



Institutional Handbook of Operating Procedures
Policy 06.02.01

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

I. Title

Use and Disclosure of PHI Based on Patient Authorization

II. Policy

The HIPAA Privacy Rule requires patient [authorization](#) for the use or disclosure of [Protected Health Information \(PHI\)](#) for purposes other than Treatment, Payment, and Healthcare Operations (TPO) or not otherwise allowed by HIPAA. For more information on the use of PHI for TPO see [IHOP 06.02.00, Maintaining Patient Confidentiality through the Appropriate Use and Disclosure of PHI](#). If a disclosure is for treatment purposes, but UTMB doesn't have prior knowledge of the relationship between the patient and the provider see the [Verifying Treatment Relationship Checklist](#).

The authorization must include a number of elements, including a description of the PHI to be used and disclosed, the person authorized to make the use or disclosure, the person to whom UTMB may make the disclosure, an expiration date, and, in some cases, the purpose for which the information may be used or disclosed. With limited exceptions, UTMB may not require a patient to complete an authorization in order to receive treatment. (See [Authorization Validation Checklist](#) for required elements.)

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. When a Patient Authorization is Required

In order to use and disclose PHI for non-TPO purposes, UTMB must obtain a signed authorization form from the patient or the patient's representative. Examples of non-TPO disclosures are disclosures to life insurance companies, non-court ordered subpoenas, disclosures for research purposes or disclosures to employers.

Health Information Management (HIM) as the custodian of the [Unit Medical Record \(UMR\)](#) shall have the sole authority to disclose PHI when a patient authorization is required. Custodians of [Case Management Records \(CMR\)](#) or Custodians of [Source Data \(SD\)](#) must NOT disclose or release any PHI and must direct all persons requesting PHI requiring an authorization to HIM.

If the authorization form is not UTMB's approved form, HIM can accept an outside entity's authorization form if HIM determines the authorization form is valid. (See [Authorization Validation Checklist](#) for required elements.) HIM will document each disclosure and retain all signed authorizations.

IV. When Patient Authorization is not Required

UTMB does NOT require a patient or personal representative to sign a valid authorization form in order to use or disclose PHI for the following purposes:

1. UTMB clinics and providers may share PHI with other UTMB patient care areas for treatment, payment, or health care operations.
2. UTMB may share PHI with providers with a known relationship to the patient, (such as physicians who refer patients to UTMB for a consult or specialty procedure or providers to whom UTMB refers patients).
3. In emergency health care situations, PHI can be shared with non-UTMB providers who have a treatment relationship with the patient.
4. UTMB clinics and providers can share a limited amount (20 pages) of information, such as recent lab results or medical reports that have been received or created within the last 30 days of the patient's most recent visit, with patients. All requests for lab results and medical reports that are older than 30 days must be sent to HIM for release. For limited disclosures of recent PHI, the following rules apply:
 - a. Telephone Requests for the Disclosure of PHI- UTMB clinics and providers may only disclose lab results or medical reports over the phone if the UTMB employee has followed the IHOP Policy 06.02.32, Verifying Identity and Authority of Individuals Requesting PHI.
 - b. Requests to Mail PHI- UTMB employees may mail a limited amount of medical information to patients after verifying the address provided by the patient is the same as the address in the UMR.
 - c. Requests for disclosure of PHI during office visits- UTMB clinics and providers may disclose, at their discretion, a limited amount (up to 20 pages) of medical information.
 - d. Note: Patients have access to medical records via the EMR portal.
5. UTMB billing personnel may disclose PHI to family and friends if the information is solely limited to the amount owed. If the caller wishes to obtain more detailed support of the amount owed including medical information contained in the bill, the UTMB billing personnel must obtain oral permission from the patient and the UTMB employee must adhere to [IHOP Policy 06.02.32, Verifying Identity and Authority of Individuals Requesting PHI](#). If the patient is not available for verification and approval, the UTMB employee must obtain a valid written authorization form from the patient or a medical power of attorney justifying the disclosure of information to the caller.
6. PHI may be disclosed without a valid authorization pursuant to an exception permitted by the HIPAA Privacy Rule, including any disclosure required by law. The following is a list of policies under which UTMB is permitted to disclose PHI for reasons other than for TPO purposes as required by law or without the need for a valid authorization:
 - a. [IHOP Policy 06.02.02, Use and Disclosure of PHI for Individual Care, Notification and Directory Information](#);
 - b. [IHOP Policy 06.02.16, Permitted Use and Disclosure of PHI in Special Situations](#).
7. All disclosures for non-TPO purposes and without patient authorization must comply with the [IHOP Policy 06.02.26, Patient's Rights Related to Protected Health Information \(PHI\)](#) section on Accounting of Disclosure, which mandates the tracking of disclosures of PHI.

