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ACCESSING PATIENT DATA WITH PHI

Fundraising communications to patients may use limited protected health information (PHI). Fundraising communications include, but are not limited to, solicitations for donations or gifts, sponsorship of events, and communications for events or activities held to raise funds for the covered entity.

Start with Compliance



Any new data extraction from an electronic health record (EHR) for fundraising purposes should be reviewed and approved by the entity's Compliance or Privacy Office before it begins.

Conversations with individuals, including patients, about possible “areas of giving interest” are permissible without an authorization, provided their medical information is not used for a fundraising purpose.



Limited PHI for Fundraising Purposes

Federal and state laws permit limited PHI to be used for fundraising with appropriate notice in the Notice of Privacy Practices, but without patient authorization. Under §164.514(f)(1), a covered entity may use, or disclose to a business associate or an institutionally related foundation, certain PHI to raise funds for its own benefit. HIPAA's "minimum necessary" standard applies to these data elements.

What This Means in Practice

A development officer may speak with a grateful patient to explore areas of giving interest—support for a new hospital, technology, research or general departments of care—as long as only limited PHI is used.

Diagnosis and other PHI cannot be used for fundraising without written patient authorization, and the entity should not document treatment, diagnosis or anything beyond limited PHI without it.

Six categories you may use without written authorization:

1. Demographics: name, address and contact information, age or date of birth, gender, occupation, education level
2. Health insurance status
3. Dates of service, including inpatient or outpatient status
4. General department of service (cardiology, pediatrics) and location (emergency department, clinic)
5. Treating physician name
6. Outcome information, including death or sub-optimal treatment



Documenting Giving Interest

Say Jane Doe self-identifies an interest in giving in the area of breast cancer and mentions her personal experience with the disease (for which she may have received treatment anywhere) to development staff.

Development staff should document that Ms. Doe expressed an interest in giving in the area of breast cancer treatment and research, or that she said she may want to support breast cancer work at the entity—not her diagnosis or treatment.



Opt-Outs

Patients have the right to opt out, and health care providers must include in all fundraising communications a provision stating that the patient may opt out of future solicitations. The opt-out must be a clear and conspicuous part of the materials, describe how PHI may be used, be written in clear, plain language, and offer a simple, not unduly burdensome way to opt out.

Patients may opt out of campaign-specific or all future fundraising communications, and the opt-out does not lapse. If a patient who has opted out makes a donation, they are not automatically added back to fundraising lists—they must explicitly opt back in.



Making the File Request

Requesting the patient information you need is as straightforward as providing a list of fields or an Excel file showing what you need. Use the following as a starting point, and refine it to fit your organization's policies and procedures.

Frequency: Daily or weekly

Format: .csv, .xls or .xlsx

Criteria: All encounters from the previous 7 days. If a patient has multiple encounters, include the first visit in the 7-day period (when sorted by descending time of service, most recent first).

Exclusions: Patients under age 25; risk management flags (anonymous, confidential, litigation); fundraising opt-outs; deceased patients; Medicaid insurance status; prison address, insurance or patient type; military; foreign addresses; pregnancy complications; behavioral health (psychiatric, substance abuse, mental health); and patients in hospice.



Fields to Request

Identity: MRN or patient ID; first, middle and last name

Contact: address lines 1 and 2, city, state, zip code, email address, phone number

Demographics: date of birth, gender, deceased indicator

Fundraising and coverage: fundraising opt-out indicator; insurance status (for example, Medicare or none)

Visit: first visit date (date of first appointment ever), service start date, service end date, location, physician name, department, outcome code, and inpatient/outpatient/emergency indicator

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