



TEXAS TECH UNIVERSITY
HEALTH SCIENCES CENTER™
EL PASO

Privacy Manual for Protected Health Information

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I. INTRODUCTION

Texas Tech University Health Sciences Center El Paso (TTUHSC El Paso) 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 EP 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 Privacy Officer, HIPAA Privacy and Security Committee, and any sub-committees established here under 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.

II. DEFINITIONS

Authorization means an individual allows for the use and disclosure of Protected Health Information (PHI) for purposes other than those permitted herein.

Business Associate, 45 CFR Part 160.103 (According to Office of Civil Rights (OCR) guidance printed December 3, 2002), means a person or entity that performs certain functions or activities that involve the use or disclosure of protected health information on behalf of, or provides services to, TTUHSC El Paso.

- A member of TTUHSC El Paso workforce is not a business associate.
- Business Associate functions include: claims processing or administration; data analysis, processing or administration; utilization review; quality assurance; billing; benefit management; practice management; and repricing.
- Business Associate services are: legal; actuarial; accounting; consulting; data aggregation; management; administrative; accreditation; and financial.
- A non-inclusive list of Business Associates includes lawyers, auditors, consultants, contractors, clearinghouses, third-party administrators, and life insurance issuers.

Confidentiality, 45 CFR Part 164.304, means the property that data or information is not made available or disclosed to unauthorized persons or processes. In other words, as used herein, confidentiality is when protected health information is not made available or disclosed to those persons or processes unauthorized to receive such information under federal or state law.

Consent to Treatment means a health care provider is given permission to treat or give care to a patient.

Covered Entity, 45 CFR Parts 160.102 and 160.103, means:

- A health plan.
- A health care clearinghouse.
- A health care provider who transmits any health information in electronic form in connection with a transaction covered by HIPAA.

Covered Functions, 45 CFR Part 164.103, means those functions of a covered entity the performance of which makes the entity a health plan, health care provider or health care clearinghouse.

Designated Record Set, 45 CFR Part 164.501, means a group of records containing PHI maintained by or for TTUHSC El Paso that is any of the following:

- Medical or billing records about individuals maintained by or for covered health care providers, including TTUHSC El Paso;
- Enrollment, payment, claims adjudication and case or medical management records systems maintained by or for a health plan; or
- Used by or for TTUHSC El Paso to make decisions about individuals.

Disclosure, 45 CFR Part 160.103, means the release, transfer, provision of, access to, or divulging in any manner of information outside the entity holding the information.

Health Care Component, 45 CFR Part 164.103, means a component or combination of components of a hybrid entity designated by the hybrid entity.

The component or combination of components includes the following:

- Any component of the covered entity that engages in covered functions;
- Any component that engages in activities that would make such component a business associate of a component that performs covered functions, if the two components were legal entities; or
- Any component that would meet the definition of covered entity if it were a separate legal entity.

Health Care Operations, 45 CFR Part 164.501 and 45 CFR Part 164.506, includes, but is not limited to, medical staff, risk or quality improvement management, or members of the quality improvement team who assess the care and outcomes of individual cases

Health Care Provider, 45 CFR Part 160.103, means a provider of health services and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business.

HIPAA means the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations found in 45 CFR Parts 160, 162 and 164.

HITECH means the Health Information Technology for Economic and Clinical Act of 2009 and its implementing regulations, found in 45 CFR Parts 160, 162 and 164.

Hybrid Entity, see [HPP 1.3 Hybrid Entity Designation](#).

Individual, 45 CFR Part 160.103, means the person who is the subject of PHI.

Individually Identifiable Health Information, 45 CFR Part 160.103, means health information collected from an individual that is created or received by a health care provider, a health plan, a health care clearing house or an employer and that does all of the following:

- Involves the past, present, or future physical or mental health, or condition of an individual; the providing of health care to an individual; or the past, present or future payment for the providing of health care to an individual; and
- Identifies the individual or there is a reasonable basis to believe the information can be used to identify the individual.

Minor, see Section VII of this Manual.

Minimum Necessary Standard, 45 CFR Part 164.502, means reasonable efforts are made to limit the use or disclosure of, and requests for, PHI to the minimum necessary to accomplish the intended purpose.

The minimum necessary standard should not impede essential treatment, payment or health care operations activities of TTUHSC El Paso and does not apply to any use or disclosure for which TTUHSC El Paso has an authorization.

Notice of Privacy Practices; see [HPP 1.2 Notice of Privacy Practices](#)

Payment, 45 CFR Part 164.501, includes activities undertaken by TTUHSC EP to obtain or provide reimbursement for the provision of health care.

Protected Health Information (PHI), (PHI) 45 CFR Part 160.103, means individually identifiable health information maintained or transmitted by TTUHSC El Paso or any other covered entity in any form or medium, including information transmitted orally, or in written or electronic form. Except as otherwise permitted or required herein, TTUHSC El Paso may not use or disclose PHI without a valid authorization that meets the elements set forth herein.

