

<b>The University of Texas SOUTHWESTERN MEDICAL CENTER At Dallas</b>	<b>Privacy Compliance Program Privacy Manual</b> Section 1: Introduction Policy No: 1.2 Last Reviewed/Revised: February 1, 2008 Effective Date: April 14, 2003
<b>Definitions*</b>	

**\* The definitions included herein are for the purposes of the Privacy Manual only.**

**Acknowledgment** – *Acknowledgment* means the written documentation signed by an Individual acknowledging the Individual’s receipt of a covered entity’s Notice of Privacy Practices.

**Administrative Simplification** – *The Administrative Simplification* provisions are set forth in Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”).<sup>1</sup> The Administrative Simplification provisions give the U.S. Department of Health and Human Services the authority to establish standards and requirements for the electronic transfer of health care information, and for the privacy and security of PHI.

**Affiliated Hospitals** – *Affiliated Hospitals* means Parkland Health and Hospital System and Children’s Medical Center of Dallas.

**Authorization** – *Authorization* is written permission required prior to disclosing an Individual’s PHI when the use or disclosure is for a purpose other than those permitted or required by the Privacy Laws.

**Business Associate** – A *business associate* is a person or organization who performs a function or activity on behalf of a covered entity or who performs a specified service regardless of whether it involves performing a service on behalf of a covered entity. The specified services where disclosure of personally identifiable health information is considered routine include: legal, actuarial, accounting, consulting, management, administrative accreditation, data aggregation, and financial services. See also Section 9 of this Manual, setting forth the policy and procedure on Business Associates.

**Compliance Date** – The *compliance date* is April 14, 2003, which is the date for compliance with that portion of the Privacy Laws that related to the HIPAA Privacy Standards.

**Correctional Institution** – *Correctional Institution* means any penal or correctional Hospital, jail, reformatory, detention center, work farm, halfway house, or residential community program center operated by, or under contract to, the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, for the confinement or rehabilitation of persons charged with or convicted of a criminal offense or other persons held in lawful custody. Other persons held in lawful custody includes juvenile offenders adjudicated delinquent, aliens

detained awaiting deportation, persons committed to mental institutions through the criminal justice system, witnesses, or others awaiting charges or trial.

**Covered Entity** – A *Covered entity* means a health plan, health care clearinghouse, or health care provider who transmits any health information in electronic form in connection with a HIPAA transaction.

**Data Aggregation** – *Data Aggregation* means, with respect to PHI created or received by a business associate in its capacity as the business associate of a covered entity, the combining of such PHI by the business associate with the PHI received by the business associate in its capacity as a business associate of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.

**Data Use Agreement** – A *data use agreement* is required before a covered entity may use or disclose a limited data set and provides a covered entity with satisfactory assurance that the limited data set recipient will only use or disclose the PHI for limited purposes. See also Section 5.2 of this Manual, setting forth the policy and procedure on Limited Data Sets.

**De-identified** – *De-identified* describes the status of information that does not identify an Individual and there is no reasonable basis to believe that the information can be used to identify an Individual, in accordance with the methodology for de-identification described in Section 5.1 of this Manual, which sets forth the policy and procedure for De-identification and Re-identification. Properly de-identified information is not subject to the Privacy Laws.

**Designated Record Set** – A *designated record set* is a group of records maintained by or for a covered entity that consists of the medical records and billing records about Individuals maintained by or for the covered entity; the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or used, in whole or in part, by or for the covered entity to make decisions about Individuals. A *record* is any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for the covered entity. See also Section 4.7 of this Manual, setting forth the policy and procedure on Designated Record Sets.

**Direct Treatment Provider** – *Direct Treatment Provider* means a health care provider that has a treatment relationship with an Individual that is not an Indirect Treatment Relationship.

**Disclosure** – *Disclosure* means the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.

**Health Care** – *Health Care* means care, services, or supplies related to the health of an individual. “Health care” includes, but is not limited to, the following: (i) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition or functional status, of an

individual that affects the structure or function of the body, and (ii) sale or dispersing of a drug, device, equipment, or other item in accordance with a prescription.

**Health Care Clearinghouse** – *Health Care Clearinghouse* means a public or private entity, including a billing service, repricing company, community health management information system or community health information system, and “value-added” networks and switches, that does either of the following functions: (i) processes or facilitates the processing of health information received from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction; or (ii) receives a standard transaction from another entity and processes or facilitates the processing of health information into nonstandard format or nonstandard data content for the receiving entity.

