

**HEALTH SCIENCE CENTER HANDBOOK OF OPERATING PROCEDURES**

Chapter 11	Patient Privacy Policies	Effective:	April 2003
Section 11.2	Uses and Disclosures of Protected Health Information	Revised:	May 2007
<b>Policy 11.2.7</b>	<b>Uses and Disclosures of Protected Health Information for Marketing</b>	Responsibility:	Chief of Staff and Communications

## **USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION FOR MARKETING**

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### **Policy**

The Health Science Center or its employees may not disclose, use, sell, or coerce an individual to consent to the disclosure, use or sale of protected health information, including prescription patterns, for marketing purposes without the authorization of the patient (or patient representative) who is the subject of the protected health information. Certain activities, as described below, do not require the Health Science Center to obtain patient authorization for the use or disclosure of protected health information.

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### **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; exceptions are described in the policy. Also, an arrangement between the Health Science Center and any other entity whereby the Health Science Center discloses protected health information to the other entity, such as a Business Associate, in exchange for direct or indirect remuneration, for the other entity or its affiliate to make a communication about its own product or service that encourages recipients of the communication to purchase or use that product. Marketing also includes product-specific, written communications to consumers that encourage a change in products, except when done in the course of providing treatment or case management services.

**PRODUCT**: A prescription drug or prescription medical device.

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### **Marketing Exception**

The Health Science Center may use and disclose protected health information for the following activities, which are not considered marketing, without obtaining a written authorization from the patient:

1. To describe the entities participating in a health care provider network or health plan network, or to describe if, and the extent to which, a product or service (or payment for such product or service) is provided by the Health Science Center or included in a plan of benefits;
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2. For treatment of that individual;
  3. For case management or care coordination for that individual, or to direct or recommend alternative treatments, therapies, health care providers, or settings of care to that individual;
  4. For common health care communications, such as disease management, wellness programs if operated by the Health Science Center, prescription refill reminders and appointment notifications;
  5. To provide sample products to the patient; and,
  6. To an individual by the Health Science Center that encourages a change to a prescription drug included in the Health Science Center's drug formulary or preferred drug list.

**Marketing not  
Requiring Patient  
Authorization**

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Specific patient authorizations are required for marketing activities involving the use of protected health information, except if the communication is:

1. A face-to-face encounter with the patient to provide information on health related products and services;
2. A marketing communication involving promotional gifts of nominal value (e.g. pens, calendars, key chains, etc., that promote a Health Science Center or health care manufacturer product or service); or,
3. Necessary for administration of a patient assistance program or other prescription drug savings or discount program.
4. Made at the oral request of the individual.

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**Marketing  
Requiring  
Authorization**

Except as noted above, a written patient authorization using the approved Health Science Center form is required for marketing activities that involve the use or disclosure of protected health information. See [Section 11.2.3](#) “Uses and Disclosures of Protected Health Information Based on Patient Authorization” in the *Handbook of Operating Procedures*. If marketing is expected to result in direct or indirect remuneration to the Health Science Center from a third party, the authorization must state this fact.

Health Science Center personnel shall not disclose identifiable information, such as names, account numbers or policy numbers from a patient’s record to any non-affiliated third party for use in telemarketing, direct mail marketing, or other marketing through electronic mail to the consumer, unless the patient has authorized the disclosure.

If the Health Science Center uses or discloses protected health information to send a written marketing communication through the mail, the Health Science Center is required to send the communication in an envelope, showing only the names and addresses of the sender and the recipient and must:

1. State the name and toll-free number of the Health Science Center or the affiliated entity sending the marketing information; and,
2. Explain clearly the recipient’s right to have his/her name removed from the sender’s mailing list, except when the communication is contained in a newsletter or similar type of general communication device that the Health Science Center distributes to a broad cross-section of individuals.

If the Health Science Center or affiliate for marketing purposes receives a patient’s request for removal from the mailing list, such removal must occur immediately, within 45 days of receipt of request.

A marketing communication made at the oral request of the individual as noted in the section above, may be made only if clear and unambiguous oral permission for the use or disclosure of the protected health information is obtained. The marketing communication must be

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limited to the scope of the oral permission, and any further marketing communication must comply with the requirements of this policy.

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