Examples of PHI include, but are not limited to, information regarding the name of the attending physician(s) for an individual and the fact that an individual has ever attended a clinic, or is presently attending a clinic.

PHI does NOT include employment records held by TTUHSC El Paso in its role as employer or education records covered by the Family Educational Rights and Privacy Act (FERPA).

Transaction, 45 CFR Part 160.103, means the transmission of information between two parties to carry out financial or administrative activities related to health care. It includes the following types of information transmissions:

- Health care claims or equivalent encounter information;
- Health care payment and remittance advice;
- Coordination of benefits;
- Health care claim status;
- Enrollment and disenrollment in a health plan;
- Eligibility for a health plan;
- Health plan premium payments;
- Referral certification and authorization;
- First report of injury;
- Health claims attachments; or
- Other transactions that the Secretary of Health and Human Services may prescribe by regulation.

Treatment, 45 CFR Part 164.501, includes the use and disclosure of PHI to provide, coordinate, or manage health care and related services of a patient. This also may include the coordination or management of health care by a health care provider with a

third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another.

Unsecure PHI means PHI (in any medium, i.e., electronic, paper or oral) that is not secured through use of a technology or methodology that renders PHI unusable, unreadable, or indecipherable to unauthorized individuals. NOTE: Limited Data Sets and de-identified PHI is not PHI and would not be subject to this provision. PHI is defined as unsecured if it is NOT *encrypted or destroyed*.

Use, 45 CFR Part 160.103, means the sharing, employment, application, utilization, examination, or analysis of individually identifiable health information within an entity that maintains such information.

Workforce, 45 CFR Part 160.103, means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity, is under the direct control of such entity, whether or not they are paid by the covered entity.

III. ADMINISTRATION

A. TTUHSC Operating Policy Regarding Privacy

See [HSC OP 52.02 Privacy and Security of Health Information](#)

B. Training

See [HPP 2.1 HIPAA Training](#)

C. Compliance Audits

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

1. Compliance with General Privacy Policies: The Privacy Officer will report a quarterly review of compliance with HIPAA.

The Privacy Officer will maintain a database for each audit conducted along with any recommendations. Upon completion of an audit a summary report will be documented in the database. The Privacy Officer will provide education and assist with corrective action plans if any.

D. Complaints Regarding TTUHSC El Paso Privacy Practices or Violations by Workforce Members.

TTUHSC El Paso faculty and staff: See [HSCEP OP 52.03 Compliance Hotline and HSCEP OP 52.04 Reporting Violations; Non-retaliation Policy](#)

E. Privacy Breach

See [HSCEP OP 52.02 Privacy and Security of Health Information](#)

F. Whistleblowers

See [HSCEP OP 52.04 Reporting Violations; Non-Retaliation Policy](#)

IV. USING AND DISCLOSING PROTECTED HEALTH INFORMATION WITHOUT AN INDIVIDUAL'S AUTHORIZATION OR AN OPPORTUNITY TO AGREE OR OBJECT

See <http://el Paso.ttuhs c.edu/hipaa/ documents/HPP3/HPP-3-01.pdf>

Consult with the Privacy Officer before using or disclosing PHI for the following activities:

A. Disclosures for Treatment, Payment and Health Care Operations

45 CFR Part 164.506

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

1. For TTUHSC El Paso'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.

B. Business Associates

45 CFR Part 164.504

See <http://elpaso.ttuhs.edu/opp/ documents/52/op5213.pdf>

TTUHSC El Paso may disclose PHI, **without an individual's Authorization, or without the necessity for an opportunity to agree or object**, to a business associate who performs a function or activity on behalf of, or provides a service to TTUHSC El Paso, and the function or activity involves the creation, use, or disclosure of PHI, provided that a written contract or other written agreement is signed between TTUHSC El Paso and the business associate.

A standard business associate agreement when TTUHSC El Paso is the Covered Entity is located

at <http://elpaso.ttuhs.edu/opp/ documents/52/op5213a.pdf>

C. Miscellaneous Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object Is Not Required

45 CFR Part 164.512

See <http://elpaso.ttuhs.edu/hipaa/ documents/HPP3/HPP-3-04.pdf>

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:

1. Public Health Activities. TTUHSC El Paso 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 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 45 CFR 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 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, 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 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 bylaw 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 EP may disclose PHI pursuant to a court or administrative order; subpoena or discovery request; or other lawful process if TTUHSC EP receives satisfactory assurances as required by 45 CFR Part 164.512(e).
5. Law Enforcement. 45 CFR Part 164.512 (f) 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.
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, storing 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 EP 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.
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 laws of the State of Texas, or other similar programs established by law. Texas Workers Compensation Rules § 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 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).
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 meets the criteria established in 45 CFR Part 164.514(e), including, but not limited to, entering into a data use agreement.

