

UConn HEALTH

Administrative Policy 2003-05 HIPAA Marketing Compliance

Title	HIPAA Marketing Compliance
Policy Owner and Contact Information	Office of Healthcare Compliance & Privacy privacyoffice@uchc.edu
Campus Applicability	UConn Health
Applies to	UConn Health Workforce
Effective Date	September 23, 2022

PURPOSE:

To comply with certain provisions of the Health Insurance Portability and Accountability Act of 1996, the Health Information Technology for Economic and Clinical Health Act, and the associated regulations (collectively “HIPAA”) and Connecticut law regarding permitted uses and disclosures of protected health information (PHI) for marketing purposes.

POLICY STATEMENT:

UConn Health must obtain an individual’s written Authorization prior to using or disclosing their PHI for Marketing communications.

Workforce must contact the Office of Healthcare Compliance and Privacy or the Office of the General Counsel prior to obtaining an individual’s Authorization when any Marketing communication:

- involves the use and disclosure of PHI;
- AND
- could involve direct or indirect Financial Remuneration to UConn Health from a third party.

The following three circumstances are not considered Marketing communications and do not require an individual’s written Authorization:

1. When the communication occurs in a face-to-face encounter between UConn Health and the individual;
2. A general communication that promotes health in a general manner if it does not promote a specific product or service (such as health education and disease prevention, (e.g., lower your cholesterol or annual mammogram reminders)); or
3. The communication involves a promotional gift of nominal value provided by UConn Health.

DEFINITIONS:

[Privacy Definitions](#)

Financial Remuneration: Direct or indirect payment from or on behalf of a third party whose product or service is being described. Direct or indirect payment does not include any payment for treatment of an individual.

Marketing: A communication about a product or service that encourages recipients of the communication to purchase or use the product or service.

Marketing does not include the following:

1. A communication is not deemed marketing under the HIPAA Rules if it is made to describe a health-related product or service that is provided by UConn Health as long as UConn Health does not receive any Financial Remuneration for making the communication. This exception to the marketing definition provides that communications by UConn Health about its own products or services would not constitute marketing under HIPAA. The HIPAA Rules further provide that a communication is not marketing if it is made for treatment, case management, or care coordination for the individual or to direct or recommend alternative treatments, therapies, health care providers, or settings of care to the individual as long as UConn Health does not receive any Financial Remuneration for making the communication.
2. In addition to the above categories of communications, a special category exists for communications regarding currently prescribed drugs. The HIPAA Rules also provide that the definition of marketing under HIPAA does not include a communication made to provide refill reminders or otherwise communicate about a drug or biologic that is currently being prescribed for the individual as long as any Financial Remuneration received by UConn Health in exchange for making the communication is limited to that which is reasonably related to UConn Health's cost of making the communication ('the Refill Reminder Exception'). In order to fit within the Refill Reminder Exception, the communication must be related to an individual's currently prescribed medication and any Financial Remuneration received for making the communication must be reasonably related to the costs of making the communication.

Protected Health Information (PHI): Any type of Individually Identifiable Health Information, whether electronically maintained, electronically transmitted, or in any other format or medium (i.e., discussed orally, on paper or other media, photographed or otherwise duplicated). 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), employment records held by a Covered Entity in its role as employer, or related to individuals who have been deceased for more than 50 years.

Workforce: Employees, volunteers, trainees, and other persons whose conduct, in the performance of work for UConn Health, is under the direct control of UConn Health, whether or not they are paid by UConn Health.

PROCEDURES/FORMS:

[HCH2714 Authorization to Use and/or Disclose Protected Health Information for Publicity Purposes](#)

[HCH551: Authorization to Obtain and/or Disclose Health Information](#)

REFERENCES:

45 C.F.R. §§ 164.501 and 164.508(a)(3) (HIPAA Privacy Rule)
Conn. Gen. Stat. § 38a-988a

RELATED POLICIES:

[2003-16: Authorization for Release of Information](#)

[2021-04 Disclosures of Protected Health Information to the Media](#)

[UConn Health Notice of Privacy Practices](#)

[University of Connecticut Code of Conduct](#)

ENFORCEMENT:

Violations of this policy or associated procedures may result in appropriate disciplinary measures in accordance with University By-Laws, General Rules of Conduct for All University Employees, applicable collective bargaining agreements, the University of Connecticut Student Code, other applicable University Policies, or as outlined in any procedures document related to this policy.

APPROVAL:

Bruce Liang (Signed)
Bruce Liang
UConn Health Chief Executive Officer

9/23/2022
Date

Kiki Nissen (Signed)
Kiki Nissen
Administrative Policy Committee Vice-Chair

9/21/2022
Date

Janel Simpson (Signed)
Janel Simpson
Administrative Policy Committee Chair

9/21/2022
Date

POLICY HISTORY:

New Policy Approved: April 14, 2003

Reviewed Without Changes: 1/08

Revised: 3/05, 10/13, 5/15, 9/22