

USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR FUNDRAISING POLICY

RESPONSIBILITY: Privacy Official or Designee(s)

BACKGROUND:

As a not-for-profit organization, the Bureau for Behavioral Health and Health Facilities (BBHFF) may raise funds from patients to support charitable or educational activities. It is permissible to use certain protected health information (PHI) in such fundraising efforts, as long as it is done in accordance with this policy.

POLICY:

The use of protected health information will not be permissible for any and all fund raising efforts conducted for or on behalf of any state operated facilities or organization associated with such facilities without patient authorization.

1. The BBHFF may use the following protected health information of patients in fundraising activities.
 - 1.1. Demographic information, such as name, address, telephone number, age and sex.
 - 1.2. Dates of service, department of service information, treating physician, outcome information and health insurance status for health care services provided to patients.
 - 1.3. Except for the limited types of information listed above in 1.1 and 1.2, under no circumstances may clinical information be used for fundraising activities.
2. The BBHFF's Notice of Privacy Practices document has been revised to include a statement that "the BBHFF may raise funds from patients to support charitable or educational activities. Accordingly, we may use certain PHI about you to outreach in our fundraising efforts. You have a right to opt out of fundraising contacts".
3. Protected health information maintained by the BBHFF may be used to raise funds for any organization that is part of an affiliated covered entity under common ownership or control.
4. The BBHFF may disclose PHI to a business associate that is assisting in the conduct of a fundraising activity, provided that a business associate agreement that complies with the BBHFF policy is in effect. Such disclosures are limited to the information described above, and further limited to the minimum information necessary for the business associate to perform the duties the BBHFF has engaged it.

5. The BBHFF may also disclose the PHI listed above to an *institutionally related foundation* (See DEFINITION) for fundraising purposes.
6. All fundraising materials that are sent to a patient must include, in a clear and conspicuous manner, a description of how the recipient may opt out of receiving any future fundraising communications. The method for an individual to elect not to receive further fundraising communications may not cause the individual to incur an undue burden or be more than a nominal cost. For example, requiring an individual to write a letter is considered an undue burden; however, requiring the individual to call a telephone number to elect opt-out would be appropriate.
7. When an individual invokes the “opt out” choice, it shall be treated as if it is a revocation of an authorization. This means that the “opt out” choice applies except to the extent that the BBHFF has taken action prior to being informed of the individual’s choice. When an individual exercises the opt-out choice, the BBHFF may not make fundraising communications to the individual; however, the BBHFF may provide an individual who has opted out with a method to opt back in to future fundraising communications.

REFERENCE: 45 CFR § 164.514(f)

Effective Date: 4/14/03

Dates Revised: 9/23/13



Victoria L. Jones, Commissioner, Bureau for Behavioral Health and Health Facilities