

Section 6	Compliance Policies	05/12/03	- Originated
Subject 6.2	Privacy Related	08/02/12	- Reviewed w changes - Reviewed w/o changes
Policy 6.2.9	Fax Transmittal of PHI	09/07/12	- Effective Compliance Office - Author

Fax Transmittal of PHI

Definitions

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 1) the past, present, or future physical or mental health, or condition of an individual; 2) provision of health care to an individual; or 3) past, present, or future payment for the provision of health care to an individual. Information is considered PHI where there is a reasonable basis to believe the information can be used to identify an individual. Demographic information on patients is also considered PHI.

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 IHOP Policy 6.2.0, *Maintaining Patient Confidentiality through the Appropriate Use and Disclosure of PHI*.

Policy

This policy describes UTMB’s standards for the disclosure of PHI by fax machine, including external distribution, internal receipt, and physical security. UTMB will reasonably ensure that an individual’s PHI sent by facsimile machine is transmitted in a confidential manner. In general, a fax machine should only be used in situations requiring immediate receipt for treatment, payment, and health care operations. Additionally, all other policies related to the disclosure of PHI must be followed.

The individual transmitting the PHI is responsible for following the proper procedure when PHI is sent via facsimile.

Violation of this policy may further result in disciplinary action up to and including termination for employees; a termination of employment relationship in the case of contractors or consultants; or suspension or expulsion in the case of a student. Additionally, individuals may be subject to loss of access privileges and civil and/or criminal prosecution.

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Guidelines

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

1. 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.
2. Information transmitted must be limited to the minimum necessary to accomplish the purpose of the disclosure.
3. Except for disclosures for TPO, or allowed by federal or state law, a properly completed and signed authorization must be obtained before releasing PHI. (*See Policy 6.2.1 Use and Disclosure of PHI Based on Patient Authorization.*)
4. 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.
 - a. Confidential details of:
 - i. Psychiatric/Psychological records (records of treatment by a psychiatrist, licensed psychologist or psychiatric clinical nurse specialist)
 - ii. Other professional services of a licensed psychologist
 - iii. Social work counseling/therapy
 - IV. Domestic violence victims' counseling
 - V. Sexual assault counseling
 - b. HIV test results (Patient authorization required for EACH release request.)
 - c. Records pertaining to sexually-transmitted diseases
 - d. Alcohol and drug abuse records are protected by federal confidentiality rules (42 CFR Part 2)
5. The **Facsimile Cover Letter** must be used to send faxes containing PHI. Do not include any PHI on the fax cover sheet.
6. UTMB personnel must make reasonable efforts to ensure that they send the facsimile transmission to the correct destination including, but not limited to:
 - a. Preprogramming frequently used numbers into the machine to prevent misdialing errors.
 - b. Periodically and/or randomly checking all speed-dial numbers to ensure their currency, validity, accuracy, and authorization to receive confidential information.
 - c. For a new recipient, the sender must verify the fax number

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**Guidelines,
continued**

by requesting the recipient submit a faxed or email request for PHI, which would include the fax number of the recipient. The employee entering the number will visually check the recipient's fax number on the fax machine prior to starting the transmission.

Periodically reminding those who are frequent recipients of PHI to notify UTMB if their fax number is to change.

- d. Confirming with the intended recipient that the receiving fax machine is located in a secure area or that the intended recipient is waiting by the fax machine to receive the transmission.
 - e. Reviewing the fax confirmation sheets to ensure the intended destination matches the number on the confirmation.
7. If the intended recipient does not receive a faxed transmission containing the PHI and misdialling has caused the transmission to be sent elsewhere, check the fax internal logging system of the fax machine to obtain the misdialled fax number and follow the steps below for misdirected faxes.

**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 to external parties and without a signed authorization from the patient must account for the Non-TPO disclosure in accordance with the IHOP Policy 6.2.26 Patient Rights Related to Protected Health Information.

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

- 1. If a fax transmission containing PHI is not received by the intended recipient because of a misdial, the internal logging system of the fax machine must be checked to obtain the misdialed number.
- 2. 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.

UTMB HANDBOOK OF OPERATING PROCEDURES

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

3. Take appropriate step(s) to remedy the problem that caused the misdirection.
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.
4. Misdirected faxes will be recorded in the Accounting of Disclosure Database by HIM as described in IHOP Policy 6.2.26 Patient Rights Related to Protected Health Information.

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. The department director or designee is responsible for limiting access to fax machines.

1. Each department is responsible for ensuring that incoming faxes are properly handled.
2. When receiving faxed PHI;
 - a. Immediately remove the fax transmission from the fax machine and deliver it to the recipient.
 - b. Manage PHI received via fax as confidential in accordance with policy.
3. Employees who routinely receive faxes containing PHI from other individuals or organizations (either internal or external sources) will promptly advise those regular senders of any changes to the employee's fax number.

Receipt of Misdirected Faxes Containing PHI

1. If an employee receives a fax addressed to someone other than the employee and the person to whom the fax is addressed is someone at UTMB, the employee will promptly notify the individual to whom the fax was addressed and deliver or make arrangements to deliver the mis-directed fax as directed by the intended recipient.
2. If an employee receives a fax addressed to someone other than the employee and the person to whom the fax is addressed is NOT affiliated with UTMB, the employee will promptly notify the sender, and destroy or return the faxed material as directed by the sender.

References

IHOP 6.2.1 Use and Disclosure of PHI Based on Patient Authorization
IHOP 6.2.26 Patient Rights Related to Protected Health Information
IHOP 6.2.39 Privacy Incident Response and Breach Notification