


Emma Eccles Jones College of Education & Human Services

POLICY INFORMATION

Document # 114	Title: Use & Disclosure of PHI for Marketing	Print Date: 8/08/2016
Revision # 1.0	Prepared by: J. Black	Date Prepared: 1/15/2016
Safeguard: HIPAA	Approved by: Dean Beth E. Foley 	Date Approved: 8/29/2016

I. POLICY STATEMENT

In accordance with 45 CFR §164.501 and 164.508, this policy shall provide guidance on the use and disclosure of PHI for marketing purposes.

II. DEFINITIONS

See HIPAA Privacy Policy 100

III. AUTHORITY AND RESPONSIBILITIES

CEHS has component units that are listed as a hybrid entity in accordance with USU's HIPAA Hybrid Covered Entity Declaration. Only the health care component (i.e., covered functions) of CEHS must comply with this policy. All references in this policy to "CEHS" shall be construed to refer only to the health care component of CEHS.

IV. PROCEDURES TO IMPLEMENT

Marketing That is Permitted Without Patient Authorization - A HCC may use or disclose PHI for marketing without the authorization of the patient/personal representative only if the communication is made in the form of:

1. Face to face communication between the provider and the patient or his/her personal representative; or
2. A promotional gift of nominal value.

Marketing that Requires Patient Authorization - A valid authorization will be obtained from the patient except as specified in the section above. An authorization must be specific as to the use and/or disclosure being requested and is not to be written in such a manner that it might be interpreted as a blanket authorization for the use and disclosure of PHI for marketing. A blanket marketing authorization is invalid.

1. To be valid an authorization must include all of the required elements and statements as detailed in **HIPAA Privacy Policy 111 - Use and Disclosure of PHI with Authorization**.
2. Business Associates may not disclose PHI to third parties for marketing purposes without authorization from the patient or his/her personal representative.

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Responsibilities

1. Each HCC that participates in marketing of any kind, must designate appropriate personnel who are responsible for:
 - a) Evaluating the types of marketing communications to patients and determining whether the communication requires an authorization;
 - b) Obtain authorizations from patients/personal representatives;
 - c) Determining whether a promotional gift is of nominal value; and
 - d) Obtaining business associate contracts with any business associates involved in the production, distribution, or processing of marketing communications.
2. The Notice of Privacy Practices must include language that CEHS may contact the patient to provide information about the treatment alternatives or other health-related benefits and services that may be related to this Policy. See **HIPAA Privacy Policy 108 - Notice of Privacy Practices**.
3. PHI is not for sale and should never be make available for purchase or sale.

V. ATTACHMENTS

N/A

VI. REFERENCES

45 CFR §164.501

45 CFR §164.508

HIPAA Privacy Policy 108 - Notice of Privacy Practices

HIPAA Privacy Policy 111 - Use and Disclosure of PHI with Authorization