# TTUHSC Privacy Manual for Protected Health Information

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I. INTRODUCTION

Texas Tech University Health Sciences Center (TTUHSC) is committed to compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as applicable, and its Administrative Simplification provisions, including the Standards for Privacy of Individually Identifiable Health Information (45 Code of Federal Regulations (CFR) Parts 160 and 164), as stated in TTUHSC Operating Policies (OP) 52.02 which incorporates this Manual by reference.

For purposes of this Manual, the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and its Administrative Simplification provisions, including the Standards for Privacy of Individually Identifiable Health Information (45 CFR Parts 160 and 164) will be referred to collectively as HIPAA.

State law is referred to throughout this Manual. In instances where state law and federal law differ in governing the privacy of individually identifiable health information, the law that provides the greater privacy for the individual shall be followed.

Terms used in this manual, and not otherwise defined in this section, shall have the same meaning as those terms are defined by HIPAA or state law, whichever provides the greater protection for the individual.

The HIPAA Institutional Privacy Officer, Regional Privacy Officers, HIPAA Privacy and Security Committee, and any sub-committees established hereunder shall be considered a medical committee as defined by Texas Health and Safety Code 161.031, and/or other applicable state and federal statutes. All documents generated by or, submitted to the above, or prepared for the purposes of fulfilling HIPAA responsibilities are confidential and privileged as medical committee documents.
III. DEFINITIONS refer to HPP 1.1 Glossary of Terms - HIPAA
II. ADMINISTRATION

TTUHSC Operating Policy Regarding Privacy

See HSC OP 52.02 Privacy and Security of Health Information

Training

See HPP 1.4 HIPAA Training

Compliance Audits

Audits will be used to monitor compliance with HIPAA regulations and TTUHSC HIPAA Policies and Procedures, and to assist in reducing risk of non-compliance.

1. Compliance with General Privacy Policies: The Privacy Officers will conduct an annual review of overall compliance with HIPAA.

The Privacy Officers will maintain a database for each audit conducted along with any recommendations. Upon completion of an audit a summary report will be submitted to the TTUHSC Institutional Privacy Officer. The Regional Privacy Officer will provide education and assist with corrective action plans

Complaints Regarding TTUHSC Privacy Practices or Violations by Workforce Members.

TTUHSC faculty and staff: See HSC OP 52.03 Compliance Hotline and HSC OP 52.04 Reporting Violations; Non-retaliation Policy

Privacy Breach

See HSC OP 52.02 Privacy and Security of Health Information

Whistleblowers

See HSC OP 52.04 Reporting Violations; Non-Retaliation Policy
III. USING AND DISCLOSING PROTECTED HEALTH INFORMATION WITHOUT AN INDIVIDUAL’S AUTHORIZATION OR AN OPPORTUNITY TO AGREE OR OBJECT


Consult with the Institutional Privacy Officer or a Regional Privacy Officer on the relevant campus before using or disclosing PHI for the following activities:

Disclosures for Treatment, Payment and Health Care Operations
45 CFR Part 164.506

TTUHSC may disclose PHI without an individual’s Authorization or without the necessity for an opportunity to agree or object as follows:

1. For TTUHSC’s own treatment, payment or health care operations of an individual.

   Example: A health care provider may use PHI about an individual to provide health care to the individual and may consult with other health care providers about the individual’s treatment.

2. To another health care provider for treatment activities.

   Examples:
   • A primary care provider may send a copy of an individual’s medical record to a specialist who needs the information to treat the individual.
   • A health care provider may send a patient’s health care instructions to a nursing home to which the patient is transferred.

3. To another covered entity or any health care provider for the payment activities of the entity that receives the information.

   Examples:
   • A physician may send an individual’s health plan coverage information to a laboratory that needs the information to bill for services it provided to the physician with respect to the individual.
   • A clinic may give a patient’s payment information to a durable medical equipment provider that is fulfilling the provider’s order for health care equipment.
4. To another covered entity for the health care operations activities of the entity that receives the information, if each entity either has or had a relationship with the individual who is the subject of the information.

