



Vice President and Chief Executive Officer of the Medical Center

MEDICAL CENTER POLICY NO. 0252

A. SUBJECT: Use and Disclosure of Protected Health Information for Marketing and Related Purposes

B. EFFECTIVE DATE: July 1, 2013 (R)

C. POLICY:

The University of Virginia Medical Center shall comply with regulations under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH”) that establish the requirements for using and disclosing patients’ health information for marketing and related promotional purposes. All marketing and promotional proposals shall be approved by and coordinated through the Medical Center Marketing Department.

D. PROCEDURE:

1. Use of Patient Information in Materials Promoting University of Virginia Medical Center Services
 - a. Patient names, full-face or otherwise personally identifiable photographs, or other identifiable information can be used in materials promoting University of Virginia Medical Center services if the patient or his/her legally authorized representative¹ has signed an authorization form approved by the University of Virginia Medical Center Marketing Department. “Identifiable information” includes dates or geographic location information--e.g. dates of treatment, home city or county—even without use of the patient’s name. For a complete description of identifiable information, refer to [Medical Center Policy No. 0021 “Confidentiality of Patient Information”](#).
 - b. Authorization forms are available from the University of Virginia Medical Center Marketing Department.
 - c. All signed authorizations and revocations of authorizations shall be promptly submitted to the University of Virginia Medical Center Marketing Department, which shall maintain a file of valid authorizations, and track and implement all revocations. Authorizations and

¹ “Patient’s legally authorized representative” has the same meaning as such terms as patient’s authorized agent, s “legal representative”, “surrogate decision maker”, and “healthcare agent” appearing in other Medical Center policies.

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revocations shall be maintained for six years from the date signed or the date last in effect whichever is later.

2. Use of Patient Information in Order to Communicate with Patients for Marketing and Related Purposes

- a. "Marketing" means making a communication about a product or service that encourages the recipient to use the product or service. General health promotion, disease management, preventive care and wellness information communications are not considered "marketing" and do not need a patient's signed authorization.
- b. Recommending products or services in face-to-face discussions between providers and patients do not need a patient's signed authorization.
- c. The following communications are not considered "marketing," and do not need a patient's signed authorization provided that no direct or indirect payment for making the communication will be received from an outside entity whose product or service is being described :
 - i. Sending communications to patients promoting the University of Virginia Medical Center's own services. The University of Virginia Medical Center Marketing Department must approve all such communications.
 - ii. A communication from a University of Virginia Medical Center health care provider to a patient to provide treatment, recommend a particular alternative treatment, therapy, provider or care setting, or for case management or care coordination.
- d. The following is prohibited:
 - i. Providing patients' identifiable information to outside entities, such as pharmaceutical or medical device companies, for them to use in marketing their own or another entity's products or services.
 - ii. Accepting direct or indirect payments from outside entities, such as a pharmaceutical or medical device company, for sending marketing communications to patients.²
 - iii. Using patients' identifiable information to market non-Medical Center goods and services, except as allowed in section 2.b and 2.c.ii above, without prior approval from the University of Virginia Medical Center Marketing Department.

3. Disclosure of Patients' Identifiable Information in Return for Remuneration

² Consult Medical Center Policy [Nos. 0008 "Gifts, Gratuities and Interactions with Vendors"](#) and [0013 "Vendors, Sales and Service Representatives"](#), regarding financial relationships with industry and vendors.

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The disclosure of patients' identifiable information, for direct or indirect financial or non-financial remuneration, is prohibited, unless the patient has signed a written authorization that discloses the remuneration, or one of the following exceptions applies:

- a. disclosures for public health activities described in Sections 164.512(b) of the HIPAA Privacy Rule, including public health authority investigations and surveillance, reporting to manufacturers of adverse events and product defects regarding FDA-regulated products, and implementing of product recalls and lookbacks.
 - b. disclosures for research, where the disclosure is incidental to performance of work by University researchers under a grant or contract, or where the only remuneration received is a reasonable, cost-based fee to cover the cost to prepare and transmit the information;
 - c. disclosures for treatment and payment;
 - d. disclosures for the sale, transfer, merger, or consolidation of a business operation, and related due diligence;
 - e. disclosures to or by a business associate for activities covered by a business associate agreement or addendum, if the only remuneration provided is for performance of such activities; all business associate activities must be coordinated and documented through Supply Chain Management.
 - f. providing copies of records at the patient's request;
 - g. disclosures required by law; and
 - h. disclosures for any other purposes permitted by law, where the only remuneration received is a reasonable, cost-based fee to cover the cost to prepare and transmit the information, or a fee otherwise expressly permitted by other law.
4. Use of Patient Information for Fundraising

Consult [Medical Center Policy No. 0251 "Use and Disclosure of Protected Health Information for General Fundraising Purposes"](#) regarding use of patients' information for fundraising and related purposes.

SIGNATURE:



R. Edward Howell, CEO, UVA Medical Center

DATE:

6/20/13

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Medical Center Policy No.0252 (R)

Approved September 2003

Revised September 2006, September 2009, September 2012, June 2013

Approved by Associate Vice President for Marketing and Strategic Relations

Approved by Medical Center Administration