
HIPAA Policy 5034 Uses and Disclosures of PHI for Marketing

Responsible Office	Office of the Provost	Effective Date	April 14, 2003
Responsible Official	Privacy Officer	Last Revision	October 13, 2015

Scope

This policy applies to the University's Covered Components and those working on behalf of the covered components, designated as such for purposes of complying with the privacy provisions of the Health Insurance Portability and Accountability Act of 1996. The Covered Components are: (1) the Group Health Plan Component; and (2) the Covered Health Care Component, which includes the School of Nursing, the Department of Psychology clinics, Yale Health and the School of Medicine (except the School of Public Health and the Departments of Cell Biology, Cellular and Molecular Physiology, Comparative Medicine, History of Medicine, Immunobiology, Microbial Pathogenesis, Molecular Biophysics & Biochemistry, Neurobiology, Pharmacology, and WM Keck Biotechnology Resources Laboratory).

This policy applies to all Yale University covered components that seek to use PHI for marketing activities as defined below.

Policy Statement

The Yale University Covered Components will obtain an authorization for use or disclosure of protected health information for any marketing communications they perform. For purposes of this policy, marketing shall have the same meaning as the term is defined in HIPAA privacy regulations.

Reason for the Policy

To establish procedures for obtaining the necessary authorization to contact individuals for marketing purposes.

Definitions

Marketing

To make a communication about a product or service that encourages recipients of the communication to purchase or use the product or service, unless the communication is made:

- (a) to provide refill reminders or otherwise communicate about a drug or biologic that is currently being prescribed for the individual, only if the financial remuneration received by the covered entity in exchange for making the communication is reasonable in relation to the covered entity's costs of making the communication; or
- (b) for the following purposes except where the covered entity receives financial remuneration in exchange for the communication
 - i. to describe a health-related product or service (or payment for such product or service) that is provided by, or included in a plan of benefits of, the covered entity making the communication (including communications about the entities participating in a health care provider network or health plan network; replacement of, or enhancements to, a health plan;

and health related products or services available only to a health plan enrollee that add value to, but are not part of, a plan of benefits); or

- ii. for treatment of the individual, including case management or care coordination, or to direct or recommend alternative treatments, therapies, health care providers, or settings of care to the individual; or
- iii. for case management or care coordination, contacting of individuals with information about treatment alternatives and related functions to the extent that these activities do not fall within the definition of treatment.

Protected Health Information (PHI)

Any individually identifiable health information, including genetic information and demographic information, collected from an individual, whether oral or recorded in any form or medium that is created or received by a covered entity (Yale School of Medicine (excluding the School of Public Health, the Animal Resources Center, and the basic science departments: Cell Biology, Cellular and Molecular Physiology, Comparative Medicine, History of Medicine, Immunobiology, Microbial Pathogenesis, Molecular Biophysics & Biochemistry, Neurobiology, Pharmacology and WM Keck Biotechnology Resources Laboratory), Yale School of Nursing, Yale Health, Department of Psychology Clinics and the Group Health Plan component)

PHI encompasses information that identifies an individual or might reasonably be used to identify an individual and relates to:

The individual's past, present or future physical or mental health or condition of an individual; OR

The provision of health care to the individual; OR

The past, present or future payment of health care to an individual.

Information is deemed to identify an individual if it includes either the patient's name or any other information that taken together or used with other information could enable someone to determine an individual's identity. (For example: date of birth, medical records number, health plan beneficiary numbers, address, zip code, phone number, email address, fax number, IP address, license numbers, full face photographic images or Social Security Number see [Policy 5039](#) for a list of [HIPAA Identifiers](#))

PHI excludes individually identifiable health information in education records covered by the Family Educational Right and Privacy Act (FERPA) (records described in 20 USC 1232g(a)(4)(B)(iv)) and employment records held by a covered entity in its role as employer. PHI also excludes information related to individuals who have been deceased for more than 50 years. (see also definitions of "health information" and "individually identifiable health information")

(See [HIPAA Glossary](#) for complete list of terms)

Procedures

[5034 PR1](#) - Uses and Disclosures of PHI for Marketing

Contacts

Subject	Contact	Phone
HIPAA Compliance	HIPAA Privacy Office	203-432-5919
Information Security	Central Campus Help Desk	203-432-9000
	Medical School Campus Help Desk	203-785-3200

Roles and Responsibilities

Office of the Provost

responsible for University compliance issues including HIPAA

Office of General Counsel

interprets HIPAA regulations; reviews and approves all HIPAA related contracts including contracts with Business Associates or for research contracts

University Information Security Officer

individual responsible for overseeing information security and ensuring compliance with security requirements of HIPAA

Chief HIPAA Privacy Officer

individual responsible for overseeing and ensuring HIPAA compliance throughout Yale University; coordinates compliance related activities through the following deputies in each of the covered schools, departments, or other entities:

- Deputy Privacy Officer, School of Medicine
- Deputy Privacy Officer, School of Nursing
- Deputy Privacy Officer, Yale Health Services
- Deputy Privacy Officer, Yale Health Plan/Benefits Office
- Deputy Privacy Officer, Department of Psychology Clinics

Procurement Office

identifies Business Associates and ensures appropriate contracts in place

Grants & Contracts Administration

Responsible for negotiating data use agreements and research related contracts.

Institutional Review Boards (HIC, HSC, HSRRC)

Responsible for review and approval of waivers of authorization for research purposes.

Revision History

Revised 9/26/2011

The official version of this information will only be maintained in an on-line web format. Any and all printed copies of this material are dated as of the print date. Please make certain to review the material on-line prior to placing reliance on a dated printed version.
