



**I. 11.2.16 Preparatory to Research Uses of Protected Health Information**

Chapter 11 - Patient Privacy	Original Effective Date: June 2024
Section: 11.2 Uses and Disclosures of Protected Health Information	Date Last Reviewed:
Responsible Entity: Chief Compliance and Privacy Officer	Date Last Revised:

**II. Purpose**

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) contains a “preparatory to Research” exception to the general rule that patient Authorization must be obtained in order to use or disclose a patient’s Protected Health Information (PHI). This policy explains when and how Workforce Members may use PHI for preparatory to Research purposes.

**III. Scope**

This policy applies to all faculty, staff, students, residents, healthcare providers, researchers, contractors, or any other individual (collectively, Workforce Member, including employees and non-employees) who has direct or indirect access to patient protected health information (PHI) created, held or maintained by any UT Health San Antonio controlled affiliate, including, but not limited to its clinics, hospitals, and research operations.

**IV. Policy**

**A. Use of PHI for Preparatory to Research Purposes**

1. PHI may be used without IRB permission and without obtaining the individual’s written Authorization for the following preparatory to Research purposes:
  - a. Developing a Research question and/or generation of Research hypotheses;
  - b. Determining study feasibility;
  - c. Preparing a Research protocol, including development of eligibility (inclusion and exclusion) criteria; and/or
  - d. Identifying prospective Research participants who would meet the eligibility criteria for an IRB-approved protocol.
2. Except for the preparatory to Research purposes described above, all other Human Subjects Research-related activities require an IRB-approved protocol and either

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patient Authorization or an IRB Waiver of the Authorization requirement to continue using the PHI for Research purposes. See IHOP 11.2.12 Uses and Disclosures of Protected Health Information for Research. Note: After an IRB has approved a Research protocol, authorized members of the research study are permitted under HIPAA to use potential participants' PHI from UT Health San Antonio controlled facilities in order to obtain informed consent from those potential participants without obtaining a specific Waiver of the HIPAA Authorization requirement from the IRB.

### B. Access to PHI for Preparatory to Research Purposes: To access and use PHI for preparatory to Research purposes, the Workforce Member

1. Must attest that:
  - a. The use is sought solely to review PHI as necessary to prepare a Research protocol or for similar purposes preparatory to Research;
  - b. The PHI will not be shared with anyone who is not an UT Health San Antonio Workforce Member;
  - c. The PHI for which the use or access is sought is necessary for Research purposes
2. Must not remove PHI used for preparatory to Research purposes from UT Health San Antonio (physically or electronically) or share with individuals outside of UT Health San Antonio. Note: Non-UT Health San Antonio researchers and collaborators are not permitted to view UT Health San Antonio PHI for preparatory to Research purposes. Only aggregate and/or de-identified data may be shared with outside researchers engaged in preparatory to Research activities. Non-UT Health San Antonio individuals must either obtain a Waiver from an IRB to access, use, or Disclose UT Health San Antonio PHI, or enter into a Data Use Agreement to obtain access to a limited data set for Research purposes. See IHOP 11.2.13 Limited Data Sets policy.
3. Must access and store PHI securely in accordance with UT Health San Antonio's information security policies. PHI should never be stored on an unencrypted device or in a non-institutionally managed location. See IHOP 5.8.22 Data Protection policy.
4. Must limit access to or use of PHI to the minimum amount of PHI necessary to accomplish their intended purpose. For example, if a researcher needs to know patient demographics but not names, any queries or searches should be designed in a manner that excludes patient names, if technically feasible.

### C. Sources of PHI

1. UT Health San Antonio clinical data (i.e., data obtained during the course of treating a patient) may be used for preparatory to Research purposes in accordance with this policy.
2. Identifiable information from patients' medical records may be accessed and used for preparatory to Research purposes.

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3. Investigators may use identifiable data in Institutional Data Repositories (IDR) for preparatory to Research activities, subject to the IDR's own policies governing access and use. See the [IHOP 5.8.4: Access Management](#).
4. In the event that UT Health San Antonio possesses another institution's identifiable clinical data, UT Health San Antonio Workforce Members may not use PHI obtained from other institutions for uses preparatory to Research (however, de-identified information may be used, assuming any applicable contract between institutions allow for such use). Permission to use another institution's clinical PHI (i.e. University Health PHI) must be obtained either from the other institution's patients through a HIPAA authorization or from an IRB in the form of a Waiver, and must be permissible under any applicable agreements between UT Health San Antonio and the other institution.
5. PHI originally obtained under a Research protocol may be subject to conditions that restrict its use for purposes other than those described in the associated protocol and informed consent/HIPAA Authorization document or IRB Waiver. Before using Research data for preparatory to Research purposes, Workforce Members should consult with the principal investigator for the original study source to confirm that the PHI and other data is not subject to any restrictions on its use.

### V. Definitions

Terms used in this document, have the meaning set forth in the [Patient Privacy Policies Glossary](#) unless a different meaning is required by context.

### VI. Related References

[11.2.12 Uses and Disclosures of Protected Health Information for Research](#)

[11.2.9 De-identification of Protected Health Information](#)

[11.2.13 Limited Data Sets](#)

[5.8.22 Data Protection](#)

For questions regarding this policy, contact the Privacy Program Director at 210-567-2014 or [compliance@uthscsa.edu](mailto:compliance@uthscsa.edu).

### VII. Review and Approval History

The approving authority of this policy is the University Executive Committee.

Effective Date	Action Taken	Approved By	Effective Date
06/2024	Policy Origination	Executive Committee	06/10/2024