

Institutional Handbook of Operating Procedures
Policy 06.02.15

Section: Compliance Policies	Responsible Vice President: Senior Vice President and General Counsel
Subject: Privacy Related	Responsible Entity: Office of Institutional Compliance

I. Title

Use of Notice of Privacy Practices of PHI

II. Policy

Under the HIPAA Privacy Rule, an individual has a right to adequate notice of the uses and disclosures of PHI that may be made by UTMB, and of the individual's rights and UTMB's responsibilities with respect to PHI. UTMB is required to provide a notice of privacy practices document to all patients, as well as other individuals requesting a copy. Those persons who register or admit patients will be responsible for distributing a copy of the notice to all patients. UTMB is bound to adhere to the privacy practices outlined within its notice.

Violation of this policy may 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.

III. Requirements for the Notice of Privacy Practices

A. UTMB must:

1. Provide the notice ([English version](#) or [Spanish version](#)) no later than the date of the first service delivery, including service delivered electronically (e.g. telemedicine) to such individual;
2. Make a good faith effort to obtain the patient's written acknowledgement of his/her receipt of the notice through e-signature technology or on a paper acknowledgment form if e-signature is unavailable. The patient's receipt of the Notice of Privacy Practice must also be documented in Epic;
3. Have the notice available at the service delivery site for individuals to take with them;
4. Post the notice in a clear and prominent location where it is reasonable to expect individuals seeking service from UTMB to be able to read the notice;
5. Promptly revise its notice whenever there is a material change to the HIPAA Privacy Regulations. Material changes are changes to how UTMB can use or disclose PHI, changes to the individual's rights, changes to UTMB's legal duties, or other changes that effect the privacy practices stated in the notice. Except when required by law, a material change to any term of the notice may not be implemented prior to the effective date of the notice in which such material change is reflected; and
6. Whenever the notice is revised, make the notice available upon request on or after the effective date of the revision.

B. Exceptions

1. Emergency Treatment: If UTMB is treating a patient during an emergency situation, UTMB does not have to provide a notice at the time of first service delivery. Instead,

UTMB may provide the notice to the patient and obtain the written acknowledgement at the first time it is practical to contact the patient.

2. Prisoners: A prisoner receiving medical attention from UTMB does not have a right to receive a copy of the notice of privacy practices.

IV. Requirements for Electronic Notice

- A. UTMB will provide a current electronic version of the notice of privacy practices on its website.
- B. UTMB may provide the notice to an individual by e-mail. If UTMB knows that the e-mail transmission has failed, a paper copy of the notice must be provided to the individual.
- C. Provision of electronic notice by UTMB will satisfy the provision requirements if receipt of the notice by the individual is documented.
- D. The individual who is the recipient of electronic notice retains the right to obtain a paper copy of the notice from UTMB upon request.

V. Retention of Notice

- A. UTMB must document compliance with the notice requirements by retaining copies of the notices issued by UTMB and, if applicable, any written acknowledgement of the receipt of the notice or documentation of any good faith effort to obtain such written acknowledgment. All “Notice of Privacy Practices” must be maintained for a period of six (6) years past any revision dates. UTMB must retain acknowledgement of the Notice of Privacy Practices for at least six (6) years.
- B. Individuals who register or admit patients will be responsible for distributing the notice to all patients and documenting the receipt of the Notice of Privacy Practices in Epic. If a written acknowledgement, either electronic or in hardcopy, was not obtained from the patient, UTMB must document the reason for the failure to obtain the written acknowledgement in Epic. For example, failure may be that the patient refused to sign after being requested to do so.

VI. 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) 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.

Prisoner/Offender: a person incarcerated in or otherwise confined to a correctional institution or other persons held in lawful custody.

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 explanation

of TPO, see [IHOP Policy 06.02.00, Maintaining Patient Confidentiality through the Appropriate Use and Disclosure of PHI.](#)

VII. Relevant Federal and State Statutes
[45 C.F.R. §164.520](#)

VIII. Additional References
[Notice of Privacy Practices- English version](#)
[Notice of Privacy Practices- Spanish version](#)
[Notice of Privacy Practices Acknowledgment Form](#)

IX. Dates Approved or Amended

<i>Originated: 4/11/03</i>	
<i>Reviewed with Changes</i>	<i>Reviewed without Changes</i>
	2/23/2015

X. Contact Information
Office of Institutional Compliance
(409)747-8700