V. SPECIAL CIRCUMSTANCES

Consult with the Privacy Officer before using or disclosing PHI for the following activities:

A. Research

45 CFR Part 164.512

Generally, TTUHSC El Paso 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 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 Privacy Officer prior to utilization. The addendum is used only for additional clarification of the authorization. No repetitious statements will be approved.

TTUHSC El Paso 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 El Paso obtains documentation that waiver of authorization has been approved by an Institutional Review Board (IRB). For purposes of HIPAA, the TTUHSC El Paso Institutional Review Board will act as Privacy Boards as defined by 45 CFR Part 164.512).

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 IRB must follow the Common Rule in accordance with (45 CFR Part 164.512).
- 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 http://elpaso.ttuhs.edu/hipaa/_documents/PI-request-to-use-disclose-PHI-without-Authorization.pdf

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 IRB, 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 El Paso; 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 IRB, 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 El Paso may rely on express legal permission, informed consent, or IRB-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”.

B. 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 be used for fundraising without an Authorization from the individual or the individual’s Legally Authorized Representative when TTUHSC El Paso 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 patients health care services

In any fundraising material, TTUHSC El Paso 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.

C. 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 El Paso will not use or disclose PHI to conduct marketing as defined: “Marketing” means the promotion or advertisement by TTUHSC El Paso 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.

VI. 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 El Paso will disclose certain PHI, as provided below. TTUHSC El Paso is permitted to orally inform the individual of and obtain the individual's agreement or objection to a use or disclosure:

A. Family Members and Close Friends

45 CFR Part 164.510

If the individual is present and one of the following circumstances are met, TTUHSC EP 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 El Paso 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.

B. Disaster Relief Purposes

TTUHSC El Paso 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 El Paso, 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 El Paso, 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.

VII. DISCLOSURES TO MINORS AND AUTHORIZED REPRESENTATIVES

45 CFR Part 164.502(g)

A. Minors

Generally a parent or other Legally Authorized Representative may exercise privacy rights on behalf of a minor.

1. A minor is an individual who (Texas Family Code § 101.003):
 - a) Is under age 18;
 - b) Is not or has not been married; and
 - c) Has not been emancipated through court order (Texas Family Code § 31.003).

2. A minor may exercise his/her own privacy rights in certain circumstances which include, but are not limited to, the following (Texas Family Code § 32.003):
 - a) Is on active duty with the armed services of the USA;
 - b) Is 16 or older, resides separately and manages his/her own financial affairs;
 - c) Consents to the diagnosis and treatment of an infectious, contagious, or communicable disease that is required by law to be reported;
 - d) Is unmarried and pregnant and consents to treatment (other than abortion) related to the pregnancy;
 - e) Consents to examination and treatment for drug or chemical use or related conditions; or
 - f) Is unmarried, is a parent with custody of a child and consents to treatment for the child.

Even if the minor has rights in the above situations, a health care provider may (with or without consent of the minor) advise the parents or other person legally responsible for the minor about treatment given to the minor. (Texas Family Code § 32.003(6)(d))

B. Legally Authorized Representatives

Texas Health and Safety Code § 241.151

There may be instances when an individual is legally or otherwise incapable of exercising his/her own rights or chooses to designate another to act on their behalf as a Legally Authorized Representative. In these instances, TTUHSC El Paso may disclose PHI to a Legally Authorized Representative of the individual (whether the individual is an adult, an emancipated minor, or an un-emancipated minor) and will treat the Legally Authorized Representative the same as the individual for purposes of these policies and procedures.

1. For purposes of disclosure of PHI, a Legally Authorized Representative means any of the following (Texas Health and Safety Code § 241.151):
 - a) Parent or guardian of a minor

- b) Legal guardian of an individual adjudicated by a court as incapable of managing his own affairs.
- c) Agent of an individual authorized under a durable power of attorney for health care (Texas Health and Safety Code § 166.001, et seq.). A durable power of attorney for health care is a legal document delegating authority to make health care decisions for an individual.
- d) Attorney ad litem appointed by a court for an individual (Texas Probate Code § 601).
- e) Guardian ad item appointed by a court for the individual (Texas Probate Code § 601).
- f) Statutory beneficiary or personal representative appointed by a court of a deceased individual.
- g) An attorney retained by the individual or by the Legally Authorized Representative of the individual.

If the Legally Authorized Representative agrees to confidentiality between TTUHSC El Paso and the minor, TTUHSC El Paso is no longer required to treat the patient, guardian or other person as personal representative of the minor.

- 2. Endangerment. TTUHSC El Paso may elect not to treat a person as the personal representative of an individual if it has reasonable belief that the individual has been or may be subjected to domestic violence, abuse, or neglect by such person; or treating such person as the personal representative could endanger the individual. In the exercise of professional judgment, TTUHSC El Paso may decide that it is not in the best interest of the individual to treat the person as the individual's personal representative.
- 3. Deceased Individual. In order to exercise an individual's rights under this Manual, the person must be the individual's Legally Authorized Representative or as allowed by law.

