

<p style="text-align: center;">The University of Texas SOUTHWESTERN MEDICAL CENTER At Dallas</p>	<p style="text-align: center;">Privacy Compliance Program Privacy Manual</p> <p>Section 12: Compliance Oversight Policy No: 12.3 Last Revised: April 11, 2003 Effective Date: April 14, 2003</p>
<p>Complaints and Internal Investigations</p>	

POLICY:

UT Southwestern recognizes the right of any person to make a complaint to UT Southwestern or the Secretary of the Department of Health and Human Services (“Secretary”) regarding UT Southwestern’s privacy policies, procedures, and/or practices, as well as UT Southwestern’s compliance with its privacy policies and procedures and the Privacy Laws. UT Southwestern will investigate any privacy complaints that it receives from any person.

PROCEDURE:

1. Notice of Right to **File a Complaint**. UT Southwestern’s Notice of Privacy Practices will inform persons that they may complain to UT Southwestern and/or to the Secretary if they believe their privacy rights have been violated. The Notice will identify the contact person for receiving privacy complaints and give a brief description of how the person may file a privacy complaint with UT Southwestern. The Notice will also contain a statement that UT Southwestern will not retaliate against the person for filing a complaint.
2. Process for Receiving Complaints to UT Southwestern
 - a. Responsibility. The Privacy Officer or ~~his or her~~ designee will be responsible for receiving and handling privacy complaints. Any member of the Workforce who receives a complaint pertaining to privacy will forward it immediately to the Privacy Officer or ~~his or her~~ designee.
 - b. Filing Complaints.
 - i. Written complaints. If the person wishes to submit a written complaint, the person shall be requested to complete UT Southwestern’s complaint form and shall state in clear terms the nature of the complaint and shall provide any other information necessary to enable UT Southwestern to investigate, review, and resolve the complaint. This form is included in the Forms Appendix on the UT Southwestern HIPAA website, and will be available from the Privacy Officer or designee. UT Southwestern will accept all written complaints regardless of format.

~~i. A copy of the complaint form is attached to this Policy. The Privacy Officer, or his or her designee, shall ensure that the person has filled out~~

~~the complaint form completely and has provided sufficient information to enable UT Southwestern to investigate, review, and resolve the complaint.~~

- ii. Oral complaints. If the person wishes to submit an oral complaint, the Privacy Officer, or ~~his or her~~ designee, shall ask the person to explain the complaint in sufficient terms to enable the Privacy Officer or ~~his or her designee to investigate, review,~~ designees to investigate, review; and resolve the complaint. The Privacy Officer, or ~~his or her~~ designee, shall document the oral complaint in writing.
 - c. Notification to Other Departments. If it is determined at any time after receipt of the privacy complaint that the subject matter of the privacy complaint warrants the notification and involvement of another department (e.g. Information Resources, Human Resources, Legal Affairs, etc.), either by virtue of the circumstances or by virtue of other policies and procedures set forth in the UT Southwestern Handbook of Operating Procedures, the Privacy Officer, or ~~or his or her~~ designee, will provide this notification.
3. Internal Investigation and Privilege.
 - a. Privilege. The Privacy Officer or ~~his or her~~ designee shall address and resolve all complaints ~~under the direction and supervision of~~ as directed by the Institutional Compliance Committee, which shall address all such matters as part of its quality compliance review activities. All such matters shall be privileged and confidential under state peer review privilege statutes.
 - b. Nature of Investigation. The investigation will be conducted in the discretion of the Privacy Officer or ~~his or her~~ designee and may include, as appropriate, interviewing or otherwise contacting other persons involved in the circumstances upon which the complaint is based and all other steps necessary to review and investigate the complaint.
 - c. Complaint Determinations. Following the completion of the investigation, the Privacy Officer or ~~his or her~~ designee shall make a determination regarding whether any of the following have occurred: (a) member(s) of UT Southwestern's Workforce failed to comply with UT Southwestern's privacy policies and procedures; (b) member(s) of the Workforce failed to comply with the Privacy Laws; or (c) UT Southwestern's privacy policies, procedures, and/or practices fail to comply with the Privacy Laws.
4. Remediation and Disciplinary Sanctions. If the Privacy Officer or ~~his or her~~ designee determines that one or more members of the Workforce has failed to comply with UT Southwestern's privacy policies and procedures and/or the Privacy Laws, the Privacy Officer or ~~his or her~~ designee shall pursue, as appropriate, remediation measures and/or disciplinary sanctions, pursuant to Sections 12.4 and 12.5 of this Manual, which set forth the policies and procedures for Remediation and Sanctions respectively.
5. Resolution of Privacy Complaints.
 - a. Within 45 days a reasonable time, the Privacy Officer or ~~his or her~~ designee shall provide the complaining person/complainant with a written notice/response of the decision regarding the complaint that includes:

- i. ~~(a)~~ the name of the Privacy Officer handling the complaint; ~~(b)~~
 - ii. the fact that an investigation has/will take place; ~~and (e)~~
 - iii. the date of completion or expected completion;
- b. and (d) Due notification that due to the confidential and privileged nature of the peer review/quality review process, the results of such proceedings may not be communicated to the Complainant.

6. Complaint Log. The Privacy Officer or his or her designee shall maintain a log documenting privacy complaints received and their disposition, if any. Documentation must be maintained in written or electronic form for 6 years from the date of the complaint.
7. No Intimidating or Retaliatory Acts. No member of the Workforce will intimidate, threaten, coerce, discriminate against, or take other retaliatory action against an individual for the exercise by that individual of any right under the Privacy Laws, or for participation by the individual in any process established by the Privacy Laws. This prohibition applies to any individual filing a complaint with the Secretary; testifying, assisting, or participating in an investigation, compliance review, proceeding, or hearing arising under the Privacy Standards; or opposing any act or practice of UT Southwestern, provided the individual or person has a good faith belief that the practice opposed is unlawful, and the manner of opposition is reasonable and does not disclose PHI in violation of the Privacy Laws.
8. No Waiver of Rights. No person will be asked to waive his or her rights, including the right to file a complaint with the Secretary, as a condition of treatment or payment.

LEGAL REFERENCES:

45 C.F.R. §§ 160.306, 164.520(b)(vi), 164.530(a), (b), (d), (g), (h) (2001)

42 C.F.R. § 482.13(a)(2) (2001) (Medicare Conditions of Participation)

65 Fed. Reg. 82462, 82487, 82550, 82562, 82563, 82600-01, 82746-47, 82748, 82768, 82783, 82801-02, 82821, 82826-28 (Dec. 28, 2000); 67 Fed. Reg. 53182-273 (Aug. 14, 2002)