**Health Care Operations** – *Health care operations* activities include, but are not limited to, any of the following activities to the extent these activities are related to the covered entity’s functions as a health care provider: (i) conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment; (ii) reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, health plan performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of non-health care professionals, accreditation, certification, licensing, or credentialing activities; (iii) conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs; (iv) business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the covered entity, including formulary development and administration, development or improvement of methods of payment or coverage policies; and (v) business management and general administrative activities of the covered entity, including, but not limited to: (A) management activities relating to implementation of and compliance with the requirements of the covered entity’s policies and procedures and the Privacy Laws; (B) customer service, including the provision of data analyses for policy holders, plan sponsors, or other customers, provided that protected health information is not disclosed to such policy holder, plan sponsor, or customer; (C) resolution of internal grievances; (D) the sale, transfer, merger, or consolidation of all or part of the covered entity with another covered entity, or an entity that following such activity will become a covered entity and due diligence related to such activity; and (E) consistent with the applicable requirements of 45 C.F.R. § 164.514 (*see* Section 5.1 of this Manual (relating to de-identified information); *see* Section 5.2 (relating to limited data sets); and *see* Section 7.33 of this Manual (relating to fundraising), creating de-identified health information or a limited data set, and fundraising for the benefit of the covered entity.

**Health Oversight Activities** – *Health Oversight Activities* means (i) audits; (ii) civil, administrative or criminal investigations (e.g., health care fraud investigations); (iii) inspections;

(iv) licensure or disciplinary actions; (v) civil, administrative or criminal proceedings or actions; or (vi) other activities necessary for appropriate oversight of the health care system (including oversight of health care plans; health benefit plans; health care providers; health care and health care delivery; resolution of consumer complaints; pharmaceuticals, medical products and devices, and dietary supplements; analysis of trends in health care costs, quality, health care delivery, access to care, and health insurance coverage); government benefit programs for which health information is relevant to beneficiary eligibility; entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; or entities subject to civil rights laws for which health information is necessary for determining compliance.

**Health Oversight Agency** – *Health Oversight Agency* means an agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant.

Health oversight agencies include, but are not limited to:

State insurance commissions and departments	State health professional licensure agencies
Offices of Inspectors General	Department of Justice (“DOJ”)
State Medicaid fraud control units	Defense Criminal Investigative Services
Pension and Welfare Benefit Admin	HHS Office for Civil Rights (“OCR”)
Food and Drug Admin. (“FDA”)	Social Security Admin. (“SSA”)
Department of Education (“DOE”)	Occupational Health and Safety Admin.
Environmental Protection Agency (“EPA”)	Equal Employment Opportunity Comm’n
Pension and Welfare Benefits Admin. (“PWBA”)	Drug Enforcement Admin. (“DEA”)

**Health Care Provider** – *Health care provider* means a provider of medical or health services such as a hospital, critical access hospital, skilled nursing facility, comprehensive outpatient rehabilitation facility, home health agency, hospice program, physician, physical therapist, occupational therapist, nurse mid-wife, social worker, psychologist, ambulance service, or any other person or organization who furnishes, bills, or is paid for health care in the normal course of business.

**HHS** – *HHS* means the federal Department of Health and Human Services.

**HIPAA Privacy Standards** – *HIPAA Privacy Standards* means the Standards for the Privacy of Individually Identifiable Health Information, which are part of the Privacy Laws.

**HIPAA Transaction** – *HIPAA Transactions* are those categories of electronic transactions that are regulated by the HIPAA Final Electronic Standard Transactions and Code Sets.

**HIPAA Website** – [www.utsouthwestern.edu/hipaa](http://www.utsouthwestern.edu/hipaa)

**Indirect Treatment Provider** – *Indirect Treatment Provider* means a health care provider who has a relationship with an Individual in which (i) the health care provider delivers health care to the individual based on the orders of another health care provider, and (ii) the health care provider typically provides services or products, or reports the diagnosis or results associated with the health care, directly to another health care provider who provides the services or products or reports to the Individual.