C. Incapacitated Adult

Texas Health and Safety Code § 313.004

- 1. An incapacitated adult means an adult that is mentally or physically incapable of communication or decision-making. An adult for purposes of this section includes emancipated minors.
- 2. If there is no Legally Authorized Representative and if the individual is an incapacitated adult, the following persons, in order of priority, may act as the individual for purposes of HIPAA:
 - a) The patient's spouse;
 - b) An adult child of the patient who has the waiver and consent of all other qualified adult children of the patient to act as the sole decision-maker;
 - c) A majority of the patient's reasonably available adult children;
 - d) The patient's parents; or

- e) The individual clearly identified to act for the patient by the patient before the patient became incapacitated, the patient's nearest living relative, or a member of the clergy.

VIII. USES AND DISCLOSURES REQUIRING AN INDIVIDUAL'S AUTHORIZATION

45 CFR Part 164. 508

A. General Rule

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

B. Psychotherapy Notes

45 CFR Part 164.508

See [HPP 3.2 Psychotherapy Notes.](#)

C. Authorizations

45 CFR Part 164.508(b)

See [HPP 3.1 HIPAA Authorization.](#)

IX. POLICIES AND PROCEDURES TO MINIMIZE USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION

45 CFR Parts 164.502(b) and 164.514(d)

A. Incidental Uses and Disclosures

TTUHSC El Paso 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).

B. 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 El Paso will make reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure or request.

At TTUHSC El Paso, 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.

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.

C. Guidelines for Verification

45 CFR Part 164.514(h)

1. Other than the Individual Requesting Information. TTUHSC El Paso 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 El Paso) and obtain any documentation, statements, 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 El Paso contacts an individual by phone, TTUHSC El Paso 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 El Paso 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.

D. 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.

1. 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.

2. 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.

3. Medical Records Department Personnel: Information may be released over the telephone by designated medical records department employees or by the appropriate TTUHSC EP 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.

E. Guidelines for Release of Information by Fax

Generally PHI should not be faxed, even if disclosure is authorized or permitted.

The following exceptions apply when an Authorization from the individual who is the subject of the PHI has been received or is not required by law:

- The request is from a medical provider, the TTUHSC El Paso health care provider shall determine that it is necessary to disclose the PHI without delay in order to treat the individual.
- The request is from a health plan or insurance company and the PHI being faxed contains the same information that is included on the claim.

All faxed PHI shall include a fax coversheet explaining that the information being faxed is confidential and should be destroyed if not received by the intended recipient

F. Guidelines for Release of Information by Mail

All PHI that is released by mail should be in a sealed envelope and addressed to the individual or the party designated, through written or oral request by the individual, to receive the PHI.

Examples:

- Appointment reminders and No-Show letters should be placed in a sealed envelope before mailing.
- Lab results or letters containing lab results should be placed in a sealed envelope before mailing.
- Statements requested by the individual should be placed in a sealed envelope before mailing.
- Postcards containing PHI should be placed in a sealed envelope before mailing.

G. Guidelines for Destruction and Disposal of PHI

Prior to disposing or discarding any PHI, the applicable Custodian of Medical Records and the HIPAA Privacy Officer should be consulted.

All destructions/disposal of PHI will be done in accordance with applicable federal and state law and the TTUHSC El Paso retention policy, or other applicable TTUHSC El Paso policies.

1. Approved methods of destruction/disposal for all records containing PHI:
 - a) Locked shred bins for future destruction by designated personnel or shredding company
 - b) Shred boxes, i.e secure containers located at individual work areas, not accessible to the public for future destruction by designated personnel or shredding company
 - c) Individual shredders within the department
 - d) Degauss any electronic media

2. Non-approved methods of disposal:
 - a) Trash cans
 - b) Shred boxes accessible to the public

In the event original records containing PHI are destroyed or disposed of, a record will be made and retained permanently, which includes the following:

- Date of destruction/disposal will be documented in the storage Track Box Management Database
- Method of destruction/disposal;
- All charts destroyed will be logged in the database
- Total number of boxes destroyed will be documented

Records involved in any open investigation, public records request, audit or litigation must not be destroyed/disposed.

H. Guidelines for Transmitting PHI via Email

See [HSCEP OP 52.05 Privacy and Security of Health Information](#)

I. Guidelines for Disclosing PHI to the Media

See [HPP 4.8 Using and Disclosing PHI](#)

See [HSCEP OP 52.15 Consent and Release to use image or Information](#)

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 El Paso Office of Institutional Advancement and the TTUHSC El Paso Privacy Officer or designee will accompany the news media representative(s) through the patient areas to monitor patient privacy issues.