Example: A health care provider may disclose PHI to a health plan for the plan's Health Plan Employer Data and Information Set (HEDIS) purposes, provided that the health plan has or had a relationship with the individual who is the subject of the information.

5. To another covered entity that participates in an organized health care arrangement for any health care operations activities of the organized health care arrangement.

Business Associates
45 CFR Part 164.504
See HPP 1.18  Business Associate Agreements

Miscellaneous Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object Is Not Required
45 CFR Part 164.512

In addition to those provided previously in this section, other circumstances may allow the use and disclosure of PHI without an individual’s Authorization or opportunity to agree or object. They include but are not limited to the following:

6. Public Health Activities. TTUHSC may disclose PHI for the public health activities and for the purposes described in 45 CFR Part 164.512 (b) and Texas Health and Safety Code § 181.103.

Examples:
- TTUHSC may disclose PHI in certain instances to a public health authority authorized by law to receive reports for the purpose of controlling or preventing disease, injury or disability 45 CFR Part 164.512 (b)(1)i).
- TTUHSC may disclose PHI in certain instances to a public health authority authorized by law to receive reports of child exploitation, abuse or neglect 45 CFR Part 164.512 (b)(1)(ii) and Texas Family Code § 261.001, et seq.
- TTUHSC may disclose PHI in certain instances to the Food and Drug Administration. 45 CFR Part 164.512 (b)(1)(iii).
- TTUHSC may disclose PHI in situations where a person may have been exposed to a communicable disease or otherwise may be at risk
of contracting or spreading a disease or condition. 45 CFR Part 164.512 (b)(1)(iv) and Texas Health and Safety Code § 81.001, et seq.

7. Abuse, Neglect or Domestic Violence. 45 CFR § 164.512(c); Texas Health and Safety Code § 181.001, et seq.; and Texas Family Code § 91.001, et seq. TTUHSC will disclose PHI regarding an individual about whom TTUHSC reasonably believes to be a victim of abuse, neglect or domestic violence to a government authority authorized by law to receive such reports (including a social service or protective services agency) pursuant to the following:
   a) When required by law;
   b) When the individual agrees to the disclosure; or
   c) When expressly authorized by statute or regulation; and
      1) The TTUHSC health professional, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or potential victims; or
      2) If the individual is unable to agree because of incapacity, a law enforcement or other public official authorized to receive the report represents that the PHI is not intended to be used against the individual and that an immediate enforcement activity would be materially and adversely affected by waiting until the individual agrees.

Informing the Individual. If such disclosure is made, except in the case of reports of child abuse, TTUHSC will promptly inform the individual that such report has been or will be made, unless informing the individual would place the individual in serious harm or the person being informed would be a personal representative who is responsible for the abuse, neglect or other injury and informing that person would not be in the best interest of the individual as determined by the licensed health care provider.

8. Health Oversight Activities. 45 CFR Part 164.512 (d). TTUHSC may disclose PHI to a health oversight agency for oversight activities authorized by law including, but not limited to, audits; civil, administrative or criminal investigations; and licensure or disciplinary actions. A health oversight activity does not include an activity, such as an investigation, in which the individual is the subject of the activity and such activity does not arise out of and is not directly related to the following: receipt of health care; claim for public benefits related to health; or qualification for, or receipt of, public benefits or services when a patient’s health is integral to the claim for public benefits or services.

9. Judicial and Administrative Proceedings. 45 CFR Part 164.512(e). TTUHSC may disclose PHI pursuant to a court or administrative order;
subpoena or discovery request; or other lawful process if TTUHSC receives satisfactory assurances as required by 45 CFR Part 164.512(e).

10. **Law Enforcement.** 45 CFR Part 164.512 (fl. TTUHSC may disclose PHI for a law enforcement purpose to a law enforcement official if the conditions in 45 CFR Part 164.512 (t) and the Texas Occupations Code § 159.004 are met.

11. **Decedents.** 45 CFR Part 164.512(g). TTUHSC may disclose PHI to a coroner or medical examiner as authorized by law.

