure.
- after disclosure, the HIM employee is to write their name and the date the PHI was disclosed on the fax cover sheet.
- After disclosure, staple together the copied PHI, the fax cover sheet and the fax confirmation sheet and paper clip this to the top of the medical record.
- the medical record is to be signed out to location 656 and placed on the ROI shelf in the Request Center. ROI will then update the ChartRelease system so that an official record of the disclosure is made.

SEE POLICY FAX TRANSMITTAL OF PHI, # 6.2.9 FOR MORE DETAILS.

Other sections of the HIM Dept. may disclose PHI directly to the patient or their legal representative in special situations, such as when the patient has driven a long distance and did not arrive here before the ROI Section closed. For public relations purposes, their PHI can be disclosed if the Team Leader feels it is appropriate. However, these disclosures should be for some kind of continuity of care purpose (such as the patient needs this information to take to another doctor the next day). Areas other than ROI should not need to copy the complete record or large portions of the record. If more information is requested by the patient, ROI can complete the request the following business day. The procedure for disclosing PHI is as follows:

-provide patient/legal representative an authorization form (#7032) to complete

(See policy, *Use and Disclosure of PHI by and for Personal Representatives, Minors and Deceased Individuals*, if someone other than the patient is requesting the disclosure.
<http://www.utmb.edu/policy/ihop/search/06-02-03.pdf>)

A copy of the UTMB authorization form can be found at
www.utmb.edu/compliance/hipaaforms

-ask for photo ID to verify the person's identity. Copy the ID and staple to the authorization form.

-Identify the patient in the PIDX, obtain the UH# and retrieve the record.

-check all the electronic systems, i.e. EPIC and/or MyUTMB in addition to the unit medical record to locate the requested information.

-make sure that no more information is provided than what is specified on the authorization form.

-copy the information and disclose to the patient.

-the name of the HIM employee who disclosed the PHI is to be written on the date stamped on the authorization form.

-do not charge patients for copies of their information, when pertinent information is being released to hand carry to another health care provider.

-the medical record is to be signed out to location 656 and placed on the ROI shelf in the Request Center along with the original authorization form. ROI will then update the ChartRelease system so that an official record of the disclosure is made.

Disclosure of PHI Without Authorization

Listed below are exceptions when a patient's medical information may be released without the patient's authorization. It is always necessary to obtain a request in writing from the requester stating the reason or purpose for the release. HIM Evening, Night and Weekend employees may have occasion to disclose PHI in the following situations:

-if asked for directory information on a patient, refer the caller to UTMB Patient Information, Ext. 21507. They may disclose limited information based on hospital policy.

- To another health care provider who is rendering urgent or emergency health care to the patient when the request for the disclosure is made (see section Release of PHI above).

-To an organ or tissue procurement organization. They must provide a written request on their letterhead, including patient identification information, the purpose, and description of the requested PHI.

-To the Medical Examiner/Coroner/funeral director when a patient has died elsewhere and the requestor needs UTMB PHI to aid in the autopsy, patient identification, or determination of cause of death. Their request must be in writing on their letterhead, or in the form of a subpoena, including patient identification information, the purpose, and description of the requested PHI. If the requestor appears in person, their identification should be verified to ensure that they are employed by the Medical Examiner, Coroner, or Funeral Director. A copy of their identification should be placed in the patient's medical record.

-To Child or Adult Protective Services (CPS or APS) when they are conducting an investigation. Their request must be in writing on their letterhead, including patient identification information, the purpose (investigation of suspected abuse), and description of the requested PHI. If the requestor appears in person, their identification should be verified to ensure that they are employed by CPS or APS. A copy of their identification should be placed in the patient's medical record.

-To Penal or other custodial institutions (e.g. TDCJ, Rusk State School, Richmond State School) in which the patient is detained, if the disclosure is for the sole purpose of providing health care to the patient.

Release of Incomplete Inpatient Medical Records

If a medical record must be copied to accompany a patient who is being discharged or transferred to another health care facility, arrangements are made with the inpatient unit to remove the record for copying. The record is immediately returned to the unit after it is copied.

If the case manager, nurse or other authorized UTMB employee would rather copy the record themselves rather than bring the record to HIM, they may do so.

See Policy *Use and Disclosure of Inpatient Protected health Information*, # 9.2.7 for more information.