X. INDIVIDUAL HEALTH INFORMATION RIGHTS

A. Right to Request Restriction of Uses and Disclosures

45 CFR Part 164.522(a)

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 El Paso to grant restrictions. In order to maintain a high level of patient care, TTUHSC El Paso does not allow individuals to restrict the disclosure of PHI.

B. Right to Request Confidential Communications

45 CFR Part 164.522(b)

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

TTUHSC El Paso 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 El Paso may not require an explanation as to the basis for the request as a condition of providing confidential communications.

C. Right to Request Access, Inspect and Copy PHI

45 CFR Part 164.524

See [HPP 1.5 Access to Inspect- Granting, Denying Access](#)

1. General Rule

- a) TTUHSC El Paso may allow an individual access to inspect and obtain a copy of their PHI in the organization's designated record set at a reasonable time with reasonable notice, for as long as the PHI is maintained in compliance with HIPAA and TTUHSC El Paso's retention policy.
- b) Employees should not access their own or a member of their family's PHI, nor request other employees to access the PHI through the TTUHSC El Paso computer system. When wanting to look at their own information, employees should follow the same process as patients.
- c) At the health care provider's discretion, the health care provider may provide the individual access to limited PHI for treatment purposes. This may include, but is not limited to, the current progress note or lab results.

2. Designated Record Set

TTUHSC El Paso has designated the following as components of its Designated Record set:

a) Primary Medical Record

Primary medical records are defined as the information needed for patient care, the unbiased chronological report of the patients direct care/treatment in the health care facility generated by or at the request of a physician or other health care provider at TTUHSC El Paso, including but not limited to:

- 1) Reports of relevant physical examination;
- 2) Diagnostic and therapeutic orders;
- 3) Clinical observations;
- 4) Reports of procedures, tests and results;
- 5) Conclusions/plans at the termination of evaluation/treatment;
- 6) Correspondence to or from health care providers;
- 7) Prescription information.

b) Billing Records

Billing records are defined as the information maintained by TTUHSC El Paso in its electronic billing system which relates to the activities conducted by TTUHSC El Paso to receive payment for the health care services it provides.

c) Exclusions from the Designated Record Set

Secondary Records are defined as information, which is not part of the Designated Record Set, but may be filed in the physical medical record folder for convenience. These records include, but are not limited to:

- 1) Copies of medical records/reports from another health care provider or institution that were sent to TTUHSC El Paso for consultation services;
- 2) Letters to and from the individual;
- 3) Requests and correspondence from insurance companies not responsible for the payment of the individual's account;
- 4) Correspondence to and from any attorney or record service;
- 5) Correspondence/reports generated by clinic personnel sent out on behalf of and at the request of the individual;
- 6) Audit, survey or research information;
- 7) All other entries which are not part of the official health record, specifically that do not contain details of direct patient care/treatment made by TTUHSC El Paso workforce members in the regular course of business at or near the time treatment was provided.

3. Procedures for Requesting Access, Inspection or Copies

The Authorization for Release of Patient Information forms can be accessed by going to the HIPAA website (<http://www.ttuhs.edu/hipaa>) and from the left navigation menu selecting Forms and the respective campus.

- a) Individuals must submit a written request to a TTUHSC El Paso staff member of the appropriate medical record department, to access and inspect their PHI. This request shall be documented on the "Authorization for Release of Patient Information".
- b) Requests for psychiatric and psychological PHI shall be routed to the appropriate health care provider that created the information or their designee along with the medical record for written approval or denial prior to request processing. Without written approval of the appropriate provider, or their designee, the central Medical Records Department or other medical records department will not release psychiatric/psychological information. This requirement does not apply to requests for individual billing statements or individual schedules.
- c) Provided that the individual has been informed of such charge and is willing to pay the charge, TTUHSC El Paso will charge a reasonable fee for copies of PHI. TTUHSC El Paso shall charge a flat fee of \$6.50 for copy of medical records. In addition, the cost of postage may be charged if the copy is to be mailed. If an affidavit is requested, certifying that the information is a true and correct copy of the records, a reasonable fee of \$15.00 will be charged for executing the affidavit. (Texas State Board of Medical Examiners Rule 165.2)
- d) If access is granted, TTUHSC El Paso will take action within 15 working days after receipt of all required information.
- e) Following authorized release of information, the Authorization form will be retained in the medical record. If an affidavit accompanies the request/release, a copy of the completed, notarized affidavit will also be retained in the record. Any subpoena or court order for information will be retained in the individual's health record.
- f) TTUHSC El Paso will retain the documentation of the designated record sets that are subject to access by individuals; and the titles of the persons or offices responsible for receiving and processing requests for access by individuals for six (6) years from the date of creation of the set; or the date the set was last in effect, whichever is later.

4. When the Individual Request is Granted

- a) TTUHSC El Paso and the individual will arrange a mutually convenient time and place for the individual to inspect and/or obtain a copy of the requested PHI. Inspection and/or copying of PHI will be carried out within the appropriate medical record department.