**Individual** – *Individual* means the person who is the subject of PHI.

**Individually Identifiable Health Information** – *Individually Identifiable Health Information* is information that is a subset of health information, including demographic information collected from an individual, and (i) is created or received by a health care provider, health plan, employer, or health care clearinghouse; and (ii) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (a) that identifies the individual; or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

**Inmate** – *Inmate* means a person incarcerated in or otherwise confined to a correctional institution. An individual is no longer an “inmate” when released on parole, probation, supervised release, or otherwise is no longer in lawful custody.

**Institutionally Related Foundation** – An *institutionally related foundation* is a tax-exempt entity that collects funds for a covered entity and has in its charter statement of charitable purposes an explicit linkage to the covered entity, and channels collected funds to the covered entity.

**IRB** – *IRB* is the Institutional Review Board of UT Southwestern. The IRB is comprised of the IRB administration office and 4 IRB committees appointed by the President of UT Southwestern.

**Law Enforcement Official** – *Law enforcement official* means an officer or employee of any agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, who is empowered by law to: (1) investigate or conduct an official inquiry into a potential violation of law; or (2) prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law. Law enforcement officials include the University Police of UT Southwestern.

**Limited Data Set** – A *limited data set* is PHI that excludes the following direct identifiers of the individuals or of relatives, employers, or household members of the Individuals: (i) names; (ii) postal address information other than town or city, state, and zip code; (iii) telephone numbers; (iv) fax numbers; (v) e-mail addresses; (vi) Social Security numbers; (vii) medical record numbers; (viii) health plan beneficiary numbers; (ix) account numbers; (x) certificate/license numbers; (xi) vehicle identifiers and serial numbers, including license plate numbers; (xii) device identifiers and serial numbers; (xiii) Web Universal Resource Locators (“URLs”); (xiv) Internet Protocol (“IP”) address numbers; (xv) biometric identifiers, including finger and voice prints; and (xvi) full face photographic images and any comparable images. Identifiable information that may remain in a limited data set includes dates relating to a patient (dates of service, admission, or discharge; date of birth; date of death) and information relating to the town or city, state, and five-digit zip code of the patient, his or her employer, and the patient’s household members. See also Section 5.2 of this Manual, setting forth the policy and procedure on Limited Data Sets.

**Manual** – *Manual* refers to this *Privacy Manual*.

**Media** – *Media* means publications and/or broadcasts to the public, including newspaper or other publications, radio, and television.

**Media activities** – *Media activities* means (i) interviewing, filming, recording and/or photographing Individuals for purposes of doing a media feature to the public, regardless of whether the media feature is published or broadcast or ultimately contains the Individual’s PHI; or (ii) interviewing or otherwise seeking information from Workforce members who are in possession of PHI about an Individual for the purpose of gathering information for a media feature, regardless of whether the feature is published or broadcast or ultimately contains the Individual’s PHI.

**Minimum Necessary Rule** – The *minimum necessary rule* is a limitation placed on uses, disclosures, and requests for PHI. It applies to a covered entity when using or disclosing PHI or when requesting PHI from another covered entity. A covered entity must make reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request. The minimum necessary standard does not apply to certain disclosures or requests. See also Section 6.1 of this Manual, setting forth the policy and procedure on the Minimum Necessary Rule.

**Mitigation** – *Mitigation* is the reasonable action taken by a covered entity to lessen the damage of known wrongful use or disclosure of PHI in violation of the covered entity’s policies and procedures or the requirements of the Privacy Standards.

**Notice of Privacy Practices or “Notice”** – *Notice of Privacy Practices* means the written documentation provided to or made available to an Individual which sets forth acknowledging the Individual’s receipt of a covered entity’s Notice of Privacy Practices.

**Organized Health Care Arrangement or “OHCA”** – *Organized Health Care Arrangement* means either (A) a clinically integrated care setting in which Individuals typically receive health care from more than one health care provider.

**Payment Activities** – *Payment activities* are the activities undertaken by a health plan to obtain premiums or to determine or fulfill its responsibility for coverage and provision of plan benefits, as well as those activities undertaken by a covered health care provider to obtain or to provide reimbursement for the provision of health care. Such activities include, but are not limited to, determinations of eligibility or coverage, risk adjusting amounts due based on enrollee health status and demographic characteristics, billing, claims management, collection activities, obtaining payment under a contract for reinsurance, and related health care data processing, review of health care services, utilization review activities, and disclosure to consumer reporting agencies of any of the following PHI: name and address; date of birth; social security number; payment history; account number; and name and address of the health care provider and/or health plan.

