

HIPAA and Fundraising Frequently Asked Questions

Final changes to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) were published by the United States Department of Health and Human Services (HHS) on January 25, 2013 and became effective on March 26, 2013. This document summarizes the changes related to fund raising and how those changes will affect fund raising practices at Yale.

Can patient protected health information (PHI) be used for fundraising purposes?

Yes. Yale's Notice of Privacy Practices states that patient demographic, health status data and dates of service information may be used for fundraising purposes without first obtaining patient authorization. As of March 26, 2013, these types of PHI were expanded to include the following:

- Patient Name
- Address and other contact information
- Gender and Age (including date of birth)
- Dates of health care services provided to the patient
- Department of service
- Treating physician
- Outcome information
- Health insurance status;

If **any other types of patient information** are to be used in fund raising, we **must** first obtain a specific Authorization from the patient. Diagnosis information or subspecialty information may not be used. Our HIPAA authorization form can be found at: <http://hipaa.yale.edu/sites/default/files/files/5031-FR.pdf>

Can development officers review lists of patients with physicians to determine the appropriateness of sending fundraising materials or to design a strategy to engage patients in potential gift conversations?

Yes. Physicians can assist the development office by considering whether a given patient is appropriate to contact given their treatment outcomes.

Who can access this patient PHI information for fundraising purposes?

Fundraising information can be used by the Yale School of Medicine development office staff; all staff members are trained in HIPAA Privacy and Security Rule requirements and comply with the University HIPAA policies, including data security requirements. In addition, this patient PHI information may be disclosed to an external entity under contract as a HIPAA Business Associate. Information on whether a company is a Yale HIPAA Business Associate is available at: <http://hipaa.yale.edu/sites/default/files/files/BASStatusExtract-YalePHIShared-w-Company.pdf>

Is an Opt-Out Provision required in all fundraising materials?

Yes. All Yale School of Medicine solicitations must include, in a clear and conspicuous manner, the opportunity for the recipient to "opt out" of receiving any future fundraising communications. The method of opting out may not require the patient to endure an undue burden such as sending a letter. All Yale School of Medicine solicitations will provide local and toll free phone numbers, a mailing address and an email address so patients will have multiple methods to request to "opt out".

What if a patient opts out of receiving fundraising materials?

When an individual elects not to receive any further fundraising communications that individual will be removed from the fundraising communication list and no future fundraising communications may be sent to the patient. The Yale School of Medicine development office will maintain a list of those patients who request removal from fund raising lists. This information will also be maintained in the patient's medical record.

Can patients opt back in to receive future fundraising materials?

Yes; but receipt of a gift is not an automatic "opt back in". In these cases, development officers will contact the patient donors and determine their willingness to "opt back in". When a patient changes his or her mind and requests to begin receiving fundraising communications, that patient will be asked to sign an Authorization. Once the Authorization is received, they will be added to the list of patients who receive fundraising solicitations.

Are there other requirements for the Development Office related to their use of PHI?

Handling PHI on behalf of a HIPAA Covered Entity requires that the Development Office staff be trained in HIPAA Privacy and Security Rule requirements and comply with the University HIPAA policies, including data security requirements.

Where can I get more information?

For more information please contact the HIPAA Privacy Office at 432-5919 or YSM Development at 436-8560