- b) The individual may choose to inspect the PHI, receive a copy of it, or both. If the PHI is not readily producible, TTUHSC El Paso will provide the individual with a readable hard copy form as soon as it is available.
- c) If the individual chooses to receive a copy of their PHI, TTUHSC El Paso medical record staff will copy the records for the individual. The individual may request that the copy be mailed.
- d) When copies of PHI are released, these copies shall be stamped with a red stamp informing the recipient that re-disclosure may be prohibited and the records may be protected by 42 CFR Part 2.
- e) Upon documented written approval of the individual, TTUHSC El Paso may provide a summary of the requested PHI, rather than providing the complete Designated Record Set.
- f) If upon inspection of the PHI the individual feels it is inaccurate or incomplete, the individual has the right to request an amendment to the PHI. TTUHSC El Paso shall process requests for amendment.

5. Procedure for Denial of Access

Denial of Access to Protected Health Information

- a) TTUHSC El Paso will provide a written denial to the individual in a timely manner. The denial will be in plain language and will contain all of the following:
 - 1) Basis for the denial;
 - 2) If applicable, statement of the individual's right to have the denial reviewed and the procedure for such review; and
 - 3) Description of how the individual may complain to TTUHSC El Paso or to the Secretary of Health and Human Services.
- b) TTUHSC El Paso may to the extent possible, give the individual access to any other PHI requested, after excluding the PHI as to which TTUHSC El Paso has grounds to deny access.
- c) TTUHSC El Paso may, to the extent possible, provide a summary of the information that has been denied to the individual.
- d) If access is denied because TTUHSC El Paso does not maintain the PHI that is the subject of the request, and TTUHSC El Paso knows where that PHI is maintained, TTUHSC El Paso will inform the individual where to direct the request for access.

6. Denial of Access with Review

TTUHSC EP may deny an individual access under the following circumstances, provided that the individual is given a right to have such denials reviewed by the Institutional Privacy Officer.

- a) A licensed health care professional has determined that the access is likely to endanger the life or physical safety of the individual or another person
- b) The PHI makes reference to another person who is NOT a health care provider, and a licensed health care professional has determined that

the access request is reasonably likely to cause substantial harm to such other person or

- c) The request for access is made by the individual's Legally Authorized Representative and a licensed health care professional has determined that access is reasonably likely to cause substantial harm to the individual or another person.

7. Review of Denial of Access

If access is denied on a ground permitted under 45 CFR 164.524, the individual has the right to have the denial reviewed by a licensed health care professional who is designated by TTUHSC El Paso to act as a reviewing official and who did not participate in the original decision to deny. Unless otherwise designated, the reviewing official will be the Risk Manager.

- a) The individual requesting access must initiate the review of a denial by making a written request for review to the Central Medical Records Department.
- b) The review and decision by the reviewing official will generally occur within 60 days of receipt of the request, unless the requestor is otherwise notified.
- c) TTUHSC El Paso will provide written notice to the individual of the reviewing officer's decision.
- d) TTUHSC El Paso will provide or deny access in accordance with the decision of the reviewing officer.

8. Denial of Access Without Review

TTUHSC EP may deny an individual access to the following information without providing the individual an opportunity to have the denial reviewed in any of the following instances:

- a) Psychotherapy Notes as defined in Section VIII. B. of this Manual.
- b) Information compiled by TTUHSC El Paso in anticipation of or use in a civil, criminal, or administrative action or proceeding.
- c) PHI subject to the Clinical Laboratory Improvements Amendment (CLIA) of 1988, 42 263a.
- d) PHI exempt from CLIA, pursuant to 42 CFR 4933(a)(2).
- e) TTUHSC El Paso is acting under the direction of the correctional institution and an inmate's request to obtain a copy of PHI would jeopardize the individual, other inmates, or the safety of any officer, employee, or other person at the correctional institution, or a person responsible for transporting the inmate.
- f) The individual, when consenting to participate in research that includes treatment, agrees to temporary denial of access to PHI created or obtained by a health care provider in the course of research, and the research is not yet complete.
- g) The records are subject to the Privacy Act of 1974 and the denial of access meets the requirement of that law.

- h) The PHI was obtained from someone other than a health care provider under a promise of confidentiality and access would likely reveal the source of the information.

9. Transition Period

TTUHSC El Paso will use or disclose PHI that it created or received prior to the HIPAA Privacy compliance date (April 14, 2003) pursuant to an Authorization or other express legal permission obtained from an individual prior to the applicable compliance date, provided that the Authorization or other express legal permission specifically permits such use or disclosure and there is no agreed-to restriction.

D. Right to Amend PHI

45 CFR Part 164.526

See [Request to Amend PHI](#)

TTUHSC El Paso will honor an individual's right to request an amendment or correction to his or her PHI if he or she believes that the information is incomplete or inaccurate. An individual has the right to request an amendment of PHI for as long as that information is maintained in the designated record set.