**Principal Investigator** – *Principal Investigator* means the responsible researcher for a research protocol involving Individuals.

**Privacy Laws** – *Privacy Laws* means the final rule “Standards for Privacy of Individually Identifiable Health Information,” which the Department of Health and Human Services published at 65 Fed. Reg. 82462 *et seq.* (Dec. 28, 2000), and modified at 67 Fed. Reg. 53182 *et seq.* (Aug. 14, 2002) (“Privacy Standards”) and any state laws pertaining to patient health information privacy that are specifically referenced in this Manual, as they may be amended from time to time.

**Privacy Officer** – *Privacy Officer* means the UT Southwestern privacy officer.

**Protected Health Information or “PHI”** – *PHI* is individually identifiable health information that is transmitted or maintained in any medium or form. PHI excludes individually identifiable health information in education records covered by the Family Educational Rights and Privacy Act, as amended; in records described at 20 U.S.C. § 1232g(a)(4)(B)(iv) (student treatment records excepted from FERPA); and in employment records held by a covered entity in its role as an employer.

**Psychotherapy Notes** – *Psychotherapy notes* are notes recorded in any medium by a health care provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are separated from the rest of the individual's medical record. Psychotherapy notes excludes medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

**Public Health Authority** – *Public health authority* means an agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with a public agency, including the employees or agents of the public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate. A public health authority can create health information as well as receive it. For example, the Food and Drug Administration (“FDA”), the Occupational Safety and Health Administration (“OSHA”), the Mine Safety and Health Administration (“MSHA”), the Centers for Disease Control and Prevention (“CDC”), and state and local public health departments are public health authorities when carrying out their activities related to the health and safety of workers and individuals. State agencies or authorities responsible for public health matters as part of their official mandate, such as OSHA-approved state programs, also constitute public health authorities for purposes of this Manual.

**Public Official** – *Public Official* means an authorized representative from a state or federal governmental agency or authority.

**Redact** – To *redact* is to delete certain information from a written document or record.

**Required by law** – *Required by law* means a mandate contained in law that compels UT Southwestern to make a use or disclosure of PHI and is enforceable in a court of law. “Required by law” includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the Medicare program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.

**Research** – *Research* shall have the meaning set forth in Section 7.25 of this Manual, which sets forth the policy and procedure for Research.

**Sanctions** – *Sanctions* are administrative actions by a covered entity taken against members of its workforce who fail to comply with the entity’s policies and procedures or with the requirements of the Privacy Standards.

**Secretary** – *Secretary* means the Secretary of the Department of Health and Human Services.

**Standard Transaction** – *Standard transaction* means the transmission of information between two parties to carry out financial or administrative activities related to health care that falls within one of the following types of information transmissions: (i) health care claims or equivalent encounter information; (ii) health care payment and remittance advice; (iii) coordination of benefits; (iv) health care claim status; (v) enrollment or disenrollment in a health plan; (vi) eligibility for a health plan; (vii) health plan premium payments; (viii) referral certification and authorization; (ix) first report of injury; (x) health claims attachments; (xi) other transactions that the Secretary may prescribe by regulation.

**Steering Committee** – *Steering Committee* means the Information Security and Privacy Steering Committee, formally know as the HIPAA Steering Committee.

**TPO** – *TPO* means treatment, payment and health care operations.

**Treatment** – *Treatment* means the provision, coordination, or management of health care and related services by one or more health care providers, including 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.

**Use** – *Use* means, with respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains the information.

**UTSHS** – *UTSHS* is the non-profit corporation known as University of Texas Southwestern Health Systems.

**Workforce** – *Workforce* includes all employees of UT Southwestern. Workforce also includes non-employees who are under UT Southwestern’s direct control, including students, visiting faculty, volunteers, residents and trainees. Workforce may include, if so designated in the discretion of UT Southwestern, any contractors who have a workstation on UT Southwestern’s premises, such as a temporary employee or an information technology contractor who works on site on UT Southwestern’s information systems.

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<sup>1</sup> Pub. L. No. 104-191, 110 Stat. 1936.