

11.2.7 Uses and Disclosures of Protected Health Information for Marketing

Chapter 11 - Patient Privacy	Original Effective Date: April 2003
Section: 11.2 Uses and Disclosures of Protected Health Information	Date Last Reviewed: January 2023
Responsible Entity: Chief Compliance and Privacy Officer	Date Last Revised: January 2023

I. Purpose

UT Health San Antonio 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 UT Health San Antonio to obtain patient authorization for the use or disclosure of protected health information.

II. Scope

This policy applies to all faculty, staff, students, residents, healthcare providers, researchers, contractors, or any other individual (collectively, Workforce Member, including employees and non-employees) who has direct or indirect access to patient protected health information (PHI) created, held or maintained by any UT Health San Antonio controlled affiliate, including, but not limited to its clinics, hospitals, and research operations.

III. Policy

A. Marketing

1. A communication from UT Health San Antonio or Business Associate that is about a product or service, and that encourages recipients of the communication to purchase or use the product or service shall not be considered an appropriate purpose under health care operations.
2. UT Health San Antonio may use and disclose PHI for the following activities, which are not considered marketing, without obtaining a written authorization from the patient:

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- a. To describe a health related product or service (or payment for such product or service) that is provided by UT Health San Antonio or included in a plan of benefits;
- b. For treatment of that individual;
- c. 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;
- d. For common health care communications, such as disease management, wellness programs if operated by UT Health San Antonio, prescription refill reminders and appointment notifications;
- e. To provide sample products to the patient; and,
- f. To an individual by UT Health San Antonio that encourages a change to a prescription drug included in UT Health San Antonio's drug formulary or preferred drug list.

B. Marketing not Requiring Patient Authorization

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 communication that describes only a drug or biologic currently prescribed for the recipient;
3. Necessary for administration of a patient assistance program or other prescription drug savings or discount program.

C. Marketing Requiring Patient Authorization

1. Except as noted above, a written patient authorization using the approved UT Health San Antonio form is required for marketing activities that involve the use or disclosure of PHI. See IHOP policy [11.2.3 Uses and Disclosures of Protected Health Information Based on Patient Authorization](#).
2. UT Health San Antonio workforce members shall not disclose identifiable information, such as names, account numbers or policy numbers from a patient's health 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.
3. If UT Health San Antonio uses or discloses PHI to send a written marketing communication through the mail, UT Health San Antonio is required to send the communication in an envelope, showing only the names and addresses of the sender and the recipient and must:

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- a. State the name and toll-free number of UT Health San Antonio or the affiliated entity sending the marketing information; and,
 - b. Clearly explain the recipient's right to have their 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 UT Health San Antonio distributes to a broad cross-section of individuals.
4. If UT Health San Antonio 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.

IV. Definitions

Terms used in this document, have the meaning set forth in the [Patient Privacy Policies Glossary](#) unless a different meaning is required by context.

V. Related References

For questions regarding this policy contact the privacy program director at 210-567-2014 or compliance@uthscsa.edu.

VI. Review and Approval History

- A. The approving authority of this policy is the University Executive Committee.
- B. The review frequency cycle is set for three years following the last review date, a time period that is not mandated by regulatory, accreditation, or other authority.

Effective Date	Action Taken	Approved By	Date Approved
04/2003	Policy Origination		
04/2010	Policy Revision		
03/2013	Policy Revision		
01/2023	Policy Review	ICPO	01/18/23