

Overview

Fundraising communications to patients may utilize limited PHI for fundraising purposes.

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.

Compliance

It is recommended that any new data extraction from an EHR for fundraising purposes be reviewed and approved by the entity's Compliance or Privacy Office.

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

For example, a development officer may speak with a grateful patient to explore areas of giving interest (e.g., support for the new hospital, for technology, for research, or for general departments of care), as long as only the Limited PHI above is used. Diagnosis and other PHI cannot be used for fundraising, absent written patient authorization.

Limited PHI for Fundraising Purposes

Federal and state laws permit limited PHI to be used for fundraising purposes with appropriate notice in the Notice of Privacy Practices, but without patient authorization.

[§164.514(f)(1) A covered entity 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 authorization.]

The PHI must be the minimum necessary for the specific purpose. The "minimum necessary" standard of HIPAA applies to using these data elements for fundraising.

Six categories of patient health information may be disclosed or used for fundraising purposes without a patient's written authorization:

Accessing Patient Data with PHI

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1. Patient demographic data
 - a. Name
 - b. Address and other contact information
 - c. Age or date of birth
 - d. Gender
 - e. Occupation
 - f. Education Level
2. Health insurance status
3. Dates of patient health care services
 - a. Indication of the appointments inpatient/outpatient status
4. General department of service information
 - a. Location of service: emergency department, clinic, outpatient, etc.
 - b. Department of service: cardiology, pediatrics, general medicine, etc.
5. Treating physician name
6. Outcome information (including death or sub-optimal treatment)

The entity should not document treatment, diagnosis, or information other than Limited PHI without a patient authorization.

For example, 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.

Opt-Outs

Patients have the right to opt out, and health care providers legally must include a provision in all fundraising communications indicating that the patient has the right to opt out of future solicitations. The opt-out must:

- Be a clear and conspicuous part of the materials sent to the patient.
- Describe how PHI may be used.
- Be written in clear, plain language.
- Contain a simple, not unduly burdensome means to opt out from receiving further fundraising communications.

The patient may elect to opt out of campaign-specific or all future fundraising communications. The opt-out does not lapse. If a patient who has opted out makes

a donation, this does not serve to automatically add the individual back into the list for fundraising communications. The patient must explicitly elect to opt back in.

File Request

Requesting the patient information you need is as straight-forward as providing a list of fields or excel file showing what you need. Use the following as a starting point, but refine to fit your organization's policies and procedures.

Frequency - Daily or Weekly

Format - .csv, .xls, or .xlsx

Criteria

- All encounters from previous day 7 days
- If multiple encounters, first visit in the 7 day period (i.e. when sorted by descending time of service, most recent first)

Exclusions

- Age Under 25
- Risk Management - Anonymous, Confidential, Litigation
- Fundraising Opt-Out
- Deceased
- Insurance Status - Medicaid
- Prison Address, Insurance or Patient Type
- Military
- Foreign Address
- Pregnancy Complications
- Behavioral Health (Psychiatric, Substance Abuse, Mental Health)
- Patients in Hospice

Fields Requested

- MRN or Patient ID
- First Name
- Middle Name
- Last Name
- Address Line 1

- Address Line 2
- City
- State
- Zip Code
- Email Address
- Phone Number
- DOB (Date of Birth)
- Deceased Indicator
- Fundraising Opt-Out Indicator
- Gender
- Insurance Status (i.e. Medicare, none)
- First Visit Date (date of first appointment ever)
- Service Start Date
- Service End Date
- Location
- Physician Name
- Department
- Outcome Code
- Inpatient/Outpatient Indicator (inpatient vs. outpatient vs. emergency)