

Privacy - MODEL Facility Policy

POLICY NAME: Fundraising Under the HIPAA Privacy Standards/HITECH

DATE: (facility to insert date here)

NUMBER: (facility to insert number here)

Purpose: To facilitate compliance with requirements of the Health Insurance Portability and Accountability Act (HIPAA) Standards for Privacy of Individually Identifiable Health Information (Privacy Standards), 45 CFR Part 164 and the sections that relate to uses and disclosures of protected health information (PHI) for marketing purposes, and the Health Information Technology for Economic and Clinical Health Act (HITECH) component of the American Recovery and Reinvestment Act (ARRA).

Policy: A facility may use, or disclose to a business associate or to an institutionally related foundation, the following PHI for the purpose of raising funds for its own benefit, without an authorization:

- Demographic information relating to an individual, including name, address, other contact information, age, gender, and date of birth;
- Dates of health care provided to an individual;
- Department of service information;
- Treating physician;
- Outcome information; and
- Health insurance status.

A facility may not use or disclose PHI for fundraising purposes as otherwise permitted unless a statement is included in the facility's notice of privacy practices.

With each fundraising communication made to an individual, a covered entity must provide the individual with a clear and conspicuous opportunity to elect not to receive any further fundraising communications (sample form attached). The method for an individual to elect not to receive further fundraising communications may not cause the individual to incur an undue burden or more than a nominal cost.

A facility may not condition treatment or payment on the individual's choice with respect to the receipt of fundraising communications.

A facility may not make fundraising communications to an individual where the individual has elected not to receive such communications.

A covered entity may provide an individual who has elected not to receive further fundraising communications with a method to opt back in to receive such communications (sample form attached).

Some states have separate privacy laws that may apply additional legal requirements. Consult your legal operations counsel to identify and comply with additional legal mandates.

Procedure:

1. A patient's request to opt out must be provided in writing using an Opt Out Form (Sample attached).
2. The request to opt out must apply to all fundraising communications from that point forward, not by individual campaign.
3. A patient who has elected to opt out also has the right to opt back in at any time but must do so in writing (sample form attached).

References:

Patient Privacy Program Requirements Policy, HIM.PRI.001
Authorization for Uses and Disclosures Policy, HIM.PRI.010
Records Management Policy, EC.014
American Reinvestment and Recovery Act of 2009, Title XIII, Subtitle D

SAMPLE Fundraising Opt-Out Form

I hereby request to no longer receive fundraising communication.

Print Name: _____ **Date:** _____

Signature: _____ **Time:** _____

Witness printed Name/Title: _____

Witness signature: _____

*I hereby request to receive fundraising communication.
I no longer wish to “opt out,” as previously indicated.*

Print Name: _____ **Date:** _____

Signature: _____ **Time:** _____

Witness printed Name/Title: _____

Witness signature: _____