

## Texas Tech University Health Sciences Center El Paso HIPAA Privacy Policy

<b>Policy: HPP 3.4 - Authorizations <del>for Use</del> off for the use of PHI</b>	<b>Effective Date:</b> July 5, 2016
<b>Miscellaneous Uses and Disclosures for which an Authorization or Opportunity to Agree or Object is Not Required.</b>	<b>Last Revision Date:</b> <del>March 15, 2022</del> <u>March 19, 2024</u>
<b>References:</b> <del><a href="http://www.hhs.gov/ocr/hipaa">http://www.hhs.gov/ocr/hipaa</a></del> <a href="https://www.hhs.gov/ocr/index.html">hhs.gov/ocr/index.html</a>	

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### Policy Statement

It is the policy of the Texas Tech University Health Sciences Center El Paso (TTUHSC El Paso) to secure the confidentiality of protected health information released (PHI) regarding uses and disclosures of patient information ~~which do not require an~~ that do not require authorization or an opportunity to agree or object.

### Scope

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

### Policy

Circumstances may allow the use and disclosure of ~~p~~Protected ~~h~~Health ~~i~~nformation (PHI) without an individual’s Authorization or opportunity to agree or object. They include but are not limited to the following:

1. Public Health Activities. TTUHSC El Paso may disclose PHI for 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 El Paso 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 El Paso may disclose PHI in certain instances to a public health authority authorized by law to receive reports of child exploitation, abuse, or neglect 45CFR Part 164.512 (b)(1)(ii) and Texas Family Code § 261.001, et seq
  - TTUHSC El Paso may disclose PHI in certain instances to the Food and Drug Administration. 45 CFR Part 164.512 (b)(1)(iii)
  - TTUHSC El Paso 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.
2. 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 El Paso will disclose PHI regarding an individual about whom TTUHSC El Paso reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority authorized by law

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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 El Paso 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, 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 El Paso 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.

3. Health Oversight Activities. 45 CFR Part 164.512 (d). TTUHSC El Paso 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.
4. Judicial and Administrative Proceedings. 45 CFR Part 164.512(e). TTUHSC El Paso may disclose PHI pursuant to a court or administrative order; subpoena or discovery request, or other lawful process if TTUHSC El Paso receives satisfactory assurances as required by 45 CFR Part 164.512(e).
5. Law Enforcement. 45 CFR Part 164.5129(f) (See HPP 1.6 Accounting of disclosures of PHI). TTUHSC El Paso 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.
6. Decedents. 45 CFR Part 164.512(g). TTUHSC El Paso may disclose PHI to a coroner or medical examiner as authorized by law.

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7. Organ, Eye and Tissue Donation. 45 CFR Part 164.512(h). Consistent with applicable law, TTUHSC El Paso may disclose PHI to people involved with obtaining, or transporting organs, eyes, or tissues of cadavers for the purpose of tissue donation and transplant.
8. Specialized Government Functions. 45 CFR Part 164.512(k)(1-6).  
TTUHSC El Paso may use and disclose PHI in certain circumstances for
  - a) Military (domestic and foreign), veteran, national security, intelligence, and protective services (for President and other authorized federal officials); and
  - b) Correctional institutions and other law enforcement custodial situations.
9. Workers Compensation. TTUHSC El Paso 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 the laws of the state of Texas, or other similar programs established by law. Texas Workers Compensation §133.100, et seq.
10. De-Identified information. 45 CFR Part 164.514(a-c). TTUHSC El Paso may use or disclose PHI that has been de-identified in accordance with 45 CFR Part 64.514(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~~ For PHI to be de-identified, ~~the it~~ PHI must meet the criteria ~~set forth in~~ outlined in 45 CFR Part 164.514(a-c).

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- ~~11.~~ Limited Data Sets. 45 CFR Part 164.514(e). For purposes of research, public health, or health care operations, TTUHSC El Paso may use or disclose PHI using a limited data set that
- ~~11.~~ meets the criteria established in 45 CFR Part 164(e), including, but not limited to, entering into a data use agreement.

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Knowledge of a violation or potential violation of this policy must be reported directly to the Institutional Privacy Officer or the employee Fraud and Misconduct Hotline at (866) 294-9352 or [www.ethicspoint.com](http://www.ethicspoint.com) Texas Tech University System.

### **Frequency of Review**

This policy will be reviewed on each even-numbered year (ENY) by the Institutional Privacy Officer, and the HIPAA Privacy and Security Committee, but may be amended or terminated at any time.

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

**Review Date:** ~~February 23, 2022~~ March 11, 2024

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**Revision Date:** March 21, 2017, January 21, 2020, March 15, 2022, March 19, 2024