Regardless of whether an amendment is granted, TTUHSC El Paso will not remove or delete any information from the medical record.

The procedure for requesting an amendment to PHI is outlined below.

1. Individual requests for amendment of PHI shall be made in writing using a "Request to Amend Protected Health Information" form to the Central Medical Record department and clearly identify the information to be amended, as well as the reasons for amendment.
2. Requests will be denied if the material requested to be amended involves any of the following:
 - a) Was not created by TTUHSC El Paso, unless the originator is no longer available to act on the request;
 - b) Is not part of the individual's health record;
 - c) Is not accessible to the individual because federal and state law do not permit it; or
 - d) Is accurate and complete, as determined in TTUHSC El Paso's sole discretion.
3. TTUHSC El Paso will act on the individual's request for amendment no later than 60 days after receipt of the request. TTUHSC El Paso will have a one-time extension of 30 days for processing the amendment if the individual is given a written statement of the reason for the delay, and the date by which the amendment request will be processed.

4. Request for Amendment Granted. If the request to amend is granted, after review and approval of the individual responsible for the entry to be amended, TTUHSC El Paso will do all of the following:
 - a) Insert the amendment or provide a link or reference to the amendment at the site of the information that is the subject of the request for amendment;
 - b) Inform the individual that the amendment is accepted;
 - c) Obtain the individual's identification of and agreement to have TTUHSC El Paso notify the relevant persons with whom the amendment needs to be shared; and
 - d) Within a reasonable time frame, make reasonable efforts to provide the amendment to persons identified by the individual, and persons, including Business Associates, that TTUHSC El Paso knows has the PHI that is the subject of the amendment and who may have relied on or could likely rely on the information to the detriment of the individual.

5. Request for Amendment Denied. If the request is denied, TTUHSC El Paso will provide the individual with a timely, written denial in plain language that contains all of the following:
 - a) The basis for the denial (see 2 above);
 - b) The individual's right to submit a written statement disagreeing with the denial and how the individual may file such a statement
 - c) A statement that if the individual does not submit a statement of disagreement, the individual may request that TTUHSC El Paso provide the individual's request for amendment and the denial with any future disclosures of the PHI that was the subject of the request;
 - d) A description of how the individual may complain to TTUHSC El Paso or the Secretary of Health and Human Services; and
 - e) The name or title, and the telephone number of the designated contact person who handles complaints for TTUHSC El Paso.

6. Individual's Disagreement. TTUHSC El Paso will permit the individual to submit to TTUHSC El Paso a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such agreement. TTUHSC El Paso will accept a statement of disagreement up to one 8.5" by 11" page.

7. TTUHSC El Paso's Rebuttal. TTUHSC El Paso may prepare a written rebuttal to the individual's statement of disagreement and TTUHSC El Paso will provide a copy to the individual who submitted the statement of disagreement.

8. Appendage. TTUHSC El Paso will, as appropriate, identify the record of PHI that is the subject of the disputed amendment and append or otherwise link or reference the individual's request for amendment, TTUHSC El Paso's denial of the request, the individual's statement of disagreement, if any, and TTUHSC El Paso's rebuttal, if any.

If the statement of disagreement has been submitted by the individual, TTUHSC El Paso will include the material appended or an accurate summary of such information with any subsequent disclosure of the PHI to which the disagreement relates.

If the individual has not submitted a written statement of disagreement, TTUHSC El Paso will include the individual's request for amendment and its denial, or an accurate summary of such information, with any subsequent disclosure of PHI only if the individual has requested such action.

9. When a subsequent disclosure is made using a standard transaction that does not permit the additional material to be included, TTUHSC El Paso will separately transmit the required material.
10. If TTUHSC El Paso is informed by another covered entity of an amendment to an individual's PHI, it will amend the PHI in written and/or electronic form and inform its Business Associates that will use or rely on the individual's PHI of the amendment.

E. Right to Accounting of Disclosures of PHI

45 CFR Part 164.528

1. Accounting Period. TTUHSC El Paso will maintain an accounting of those disclosures of PHI not excluded below for each individual for at least six (6) years.
2. Information Maintained and Included in an Accounting:
 - a) Date of disclosure.
 - b) Name of person or entity who received the information and their address, if known.
 - c) Brief description of the PHI disclosed.
 - d) Brief statement of the purpose of the disclosure or a copy of the individual's written request for disclosure.
 - e) Multiple disclosures to the same party for a single purpose as set forth above or when required by the Secretary of Health and Human Services to investigate TTUHSC El Paso's compliance will have a summary entry. A summary entry includes all information for the first disclosure (date of first disclosure, etc.), the frequency with which disclosures were made, and the date of the last disclosure during the accounting period.
3. Disclosures Excluded from Accounting Requirement. Information that is excluded from the accounting and tracking rule are disclosures made:
 - a) To carry out treatment, payment and health care operations, as outlined in Section III. A. of this Manual;