12. **Organ, Eye and Tissue Donation.** 45 CFR Part 164.512(h). Consistent with applicable law, TTUHSC may disclose PHI to people involved with obtaining, storing or transporting organs, eyes or tissues of cadavers for the purpose of tissue donation and transplant.

13. **Specialized Government Functions.** 45 CFR Part 164.512(k)(1-6). TTUHSC may use and disclose PHI in certain instances for:
   a) Military (domestic and foreign), veteran, national security, intelligence and protective service activities (for President or other authorized federal officials); and
   b) Correctional institutions and other law enforcement custodial situations.

14. **Workers Compensation.** TTUHSC may disclose PHI to the extent authorized by and to the extent necessary to comply with laws and regulations related to workers' compensation, including, but not limited to laws of the State of Texas, or other similar programs established by law. Texas Workers Compensation Rules § 133.100, et seq.

15. **De-Identified Information.** 45 CFR Part 164.514(a-c). TTUHSC may use or disclose PHI that has been de-identified in accordance with 45 CFR Part 164.514 (a-c). In general, de-identification means that the individual is not identified and there is no reasonable basis to believe that the information can be used to identify the individual. In order for PHI to be de-identified, the PHI must meet the criteria set forth in 45 CFR Part 164.514 (a-c).

16. **Limited Data Sets.** 45 CFR Part 164.514(e). For purposes of research, public health or health care operations, TTUHSC may use or disclose PHI using a limited data set that meets the criteria established in 45 CFR Part 164.514(e), including, but not limited to, entering into a data use agreement.
IV. SPECIAL CIRCUMSTANCES

Consult with the Institutional Privacy Officer or a Regional Privacy Officer on the relevant campus before using or disclosing PHI for the following activities:

Research
45 CFR Part 164.5120

Generally, TTUHSC should obtain an “Authorization to Use and/or Disclose Your Protected Health Information for Research Study” before using or disclosing PHI.

Such authorization shall satisfy the requirements of 45 CFR § 164.508, except that the authorization may state that it does not expire, that there is no expiration date or event or that it continues until the end of the research study. The authorization may be combined with a consent to participate in research or with any other legal permission related to the research study.

A copy of such authorization shall be filed in the subject’s medical record. The authorization may not be altered. Any additions to the authorization must be made on an addendum and must be approved by the HIPAA Privacy Officer prior to utilization. The addendum is used only for additional clarification of the authorization. No repetitious statements will be approved.

TTUHSC also may use and disclose specified PHI without an individual’s Authorization and/or without the necessity for an opportunity to agree or object for research purposes if TTUHSC obtains documentation that a Waiver of Authorization has been approved by an Institutional Review Board (IRB). For purposes of HIPAA, the TTUHSC Institutional Review Boards will act as Privacy Boards as defined by 45 CFR Part 164.5120).

1. Documentation of Waiver. The documentation of approval of a waiver must include all of the following:
   a) Identification and Date of Action. Statement identifying the IRB and the date on which the waiver of Authorization was approved.
   b) PHI Needed. Brief description of the PHI for which use or access has been determined to be necessary by the IRB.
   c) Waiver Criteria. Statement that the IRB has determined that the waiver of Authorization satisfies all of the following:
      1) Use or disclosure involves no more than a minimal risk to the privacy of individuals. In this connection, the statement should indicate that all identifiers should be destroyed at the earliest opportunity (unless needed for the research or retention is required by law) and provide adequate written assurances that the PHI will not be reused or disclosed to any other person or entity (except as required or permitted by law or for authorized oversight of research).
2) Research could not practicably be conducted without the waiver.
3) Research could not have been conducted without access to and use of the PHI.

d) Review and Approval Procedures. Statement that the waiver of Authorization has been reviewed and approved under either normal or expedited review procedures, as follows: the IRS must follow the Common Rule in accordance with 45 CFR Part 164.5120).

e) Signature. The chair or other member, as designated by the chair, of the IRB must sign documentation of the waiver of Authorization.