V. Compound Authorizations

Authorizations may be combined with other documents to create a compound authorization except in the following circumstances:

1. Authorizations for release of psychotherapy notes may only be combined with another authorization to release psychotherapy notes. See [IHOP Policy 06.02.08, Use and Disclosure of Psychotherapy Notes and Physician Process Notes](#).
2. Research authorizations may be combined only with other authorizations or written permissions for the same research study. See [IHOP Policy 06.02.30, Use and Disclosure of PHI for Research](#).
3. An authorization may not be combined when treatment, payment, enrollment in a health plan or eligibility of benefits is conditioned upon the authorization.

Except as described above, authorization may be combined with other documents to create compound authorizations. If the PHI falls into one of the categories requiring separate authorization, a separate valid authorization must be obtained.

VI. Conditioning Treatment Upon an Authorization

UTMB may not require a patient to sign an authorization in order to receive treatment except in the event of:

1. Provision of research-related treatment upon receiving an authorization for such research.
2. Provision of health care that is solely for the purpose of creating PHI for disclosure to a third party on the provision of an authorization to such third party. For example, if an employer requests a fitness for duty evaluation on an employee, UTMB may require the individual to sign an authorization so that the results can be released to the employer prior to conducting the evaluation.

VII. Defective Authorizations

An authorization is considered defective and invalid if any material information in the authorization is known to be false by UTMB or its employees or if any of the following defects exist:

1. The expiration date has passed;
2. The authorization has not been filled out completely or lacks an element required by the HIPAA Privacy rule to be a valid authorization.;
3. The authorization is known by UTMB to have been revoked;
4. The authorization violates the compound authorizations requirement or the conditioning of authorizations requirement.

VIII. Authorizations Requiring Special Instructions

- A. Authorizations and Psychotherapy Notes- For specific rules governing the use and disclosure of psychotherapy notes, see [IHOP Policy 06.02.08, Use and Disclosure of Psychotherapy Notes and Physician Process Notes](#).
- B. Authorizations for Marketing and Fundraising Purposes- For specific rules governing the use and disclosure of PHI for marketing and fundraising purposes, see [IHOP Policy 06.02.17, Use and Disclosure of PHI for Marketing and Fundraising](#).
- C. Research Authorization- For specific rules governing the use and disclosure of PHI for research purposes, see [IHOP Policy 06.02.30, Use and Disclosure of PHI for Research](#).

IX. Revocation of Authorizations

- A. An individual may revoke an authorization at any time, provided that the revocation is in writing. However, UTMB will not be able to get the PHI back if it has already been disclosed. As soon as the revocation is processed by HIM, UTMB will stop using and disclosing the PHI.
- B. When a patient requests a revocation of a prior authorization, the revocation form will be forwarded to HIM for proper documentation in the Unit Medical Record. A patient may submit a

request for revocation in a signed letter and UTMB will accept this without requiring a signed revocation form.

- C. All original revocation forms must be forwarded to HIM or scanned into the UMR. HIM will be responsible for notifying the departments or individuals authorized to use the patient's PHI that the patient has revoked his/her authorization.
- D. Once notified by HIM of the revocation, the departments or individuals are responsible for ensuring the patient's PHI is no longer subject to further use or disclosure.

X. Relevant Federal and State Statutes

[45 C.F.R. § 164.508](#)

XI. Related UTMB Policies and Procedures

[IHOP - 06.02.00 - Maintaining Patient Confidentiality through the Appropriate Use and Disclosure of PHI](#)

[IHOP - 06.02.02 - Use and Disclosure of PHI for Individual Care, Notification and Directory Information](#)

[IHOP - 06.02.08 - Use and Disclosure of Psychotherapy Notes and Physician Process Notes](#)

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

[IHOP - 06.02.17 - Use and Disclosure of PHI for Marketing and Fundraising](#)

[IHOP - 06.02.26 - Patient's Rights Related to Protected Health Information \(PHI\)](#)

[IHOP - 06.02.30 - Use and Disclosure of PHI for Research](#)

[IHOP - 06.02.32 - Verifying Identity and Authority of Individuals Requesting PHI](#)

XII. Additional References

[Verifying Treatment Relationship Checklist](#)

[Authorization Validation Checklist](#)

XIII. Dates Approved or Amended

<i>Originated: 04/11/2003</i>	
<i>Reviewed with Changes</i>	<i>Reviewed without Changes</i>
	02/24/2015
	03/03/2017
	01/30/2023

XIV. Contact Information

Office of Institutional Compliance
(409)747-8700