



SAINT LOUIS UNIVERSITY

USE AND DISCLOSURE OF PHI FOR MARKETING

Policy Number: OUC-051

Version Number: 2.0

Effective Date: 04/14/2003

Responsible University Official: Privacy Officer

Approved By: Executive Staff

Legal and Compliance Committee

1.0 INTRODUCTION

Saint Louis University (hereinafter the “University”) is committed to provide services in compliance with all state and federal laws governing its operations, incorporating the highest levels of business and professional ethics. The HIPAA Privacy Rule gives patients important controls over whether and how their protected health information is used and disclosed for marketing purposes. With limited exceptions, the Rule requires an individual’s written authorization before a use or disclosure of his or her protected health information can be made for marketing. So as not to interfere with core health care functions, the Rule distinguishes marketing communications from those communications about goods and services that are essential for quality health care.

2.0 PURPOSE

The purpose of this policy is to provide guidance to workforce regarding the use and disclosure of a patient’s protected health information (PHI) for marketing.

3.0 PERSONNEL AFFECTED

This policy applies to all regular full-time and part-time faculty and staff and volunteers within all divisions of the University, including employees, professional staff members, residents, agents, representatives and consultants tasked with releasing patient health information for marketing purposes.

4.0 DEFINITIONS

Authorization: A document that gives permission for a specific disclosure of protected health information. Authorizations typically include the name of the person or entity authorized to disclose, name of the person or entity authorized for use or disclosure, purpose of the disclosure, expiration of the authorization, and the patient’s signature.

Protected Health Information (PHI): Any individually identifiable health information transmitted or maintained in any form or medium, including oral, written, and electronic. Individually identifiable health information relates to an individual’s health status or condition, furnishing health services to an individual or paying or administering health care benefits to an individual. Information is considered PHI where there is a reasonable basis to believe the information can be used to identify an individual.

Marketing: The promotion or advertisement, by Saint Louis University, of specific products or services if it receives, directly or indirectly, a financial incentive or remuneration for the use, access, or disclosure of PHI. Marketing does not include a communication for treatment or health care operations by a health care provider, health plan, or participants in an organized health care arrangement or their affiliated covered entities or business associates.

Workforce: Employees, volunteers, trainees, contractors, and other persons under the direct control of the covered entity, whether or not paid by the covered entity.

5.0 POLICY

General Rule on Marketing

Saint Louis University employees and workforce members may not disclose, use, sell or coerce an individual to consent to the disclosure, use, or sale of PHI for marketing purposes without the consent or authorization of the patient or representative who is the subject of the PHI. This prohibition includes the disclosure, use or selling of prescription drug patterns. Certain marketing activities, as described below, do not require the University to obtain patient authorization for the use or disclosure of PHI.

University employees and workforce members shall not disclose identifiable information such as policy numbers or similar access data codes from a patient's policy or transaction account 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.

Exceptions to General Rule

Saint Louis University may use and disclose PHI without obtaining an authorization from the patient to:

- Provide information on health related products and services in a face-to-face encounter with the patient;
- Provide information on common health care communications, such as disease management, wellness programs, prescription refill reminders and appointment notifications;
- Provide the patient with information on participating providers or plans in a network or alternative treatment options;
- Provide sample products to the patient; and

- Provide marketing communication involving promotional gifts of nominal value (e.g. calendars, key chains, etc. that promotes Saint Louis University or a health care manufacturer's products or services).

Rules for Written Marketing Communication

If the marketing communication is not face-to-face but in written form, Saint Louis University must make a determination prior to sending out the marketing communication that the product or service being marketed may be beneficial to the health of the patient. In addition, it is required to send envelopes to the patient that has only the addresses of the sender and the recipient and must:

- State the name and phone number of Saint Louis University or the University affiliated entity sending the marketing information,
- Explain clearly the recipient's right to have his/her name removed from the sender's mailing list,
- If Saint Louis University or a University affiliate for marketing purposes receives a patient's request for removal from the mailing list, such removal must occur immediately,
- Saint Louis University must explain in the communication why the patient has been targeted and how the product or service relates to their health.

6.0 SANCTIONS

Individuals who fail to comply with this policy and the procedures associated with it will be subject to disciplinary actions guided by the University's Staff Performance Management Policy, Faculty Manual, or Student Guidelines.

Non-compliance in this Policy can result in disciplinary action, including but not limited to, restricted incentive payments, suspension or termination. It may also result in the enforcement of a corrective action plan, as well as notification of the suspected misconduct and/or violation to government regulatory agencies.

This Policy does not limit the University's ability to impose greater sanctions or impose immediate action against serious violations. Disciplinary actions appropriate to the severity of the infraction will be carried out as needed.

7.0 CHANGES TO THIS POLICY

Changes to this policy may be necessary from time to time. At a minimum, the policy and all other program policies, procedures and guidelines will be reviewed on an annual basis.

8.0 RELATED POLICIES & DOCUMENTS

- Authorization for Use or Disclosure Policy
- Authorization for Disclosure (Form)
- Authorization to Use or Disclose Patient Image (Form)

REVISION HISTORY

EFFECTIVE DATE	VERSION NUMBER	MODIFICATION
4/14/2003	1.0	New Policy
7/01/2008	1.1	Review & Change Format
3/01/2015	1.2	Review & Change Format
	2.0	Ownership Shifted from Provost to General Counsel