

Texas Tech University Health Sciences Center El Paso HIPAA Privacy Policy

Using and Disclosing PHI	Policy: HPP 3.1
HIPAA Authorization	Effective Date: July 20, 2010
References: http://www.hhs.gov/ocr/hipaa	
TTUHSC El Paso HIPAA Website: http://elpaso.ttuhscc.edu/hipaa/	

Policy Statement

Except as provided by Texas Tech University Health Sciences Center El Paso (TTUHSC El Paso) policy or otherwise permitted by law, TTUHSC El Paso 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

This policy applies to all PHI maintained by TTUHSC El Paso.

Policy

Definitions

Refer to [HPP 1.1 for Glossary of HIPAA Terms](#)

Procedure

1. TTUHSC El Paso 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 El Paso 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 <https://elpaso.ttuhscc.edu/hipaa/>
 - c. *Vital Document.* The TTUHSC El Paso 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 El Paso 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 El

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Paso, 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 TTUHSC El Paso Institutional Review Board and in some cases the Institutional Privacy Officer, 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 El Paso Marketing Activities.* A valid written HIPAA Authorization shall be obtained for use or disclosure of PHI for marketing purposes, unless:
- TTUHSC El Paso communicates face-to-face to an individual; or
 - TTUHSC El Paso provides a promotional gift of nominal value.

If the marketing activity involves direct or indirect payment to TTUHSC El Paso by another entity, contact the Institutional Privacy Officer and TTUHSC El Paso Office of Institutional Advancement 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 El Paso from a third party for the marketing activity.

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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 El Paso is receiving PHI.
 - Description of the purpose for which the PHI is to be used/disclosed; use the "**Purpose of release**" box on the TTUHSC El Paso Authorization forms.
 - Description of the PHI to be used/disclosed; use the "**Information to be released**" box on the TTUHSC El Paso 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 El Paso Authorization form. Failure to mark any area "yes" means that the information shall not be used or released.
 - The authorization remains valid until its expiration date or event, unless effectively revoked in writing by the individual before that date or event
 - 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 El Paso;
 - The HIPAA Authorization does not contain all of the elements outlined in 4(a) above.
 - TTUHSC El Paso 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 El Paso has knowledge that any material information in the HIPAA Authorization is false.

4. Compound Authorizations

HIPAA Privacy Rule generally prohibits "Compound Authorizations," which are authorizations that are combined with any other legal permission.

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Any compound or combined HIPAA Authorizations allowed as set forth below must first be approved by the Institutional 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 El Paso shall not condition the provision of treatment to any patient on the receipt of a valid HIPAA Authorization, except as allows below:

- TTUHSC El Paso 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 El Paso 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 El Paso 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 El Paso has acted in reliance on the HIPAA Authorization. Revocation shall be effective on the date TTUHSC El Paso receives written notice of such revocation.
- b. Revocations Related to Research Studies. TTUHSC El Paso 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 El Paso 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,

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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 to the Institutional Privacy Officer or to the Fraud and Misconduct Hotline at (866) 294-9352 or www.ethicspoint.com under Texas Tech University System.

Frequency of Review

The TTUHSC El Paso Privacy and Security Committee have authority for HIPAA policy approval.

Questions regarding this policy may be addressed to the Institutional Privacy Officer or Institutional Compliance Officer.

This policy may be amended or terminated at any time.

Review Date: August 29, 2019

Revision Date: February 2, 2017, September 19, 2019