Section 6 Subject 6.2 **Policy 6.2.20**	Compliance Policies Privacy Related **Use & Disclosure of PHI for Judicial or Administrative Proceedings**	05/12/03 - Originated 10/08/07 - Reviewed w/ changes - Reviewed w/o changes Compliance Office - Author

Use and Disclosure of PHI for Judicial and Administrative Proceedings

Definitions

Qualified Protective Order: With respect to Protected Health Information (PHI) requested under this section, an order of a court or of an administrative tribunal or a stipulation by the parties to the litigation or administrative proceeding that:

1. Prohibits the parties from using or disclosing the PHI for any purpose other than the litigation or proceeding for which such information was requested; and
2. Requires the return to UTMB or destruction of the PHI (including all copies made) at the end of the litigation or proceeding.

Policy

PHI may be used or disclosed for judicial or administrative proceedings if the use or disclosure is made in response to a court order, administrative tribunal order, subpoena, discovery request, or other lawful process. **Only Health Information Management (HIM) can handle such releases of information. All requests of this type should be routed to HIM.**

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**.**

Permitted Disclosures

UTMB may use or disclose PHI in the course of any judicial or administrative proceeding if:

1. The disclosure is in response to an order of a court or administrative tribunal, provided that UTMB discloses only the PHI expressly authorized by such order; or
2. In response to a subpoena, discovery request, or other

Permitted

lawful process, that is not accompanied by an order of a court or

Disclosures (cont'd)

administrative tribunal (such as a subpoena from the Texas Department of Health), if:

A. UTMB receives satisfactory assurance from the party seeking the information that reasonable efforts have been made to ensure that the subject of the requested PHI has been given notice of the request (with an affidavit from the requesting party); or

B. UTMB receives satisfactory assurance from the party seeking the information that reasonable efforts have been made by such party to secure a qualified protective order that meets the requirements of this section (in Definitions above).

3. UTMB receives satisfactory assurances from a party seeking PHI along with a written statement and accompanying documentation demonstrating that:

   A. The party requesting such information has made a good faith attempt to provide written notice to the individual (or, if the individual's location is unknown, to mail a notice to the individual's last known address); and

   B. The notice included sufficient information about the litigation or proceeding in which the PHI is requested to permit the individual to raise an objection to the court or administrative tribunal; and

      - The time for the individual to raise objections to the court or administrative tribunal has elapsed; and no objections were filed; or all objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

4. UTMB receives satisfactory assurances from a party seeking PHI including a written statement and accompanying documentation demonstrating that:

   A. The parties to the dispute giving rise to the request for information have agreed to a qualified protective order and have presented it to the court

Permitted

or administrative tribunal with jurisdiction over the

Disclosures (cont'd)

dispute; or

B. The party seeking the PHI has requested a qualified protective order from such court or administrative tribunal

5. Notwithstanding this section, UTMB has the option to disclose PHI in response to lawful process without receiving full satisfactory assurance, if UTMB of its own accord makes reasonable efforts to:

   A. Provide notice to the individual sufficient to meet the requirements of this section, or

Seek a qualified protective order.

References

Tex. Occ. Code §159.003
45 C.F.R. §164.512(e)