

UConn HEALTH

POLICY NUMBER 2003-05
May 19, 2015

POLICY: **HIPAA MARKETING COMPLIANCE**
(PRIVACY & SECURITY OF PROTECTED HEALTH INFORMATION
(PHI))

PURPOSE: The purpose of this policy is to identify the circumstances in which UConn Health is authorized to communicate with patients or their representatives for the purpose of marketing and when written patient authorization is required.

SCOPE:

Applies to all UConn Health workforce:

- Employees (including faculty and staff)
- Volunteers
- Students and residents
- Temporary staff
- Agency and contracted staff
- Credentialed staff
- Members of the Board of Directors

DEFINITIONS:

Marketing - means to make a communication about a product or service that encourages recipients of the communication to purchase or use the product or service.

Financial remuneration - means 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

POLICY STATEMENT:

HIPAA regulations allow marketing, provided UConn Health first obtains a written authorization from the individual before disclosing PHI about that individual to another party for marketing purposes.

Under HIPAA, Marketing does not include a communication made:

- (1) To provide refill reminders or otherwise communicate about a drug or biologic that is currently being prescribed for an individual, only if any financial remuneration received by UConn Health in exchange for making the communication is reasonably related to our cost of making the communication.

- (2) For the following treatment and health care operations purposes, **except** where UConn Health receives financial remuneration in exchange for making the communication:
- (A) For treatment of an individual, including case management or care coordination, or to direct or recommend alternative treatments, therapies, health care providers, or settings of care to the individual;
 - (B) To describe a health-related product or service (or payment for such product or service) that is provided by UConn Health including communications about the entities participating in a health care provider network; or
 - (C) For case management or care coordination, contacting of individuals with information about treatment alternatives, and related functions to the extent these activities do not fall within the definition of treatment.

UConn Health must obtain an authorization for any use or disclosure of protected health information for marketing, except if the communication is in the form of:

- (A) A face-to-face communication made by UConn Health to an individual; or
- (B) A promotional gift of nominal value provided by UConn Health.

Additionally, if the marketing involves financial remuneration, as defined above to the covered entity from a third party, the authorization must state that such remuneration is involved.

For example, an authorization would be required prior to UConn Health making a communication to patients regarding the acquisition of new state of the art medical equipment if the equipment manufacturer paid us to send the communication to our patients; but not if a local charitable organization funded our mailing to patients about the equipment. Furthermore, it would not constitute marketing and no authorization would be required if UConn Health sent flyers to patients announcing the opening of a new building where the funds for the new building were donated by a third party, since the financial remuneration to us from the third party was not in exchange for the mailing of the flyers.

Reference: § 164.501 and 164.508 (a)(3) Health Insurance Portability and Accountability Act of 1996 and as amended by HITECH on 1/25/13

Iris Mauriello (Signed)

5/22/15

Iris Mauriello
Compliance Integrity/Privacy Officer

Date

Carolle Andrews (Signed)

5/26/15

Carolle Andrews
Chief Administrative Officer

Date

Andrew Agwunobi (Signed)

5/26/15

Andrew Agwunobi, M.D., M.B.A
Interim Executive Vice President for Health Affairs

Date

New Policy: April 14, 2003
Reviewed: 1/29/08 w/o changes
Revised: 3/28/05, 10/8/13, 5/19/15