The Action by Institutional Review Board or Privacy Board on PI Request to Use and Disclose PHI without Authorization for Research Purposes form can be found at www.ttuhsc.edu/hipaa

2. **Preparatory to Research.** 45 CFR Part 164.512. PHI may be used or disclosed to a researcher in preparation for research without an authorization if the Chair of the IRS, or their designee, obtains from the researcher representations of each of the following:
   a) Use or disclosure is solely to review PHI as necessary to prepare a research protocol;
   b) PHI will not be removed from TTUHSC; and
   c) PHI is necessary for research purposes.

3. **Decedent Information.** A researcher may use or disclose PHI when researching the deceased without an Authorization if the Chair of the IRS, or their designee, obtains from the researcher each of the following:
   a) Representations that the use or disclosure is necessary for research purposes; and
   b) Will be used or disclosed solely for research on the PHI of decedents; and
   c) Documentation of the death of such individuals can be provided if requested.

4. **Transition Periods.**
   a) TTUHSC may rely on express legal permission, informed consent, or IRS-approved waiver of informed consent for future unspecified research, provided the legal permission, informed consent or IRB approved waiver was obtained prior to April 14, 2003.
   b) Subjects consented on or after April 14, 2003 must sign an “Authorization to Use and Disclose Your Protected Health Information for Research Study” in order to participate in the research study.
   c) Subjects re-consented on or after April 14, 2003 must sign an “Authorization to Use and Disclose Your Protected Health Information for Research Study” in order to continue to participate in an existing trial that was begun prior to April 14, 2003.
d) As of April 14, 2003, all new applications for Research Protocols must include either the “Authorization to Use and Disclose Your Protected Health Information for Research Study” or the PI’s “Request to Use and Disclose PHI without an Authorization for Research Purposes”.

Fundraising
45 CFR Part 164.514(f)(1); HITECH § 13406(b)

In general, an Authorization by the individual or the individual’s Legally Authorized Representative is required for the use or disclosure of PHI for fundraising.

PHI may used for fundraising without an Authorization from the individual or the individual’s Legally Authorized Representative when TTUHSC is using or disclosing to a Business Associate or an institutionally related foundation the following PHI for the purpose of raising funds for its own benefit:

- Demographic information relating to an individual; and/or
- Dates of health care provided to an individual.

In any fundraising material, TTUHSC must include a clear and conspicuous description of how an individual may opt out of receiving any further fundraising communications. Once an election to opt out is received, no further fundraising communications shall be made to that individual.

Marketing
45 CFR Part 164.501; HITECH § 13406 and Texas Health and Safety Code § 181.001(b)(4)

Generally for the purposes of HIPAA Privacy, HITECH and the Texas Health and Safety Code, TTUHSC will not use or disclose PHI to conduct marketing as defined: “Marketing” means the promotion or advertisement by TTUHSC or its Business Associates of specific products or services if a financial incentive or remuneration is received directly or indirectly for the use, access, or disclosure of PHI. This includes communications for treatment or health care operations except where it describes a drug or biologic that is currently being prescribed to the recipient of the communication and any payment is reasonable in amount.
V. PERMITTED USES AND DISCLOSURES REQUIRING AN OPPORTUNITY TO AGREE OR OBJECT
45 CFR Part 164.510


If the individual is informed in advance of the use or disclosure and has the opportunity to agree or object to the use or disclosure, TTUHSC will disclose certain PHI, as provided below. TTUHSC is permitted to orally inform the individual of and obtain the individual’s agreement or objection to a use or disclosure:

Family Members and Close Friends
45 CFR Part 164.510

If the individual is present and one of the following circumstances are met, TTUHSC will disclose to a family member, other relative, close friend or any other person the individual identifies, PHI relevant to that person’s involvement in the individual’s care or payment related to the individual’s care, if the individual is present and there is one of the following:

1. Individual’s agreement is obtained;
2. Individual is provided with the opportunity to object to the disclosure and does not express an objection; or
3. Health professional reasonably infers from the circumstances, based on the exercise of professional judgment that the individual does not object.

TTUHSC will also notify or assist in the notification of a family member or another person responsible for the care of the individual, of the individual’s location, general condition, or death, if the above criteria are met.

