



Institutional Handbook of Operating Procedures
Policy 06.02.00

Section: Compliance Policy	Responsible Vice President: Sr. VP and General Counsel
Subject: Privacy	Responsible Entity: Office of Institutional Compliance

I. Title

Maintaining Patient Confidentiality through the Appropriate Use and Disclosure of PHI

II. Policy

UTMB is committed to maintaining the confidentiality of our patients through the proper use and disclosure of patients' [Personal Health Information \(PHI\)](#). All [UTMB personnel](#) have a duty to follow the procedures in this policy and report any suspected breaches of patient privacy to the Office of Institutional Compliance.

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, individual may be subject to loss of access privileges and civil and/or criminal prosecution.

III. Use and Disclosure of PHI for TPO Purposes

PHI may be disclosed without patient authorization for [treatment](#), [payment](#), or [healthcare operations](#) (TPO). This includes the following:

1. UTMB's own treatment, payment, or healthcare operations (TPO).
2. Treatment activities of another health care provider
3. The payment activities of another covered entity or healthcare provider; and
4. The healthcare operation activities of another covered entity or health care provider, if each entity has or had a relationship with the individual who is the subject of the PHI being requested, and the disclosure is:
 - a. For a purpose listed in the definition of health care operations; or
 - b. For the purpose of health care fraud and abuse detection or compliance

IV. Minimum Necessary

A. Disclosures for Payment

1. Only the [minimum necessary](#) PHI shall be disclosed for payment functions, as provided through contractual agreement.
2. Persons handling PHI in a payment context shall refrain from publicizing patient diagnosis information.
3. This policy shall apply to checks collected, credit card paper receipts, and envelopes.

B. Disclosures for Student Use

1. *Students and trainees are to adhere to the minimum necessary standard. Students are considered to be part of the treatment process if they are actively involved in the patient's care, and therefore are not limited in their access or use of the patient's medical information.*

C. Use and Disclosure for Educational Purposes

1. Faculty, staff, students, and trainees are to use de-identified information when in a classroom setting, and the patient's identifying information (i.e. name, DOB, address, etc.) is not needed for the educational purpose. Reference IHOP Policy 06.02.29, *De-identification of PHI*.

D. Good Faith Reliance

1. UTMB may reasonably rely on a requested disclosure as the minimum necessary for the stated purpose when:
 - a. Making disclosure to public officials that do not require patient authorization or an opportunity for the patient to agree or object, and the public official represents that the information is the minimum necessary for the stated purpose;
 - b. The information is requested by another covered entity;
 - c. The information is requested by a professional (such as an attorney or accountant) providing professional services to UTMB either as an employee or as a business associate who represents that the information requested is the minimum necessary for the stated purpose;
 - d. A researcher has appropriate IRB or privacy board documentation.

E. Minimum Necessary does not apply in the following circumstances:

1. Disclosure to or requests by a health care provider for treatment (students and trainees are included as health care providers for this purpose);
2. Information requested by the individual to whom it belongs;
3. Uses and disclosures based upon a valid authorization to use and disclose PHI;
4. Disclosures made to the Secretary of Health and Human Services;
5. Uses and disclosures required by law;
6. Uses and disclosures required by other sections of the HIPAA privacy regulations.

V. Use and Disclosure for Non-TPO Purposes

UTMB may not use and disclose PHI for non-TPO purposes, unless:

1. UTMB has obtained a valid authorization for disclosure of PHI signed by the patient or personal representative of the patient that meets the requirements of IHOP Policy 06.02.01, *Use and Disclosure of PHI based on Patient Authorization*; or
2. The disclosure meets at least one of the conditions outlined in IHOP Policy 06.02.02, *Use and Disclosure of PHI to Family and Friends for Individual Care and Notification Purposes*, 06.02.03 *Use and Disclosure by and for Personal Representatives, Minors, and Deceased Individuals*, or 06.02.16, *Permitted Use and Disclosure of PHI in Special Situations*.

VI. Inappropriate Use and Disclosure of PHI

1. UTMB personnel must only use patient PHI when it is directly related to his/her work duties.
 - a. Any use of disclosure of patient information outside the scope of employment is a breach of confidentiality.
 - b. Medical records are not to be used as reading material or accessed out of curiosity.
2. UTMB personnel are responsible for all information accessed under their user name and password.

- a. Sharing passwords or leaving computers unattended and logged in to a program containing PHI while unattended jeopardizes patient confidentiality and will be considered a breach of confidentiality if the information is accessed inappropriately.
3. Examples of inappropriate use of PHI resulting in a breach of patient confidentiality include:
 - a. A UTMB employee who uses an electronic system to look up the phone number and address of a patient for personal reasons.
 - b. A UTMB employee who is concerned about a patient in the hospital looks up the patient's information to see how they are doing.
 - c. A UTMB employee that looks up a friend's lab results because the friend wants the results in a more timely fashion.
 - d. A Patient Services Specialist responsible for registering a patient that goes beyond his/her work duty and accesses detailed lab results on the patient in addition to the PHI necessary to register the patient.
 - e. A UTMB employee that is involved in a family dispute and accesses information about the welfare of a family member, including information about when their next appointment at UTMB is.
 - f. A UTMB employee is asked by a visitor the location of a patient. The UTMB employee looks up the information for the visitor even though it is not part of the employee's job. (Employees should direct visitors to the Help Information Desk in the hospital. For more information, please refer to the Patient Directory policy.)
 - g. A UTMB employee that accesses the UTMB bed census to find out where a friend, family member or co-worker is being treated.
4. UTMB personnel are responsible for all disclosures of PHI. The disclosure of PHI, whether written, oral or electronic must be done solely for TPO purposes associated with the patient in accordance with this policy.
 - a. Communicating confidential patient information inappropriately, carelessly, or negligently is a breach of confidentiality. (Ex. Casual discussions regarding patients, discussion in public areas, and/or unauthorized release of information while on or off campus.)
 - b. Professional discussion of patient conditions or medical plans should be limited to private areas and should not be discussed in public areas such as hallways or waiting areas.
 - c. Casual discussions regarding patients and/or unauthorized release of information are considered a breach of confidentiality.
5. Examples of inappropriate disclosure of PHI resulting in a breach of patient confidentiality include:
 - a. A UTMB employee, treating a well-known person in the community, telling other UTMB employees (not on the patient's treatment team) about the diagnosis of the patient.
 - b. A UTMB nurse telling another employee, who is not involved in the treatment activities of a patient, that patient's medical condition.
 - c. A UTMB employee learns about the condition of a patient who is also a family member while at work. The UTMB employee then tells other family members about the patient's condition.
 - d. A UTMB employee who sends an email to her spouse that contained PHI on patients the employee was treating.
 - e. A UTMB employee who discloses identifying information on a patient and talks about the medical condition of the patient in the dining hall with friends at lunch.

- f. A UTMB employee who accidentally leaves detailed medical notes on patients on a table next to a soft drink machine while on break.
- g. A UTMB employee who discloses information to a visitor on a “no information” patient.

VII. Relevant Federal and State Statutes

[45 C.F.R. §164.501](#)

[45 C.F.R. §164.514 \(d\)](#)

[45 C.F.R. §164.506](#)

VIII. Related UTMB Policies and Procedures

[IHOP - 06.02.01 - Use and Disclosure of PHI based on Patient Authorization](#)

[IHOP - 06.02.16 - Permitted Use and Disclosure of PHI in Special Situations](#)

IX. Dates Approved or Amended

<i>Originated: 4/11/03</i>	
<i>Reviewed with Changes</i>	<i>Reviewed without Changes</i>
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X. Contact Information

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