Fee Schedule for Release of PHI

For information purposes, the approved fee schedule is listed below. However, HIM Sections other than ROI should not need to assess any fees for disclosure of PHI.

IN ACCORDANCE WITH Health and Safety Code, Chapter 241 154(e), THE FOLLOWING FEES HAVE BEEN ESTABLISHED FOR RELEASE OF MEDICAL RECORDS TO MOST REQUESTORS, WITH THE EXCEPTION OF PATIENTS:

\$42.54 Retrieval or processing fee, which includes providing the first 10 pages of records

PLUS \$1.43 per page for the 11th through 60th page
.71 per page for the 61st through the 400th page
.37 per page for any remaining pages

PLUS Postage

OR

\$64.81 Retrieval or processing fee for records stored on any microform or other electronic medium which includes providing the first 10 pages.

\$ 1.43 per page thereafter

PLUS Postage

IN ACCORDANCE WITH THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996, THE FOLLOWING FEES HAVE BEEN ESTABLISHED FOR THE RELEASE OF MEDICAL RECORDS TO PATIENTS:

\$.10 (10 CENTS) per page

PLUS Postage

SPECIALIZED FEES INCLUDE:

\$5.00 for completing insurance forms (including disability insurance forms)

\$6.00 Preparation and notary fee for affidavit (\$1 prep fee and \$5 notary fee)

\$19.00 Preparation and notary fee for providing a written response to each set of written questions. (\$14.00 for response to each set of written questions and \$5 notary fee)

\$1.00 for state witness fee

\$40.00 for federal witness fee

IN ACCORDANCE WITH THE TEXAS WORKERS COMPENSATION ACT LABOR CODE, CHAPTER 408.025, THE FOLLOWING FEES HAVE BEEN ESTABLISHED FOR THE RELEASE OF MEDICAL RECORDS:

\$5.00 Base fee

\$.50 (50 cents) per page for the first 20 pages

\$.30 (30 cents) per page for 21+ pages

PLUS Postage

Release of PHI on Patients Who Are to be Adopted or Who Were Adopted

When newborns are to be released to adoption agencies at the time of being discharged from the hospital, the following procedure should be followed:

- If medical record copies are needed by the agency, they must provide a written authorization form signed by the birth mother for copies of her record and a written authorization from the legal guardian (usually the birth mother) of the child to receive copies of the child's medical record.
- Medical record information on the child may be released based on an authorization signed by the birth mother prior to the child's birth.

If pertinent medical record information is needed from the child's record for continuity of care purposes, and if the Health Information Management Dept. (HIM) is requested by a UTMB health care provider to release copies of the incomplete record at the time of the patient's discharge, copies will be made and released. *See policy Use and Disclosure of Inpatient Protected Health Information, #9.2.7.*

The health care provider or designee will bring the incomplete record to Release of Information Area and will designate the pages to be copied and released. Once the record is copied, the health care provider or designee will retrieve the record and return it to the inpatient floor.

-make sure that no more information is provided than what is specified on the authorization form.

-copy the information and disclose to the UTMB inpatient floor representative (e.g. Nurse, Case Manager, and HUC).

-the name of the HIM employee who disclosed the PHI is to be written on the authorization form in the bottom left corner.

-the authorization form is placed on the ROI shelf at the 24 hour desk.

The new HIPAA regulations grant patients several new rights.

Patients may request:

- an amendment to their PHI,
- a restriction on the use or disclosure of their PHI,
- an accounting of the disclosure of their PHI, and/or
- a revocation of an authorization for disclosure of PHI

Go to UTMB home page and enter the address

<http://www.utmb.edu/compliance/hipaa/hipaa-policies.htm> for the policies and forms that address each of these rights. The patients should be given the appropriate forms to complete. The completed forms should be given to the ROI Section for processing.

Security of Patient Information

It is **EVERYONE'S** responsibility to maintain patient confidentiality.

All passwords that are issued to HIM personnel to access computers should be considered confidential and not shared with anyone.

PHI, whether on paper or obtained from computer systems, are confidential.

When you are leaving your work area, do not leave your computer screen on any patient information.

- All personnel must strictly observe the following standards relating to disposal of hard copy and electronic copies of PHI. PHI must not be discarded in trash bins, unsecured recycle bags or other publicly accessible locations. Instead this information must be shredded or placed in a secured recycling bag.
- Printed material and electronic data containing PHI shall be disposed of in a manner that ensures confidentiality.