Disaster Relief Purposes
TTUHSC may, if required by law, use or disclose PHI to a public or private entity authorized by law or by its charter to assist in disaster relief efforts. The requirements of having the individual present or not to agree to the use or disclosure should be applied, to the extent that TTUHSC, in the exercise of professional judgment, determines that the requirements do not interfere with the ability to respond to the emergency circumstances.

If the individual is not present, or the opportunity to object cannot practicably be provided because of incapacity or emergency, TTUHSC, in the exercise of professional judgment, may determine whether the disclosure is in the best interest of the individual and, if so, shall disclose only the PHI that is directly relevant to the person’s involvement with the individual’s health care.
VI. DISCLOSURES TO MINORS AND AUTHORIZED REPRESENTATIVES
45 CFR Part 164.502(g)

See HPP 3.3 Using and Disclosing PHI – Minors, Incapacitated Adults and Decedents
VII. USES AND DISCLOSURES REQUIRING AN INDIVIDUAL’S AUTHORIZATION
45 CFR Part 164. 508

General Rule
Except as provided above or as otherwise permitted by law, TTUHSC shall not use or disclose PHI without an Authorization.

Psychotherapy Notes
45 CFR Part 164.508

See HPP 3.2 Psychotherapy Notes.

Authorizations
45 CFR Part 164.508(b)

See HPP 3.1 HIPAA Authorization.
VIII. POLICIES AND PROCEDURES TO MINIMIZE USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION
45 CFR Parts 164.502(b) and 164.514(d)

Incidental Uses and Disclosures

TTUHSC intends to limit incidental uses and disclosures of PHI and have in place reasonable safeguards, where applicable.

Incidental disclosures are permitted to the extent the minimum necessary standard is applied and reasonable safeguards are in place.

Example:
Sign-in sheets and calling out names in waiting rooms are permitted, so long as the information disclosed is appropriately limited (e.g., reason for visit or patient diagnosis are not used).

Minimum Necessary Standard
45 CFR Part 164.514(d)
See HIPAA Minimum Necessary Standards

When using or disclosing PHI or when requesting PHI from another covered entity, TTUHSC will make reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure or request.

At TTUHSC, disclosure of PHI to the workforce shall be limited based on the workforce member’s need to access PHI as required to perform their duties and responsibilities at TTUHSC.

The minimum necessary standard does NOT apply to the following:
1. Disclosures to or requests by a health care provider for treatment.

2. Uses or disclosures made to the individual for treatment, payment or health care operations or as properly requested by the individual.

3. Uses or disclosures made pursuant to an individual’s Authorization.

4. Disclosures made to the Secretary of Health and Human Services.

5. Uses or disclosures required by law or for compliance with other policies herein.

Examples of minimizing use and disclosure:
- Computer screens should have privacy screens or be facing away from non-authorized individuals.
• All lab and x-ray logs and documents should be stored in areas that are not visible or accessible to non-authorized individuals. Documents should be secured when not in use.
• Fax machines should be located away from areas where non-authorized individuals may be present or have visual access.
• All fax numbers for faxing PHI should be confirmed before dialing.

Guidelines for Verification
45 CFR Part 164.514(h)

1. Other than the Individual Requesting Information. TTUHSC shall verify the identity of a person requesting PHI and the authority of any such person to have access to the information (if the identity or any such authority of such person is not known to TTUHSC) and obtain any documentation/statement, or representations, whether oral or written, from the person requesting the PHI when such documentation, statement, or representation is a condition of disclosure.

2. Contacting Individuals by Phone. When TTUHSC contacts an individual by phone, TTUHSC shall obtain verification from the individual that the individual receiving the information is authorized to do so. This verification should include at least one of the following:
   a) Individual’s date of birth;
   b) Individual’s social security number; or
   c) Individual’s address.

3. Public Officials. TTUHSC may rely on any of the following to verify identity when the disclosure of PHI is to a public official or a person acting on behalf of the public official:
   a) If the request is made in person, with presentation of identification badge or other official credentials;
   b) If the request is in writing, on the appropriate government letterhead; or
   c) If the disclosure is to a person acting on behalf of a public official, a written statement on appropriate government letterhead that the person is acting under the government’s authority or other evidence or documentation of the agency that establishes the person is acting on behalf of the public official.