- b) To the individual;
 - c) Merely incidental to permissible uses or disclosures;
 - d) Pursuant to an individual's Authorization;
 - e) To people involved in the individual's care, as set forth in Section IV. A. of this Manual;
 - f) To correctional institutions or other law enforcement custodial situations as provided in 45 CFR Part 164.512(k)(5);
 - g) Limited data sets;
 - h) For national security or intelligence purposes;
 - i) Prior to April 14, 2003; and
 - j) To Business Associates for any exempt purpose, including treatment, payment and health care operations;
4. Research. 45 CFR Part 164.528(b)(4)(i) If, during the period of the accounting, TTUHSC El Paso has made disclosures of PHI for a particular research purpose, in accordance with 45 CFR Part 164.5120) for 50 or more individuals, TTUHSC El Paso may provide the following upon the written request of and to the individual whose PHI may have been used.
- a) Name of the protocol or study;
 - b) Description of the research protocol or other research activity in plain language;
 - c) Brief description of the type of PHI that was disclosed;
 - d) Date or period of time during which such disclosures occurred, including the date of the last such disclosure;
 - e) Name, address and phone number of the entity sponsoring the research and of the researcher to whom the information was disclosed;
 - f) Statement that the PHI of the individual may or may not have been disclosed for a particular protocol or study; and
 - g) If it is reasonably likely that the PHI of the individual was disclosed, TTUHSC EP shall, at the request of the individual, assist in contacting the entity that sponsored the research and the researcher.
5. Health Oversight Agency or Law Enforcement. TTUHSC El Paso will temporarily suspend an individual's right to receive an accounting of disclosures to a health oversight agency or a law enforcement official for the time specified by such agency or official, if such agency or official provides TTUHSC El Paso with a written statement that such an accounting to the individual would be reasonably likely to impede the agency's activities and specifying the time for which such a suspension is required. If the agency or official statement is made orally, TTUHSC El Paso will:
- a) Document the statement, including the identity of the agency or official making the statement; and
 - b) Limit the temporary suspension to no longer than 30 days from the date of the oral statement unless a written statement is submitted during that time.

6. Disclosures of PHI not excluded herein will be tracked. Disclosures are not limited to hard-copy information but any manner that divulges information, including verbal or electronic data release.

Disclosures will be tracked by a variety of internal processes that promote accurate and complete accounting of disclosures, including but not limited to:

- a) Computerized tracking systems that have the ability to sort by individual and/or date; or
 - b) Manual logs with one log per individual maintained in the individual's health record (see sample Disclosure Log attached to this policy). **
7. Request for Accounting Procedure. An individual shall make the request for an accounting in writing to the Central Medical Record department on each campus. The request should be made on a "Request for an Accounting of Disclosures" form. TTUHSC El Paso will retain this request and a copy of the written accounting that was provided to the individual, as well as the name/departments responsible for the completion of the accounting.

See [Request for an Accounting of Certain Disclosures of Protected Health Information](#)

- a) An individual shall authorize in writing that the accounting of disclosures be released to another individual or entity. The request will clearly identify all information required to carry out the request (name, address, phone number, etc.).
- b) TTUHSC El Paso will provide the individual with an accounting of disclosures within 60 days after receipt of the request. If the accounting cannot be completed within 60 days after receipt of the request, a written statement will be provided to the individual of the reason for the delay and the expected completion date. Only one extension of time, 30 days maximum, per request is permitted.
- c) TTUHSC El Paso will provide the accounting to the individual at no charge for a request made once during any twelve-month period. A reasonable fee can be charged for any additional requests made during a twelve-month period provided that the individual is informed of the fee in advance and given an opportunity to withdraw or modify the request.
- d) TTUHSC El Paso will maintain, in the designated record set, written requests for an accounting and written accountings provided to an individual for at least six (6) years from the date it was created and maintain the titles and names of the people responsible for receiving and processing accounting requests for a period of at least six (6) years.

F. Complaints Regarding Privacy Practices or Violations

45 CFR Part 164.520(b)(iv)

TTUHSC EP allows individuals to file a complaint regarding TTUHSC EP's privacy policies and procedures.

1. See [Privacy Complaint](#) form. An individual seeking to make a complaint regarding a violation of their privacy rights shall submit the complaint in writing to the Institutional Privacy Officer or the Secretary of Health and Human Services. The complaint shall contain a clear and concise statement with reference to the policy or procedure, if any; alleged violation; and the specific resolution sought, if any.

TTUHSC El Paso allows individuals to file a complaint if they feel their privacy has been violated or compromised according to TTUHSC El Paso privacy policies and procedures.

2. The Privacy Officer shall document all complaints received, and their disposition, if any. At its discretion, TTUHSC El Paso will investigate legitimate complaints and provide the complainant with an explanation of how the complaint was addressed or resolved.
3. TTUHSC El Paso will not retaliate against any person making such complaint.