Using and Disclosing PHI | Policy 3.1
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HIPAA Authorization | Effective Date: July 20, 2010
Revised: January 15, 2015

References:  [http://www.hhs.gov/ocr/hipaa](http://www.hhs.gov/ocr/hipaa)
HSC HIPAA website [http://www.ttuhsc.edu/hipaa/policies_procedures.aspx](http://www.ttuhsc.edu/hipaa/policies_procedures.aspx)

**Policy Statement**

Except as provided by TTUHSC policy or otherwise permitted by law, TTUHSC shall only use or disclose Protected Health Information (PHI) pursuant to a properly signed HIPAA Authorization for Release of Patient Information or HIPAA Authorization for Release of Psychotherapy Notes (for psychotherapy notes only), collectively referred to as “HIPAA Authorization”.

**Scope and Distribution**

This policy applies to all PHI maintained by TTUHSC. It does not apply to health care information of inmates seen or treated by TTUHSC providers.

**Definitions**

Refer to [HPP 1.1 for Glossary of HIPAA Terms](http://www.ttuhsc.edu/hipaa/policies_procedures.aspx)

**Procedure**

1. **TTUHSC HIPAA Authorizations**
   a. *Content of HIPAA Authorization Forms.* The HIPAA Authorizations shall be in plain language and contain the core elements and statements required by 45 CFR 164.508(a)(3); and 508(c).

   b. *Location of TTUHSC Approved HIPAA Authorization Forms.* All HIPAA Authorization forms required under this policy shall be prepared, reviewed and updated by the Institutional Privacy Officer. HIPAA Authorization forms can be accessed by going to the HIPAA website [http://www.ttuhsc.edu/hipaa/Universal_HIPAA_Forms.aspx](http://www.ttuhsc.edu/hipaa/Universal_HIPAA_Forms.aspx) and then select the appropriate campus.

   c. *Vital Document.* The TTUHSC HIPAA Authorization shall be considered a vital document as that term is used in the Federal Limited English Proficiency (LEP) regulations and shall be translated into Spanish for use by TTUHSC and its patient population.
2. Authorizations for Use or Disclosure Requirements

a. HIPAA Authorization Required: General Rule. A valid written HIPAA Authorization for Release of Patient Information shall be obtained for use and disclosure of PHI, other than psychotherapy notes (see 2b below) created or maintained by TTUHSC, except for the following purposes:
   - Treatment, payment or health care operations;
   - Uses and disclosures required by law;
   - Uses and disclosures for public health activities;
   - Disclosures about victims of abuse, neglect or domestic violence;
   - Uses and disclosures for health oversight activities, such as public health authorities or the FDA;
   - Disclosures for judicial and administrative proceedings;
   - Disclosures for law enforcement purposes;
   - Uses and disclosures about decedents to coroners, medical examiners and funeral directors;
   - Uses and disclosures for cadaveric organ, eye or tissue donation purposes;
   - Uses and disclosures for research purposes pursuant to a Privacy Board waiver of authorization or for reviews preparatory to research;
   - Uses and disclosures to avert a serious threat to health or safety;
   - Uses and disclosures for specialized government functions;
   - Disclosures for workers’ compensation;
   - Limited Data Sets pursuant to a written data use agreement for the purposes of research, public health, or health care operations as set forth at 45 CFR 164.514(e)

b. HIPAA Authorization Required: Psychotherapy Notes. See HPP 3.2 Psychotherapy Notes.

c. Authorization Required: Research. A HIPAA Authorization for Research, as approved by the Institutional Privacy Officer and TTUHSC Institutional Review Board, shall be obtained for use or disclosure of PHI obtained during the course of an Institutional Review Board approved research project.

d. HIPAA Authorization Required: TTUHSC Marketing Activities. A valid written HIPAA Authorization shall be obtained for use or disclosure of PHI for marketing purposes, unless:
   - TTUHSC communicates face-to-face to an individual; or
   - TTUHSC provides a promotional gift of nominal value.

If the marketing activity involves direct or indirect payment to TTUHSC by another entity, contact the Institutional Privacy Officer, to determine whether or not a HIPAA Authorization is required. If a HIPAA Authorization is required, it
shall include a statement that direct or indirect payment is being paid to TTUHSC from a third party for the marketing activity.