Guidelines for Release of Information by Telephone

Generally, detailed PHI including, but not limited to, lab and x-ray results is NOT to be released over the telephone or left on answering machines even if disclosure is permitted or authorized.

4. Clinic Staff: Limited information pertaining to the individual’s appointment date and time may be released by telephone by clinic personnel after verification is made that the individual receiving the information is
authorized to do so. This verification should include at least one of the following:
   a) Individual's date of birth;
   b) Individual's social security number; or
   c) Individual's address and telephone number.

5. **Health Care Professionals and Other Providers:** Detailed PHI necessary to communicate with an individual regarding treatment may be disclosed over the telephone after verification is made that the individual receiving the information is authorized to do so. This verification should include at least one of the following:
   a) Individual's date of birth;
   b) Individual's social security number; or
   c) Individual's address and telephone number.

Detailed PHI may NOT be left on answering machines by health care professionals or other providers even if disclosure is permitted or authorized by the individual.

6. **Medical Records Department Personnel:** Information may be released over the telephone by designated medical records department employees or by the appropriate TTUHSC personnel, as designated by the departmental administrator or chair, only if the circumstances warrant. In such instances, the following rules apply:
   a) The employee has determined that the call is from a health care provider in need of the information without delay in order to treat the individual in an emergency situation.
   b) The employee shall obtain the necessary identifying information on the individual; obtain the name, title and telephone number of the caller, so the call will be returned. In no instance shall the information be released without returning the call. By returning the call the employee shall verify the telephone number, if necessary.
   c) The information should be read directly to the physician to avoid miscommunication.
   d) The employee shall make a notation in the medical record of the information released by telephone. This will be documented on a release of information form.
   e) When possible, written Authorization for the telephone release will be obtained from the individual.

**Guidelines for Release of Information by Fax**

See [HPP 3.5 Faxing PHI and attachments](#)
Guidelines for Release of Information by Mail
See **HPP 3.6 Mailing PHI**

Guidelines for Destruction and Disposal of PHI
See **HPP 1.21 Disposal and Destruction of PHI**

Guidelines for Transmitting PHI via Email
See **HSC OP 52.05 Privacy and Security of Health Information**

Guidelines for Disclosing PHI to the Media
See **HPP 1.4 Photo Consent Policy**

In the event that the required forms are completed by all applicable patients, and the news media are granted access into patient areas by the TTUHSC Office of Communications and Marketing and the TTUHSC Institutional Privacy Officer or designee will accompany the news media representative(s) through the patient areas to monitor patient privacy issues.
IX. INDIVIDUAL HEALTH INFORMATION RIGHTS

Right to Request Restriction of Uses and Disclosures
See Notice of Privacy Practices

HIPAA Privacy allows the individual to request a restriction on uses or disclosures of PHI about the individual to carry out treatment, payment or health care operations and disclosures permitted in 45 CFR Part 164.510(b), but does not require TTUHSC to grant restrictions. In order to maintain a high level of patient care, TTUHSC does not allow individuals to restrict the disclosure of PHI.

Right to Request Confidential Communications
45 CFR Part 164.522(b)

Individuals shall request to receive communications of PHI from TTUHSC by alternative means or at alternative locations by completing Confidential Communication Request form. TTUHSC will accommodate, at TTUHSC's sole discretion, reasonable requests by individuals.

TTUHSC may condition the reasonable accommodation regarding information as to how payment, if any, will be handled and specification of an alternative address or other method of contact. TTUHSC may not require an explanation as to the basis for the request as a condition of providing confidential communications.

Right to Request Access, Inspect and Copy PHI
See HPP 1.5 Access to Inspect – Granting, Denying Access

D. Designated Record Set
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E. Right to Amend PHI
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F. Right to Accounting of Disclosures of PHI
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G. Complaints Regarding Privacy Practices or Violations
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