3. Valid HIPAA Authorization

a. Obtaining a Valid Authorization. A valid HIPAA Authorization must contain the following information and details before PHI is used or disclosed:
   • The patient’s name or medical record number and date of birth, if available;
   • The name and address of the facility/person to which the PHI is to be released or the name and address of the person/entity from which TTUHSC is receiving PHI.
   • Description of the purpose for which the PHI is to be used/disclosed; use the “Release is for the Purpose of” box on the TTUHSC Authorization forms.
   • Description of the PHI to be used/disclosed; use the “Information to be disclosed/used” box on the TTUHSC Authorization forms.
   • If the PHI is related to AIDS/HIV; drug/alcohol screening, use or treatment; mental health information; or genetics testing to be released or used, then mark “yes” on the appropriate line on the TTUHSC Authorization form. Failure to mark any area “yes” means that the information shall not be used or released.
   • Expiration Date or event, unless the Authorization is for research purposes, in which case, the Authorization may state “end of the research study”, “none”, or similar language. This is located in the Acknowledgements box, #3.
   • Signature of the individual to whom the PHI pertains and the date. If signed by a legally authorized representative, include a description of his/her authority to act for the individual to whom the PHI pertains. If the HIPAA Authorization is read or translated to the individual signing the HIPAA Authorization, note the time and obtain the signature of the Witness or Translator.

A copy of the signed HIPAA Authorization shall be provided to the individual upon request.

b. Invalid HIPAA Authorizations. An invalid HIPAA Authorization shall not be used for use or disclose of PHI. A HIPAA Authorization is invalid when:
   • The expiration date or event has passed and this is known by TTUHSC;
   • The HIPAA Authorization does not contain all of the elements outlined in 4(a) above.
   • TTUHSC has knowledge that the HIPAA Authorization has been revoked by the patient or his/her legally authorized person.
   • The Authorization for Release of Psychotherapy Notes has been combined with another authorization other than another authorization for release of psychotherapy notes.
   • TTUHSC has knowledge that any material information in the HIPAA Authorization is false.
4. **Compound Authorizations**

Any compound or combined HIPAA Authorizations allowed as set forth below must first be approved by the Institutional Privacy Officer or respective Regional Privacy Officer.

a. **General.** A HIPAA Authorization for Release of PHI may be combined with any other HIPAA Authorization, except as prohibited by law or this policy.

b. **Research.** A HIPAA Authorization for Research may be combined with any other legal permission related to the research study, including another HIPAA Authorization or consent to participate in the study.

c. **Psychotherapy Notes.** An Authorization for Release of Psychotherapy Notes may be combined with another Authorization for Release of Psychotherapy Notes, BUT SHALL NOT be combined with any other authorization for release of PHI or consent document.

5. **Conditioning Treatment on Obtaining an Authorization**

TTUHSC shall not condition the provision of treatment to any patient on the receipt of a valid HIPAA Authorization, except as allows below:

- TTUHSC may condition the provision of research-related treatment on the receipt of a valid HIPAA Authorization for the use or disclosure of PHI for such research; and
- TTUHSC may condition the provision of health care solely for the purpose of creating PHI for disclosure to a third party on the receipt of a valid HIPAA Authorization for the disclosure of that PHI to the third party. For example, if the patient is receiving a pre-employment physical for a prospective employer, then TTUHSC may require a valid HIPAA Authorization to that prospective employer to disclose PHI related to the pre-employment physical.

6. **Revocation of HIPAA Authorization**

a. **General.** An individual may revoke a HIPAA Authorization at any time in writing, except to the extent TTUHSC has acted in reliance on the HIPAA Authorization. Revocation shall be effective on the date TTUHSC receives written notice of such revocation.

b. **Revocations Related to Research Studies.** TTUHSC may continue to use and disclose PHI obtained prior to the time a research subject revoked his/her HIPAA Authorization, as necessary to maintain the integrity of the research study.

7. **Retention of HIPAA Authorizations**
TTUHSC shall retain signed HIPAA Authorizations for six (6) years from the date of signature or the date when it was last in effect, whichever is later. In all cases, except research, the signed HIPAA Authorization shall be retained in the patient’s medical record. In the case of HIPAA Authorizations for research, the HIPAA Authorization shall be retained in the research subject’s research medical record file.

Knowledge of a violation or potential violation of this policy must be reported directly to a Regional Privacy Officer, the Institutional Privacy Officer or to the employee Compliance Hotline at (866) 294-9352 or www.ethicspoint.com under HSC.

Approval Authority

Questions regarding this policy may be addressed to the Regional Privacy Officer (Amarillo, El Paso, Permian Basin), the Institutional Privacy Officer, or the Institutional Compliance Officer.

Responsibility and Revisions

This policy may be amended or terminated at any time to reflect changes in TTUHSC operating policies or applicable laws and regulations.