

**Texas Tech University Health Sciences Center
HIPAA Privacy Policies**

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| Using and Disclosing PHI | Policy 4.10 |
| Marketing | Effective Date: August 26, 2016 |
| References: http://www.hhs.gov/ocr/hipaa HSC HIPAA website http://www.ttuhscc.edu/hipaa/policies_procedures.aspx HIPAA Regulations: 45 CFR Part 164.501, 164.508 and 164.514 | |

Policy Statement

TTUHSC shall only use or disclose Protected Health Information (PHI) for marketing activities with a valid authorization that meets applicable requirements under HIPAA except as set forth below. Departments or individuals that wish to conduct marketing activities must contact the Office of Communications & Marketing for assistance and coordination to ensure that privacy requirements and marketing policies are followed.

Scope and Distribution

This policy includes all TTUHSC marketing activities and applies to all faculty, staff and business associates engaged in marketing activities on behalf of TTUHSC.

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.

Marketing 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, only if any financial remuneration received by TTUHSC in exchange for making the communication is reasonably related to TTUHSC's cost of making the communication.

- a. TTUHSC may also use the following types of communication, which are not considered marketing and do not require an authorization, if TTUHSC has not received financial remuneration in exchange for making the communication:
 - i. For treatment of an individual by a health care provider, including 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;
 - ii. To describe a health-related product or service (or payment for such product or service) that is provided by, or included in a plan of benefits of, the covered entity making the communication, including communications about: the entities participating in a health care provider network or health plan network; replacement of, or enhancements to, a health plan; and

health-related products or services available only to a health plan enrollee that add value to, but are not part of, a plan of benefits; or

- iii. 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.

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. For the purpose of this policy, “financial remuneration” does not include non-financial benefits, such as in-kind benefits, provided to a covered entity in exchange for making a communication about a product or service. Rather, financial remuneration includes only payments made in exchange for making such communications.

Refer to [HPP 1.1 for additional HIPAA Terms and Definitions](#)

See [Old/New HIPAA Policy Number Cross Reference Chart](#)

Policy and Procedure

The Health Insurance Portability and Accountability Act (HIPAA) limits the use and disclosure of Protected Health Information (PHI) for marketing purposes. In general, an Authorization by the individual or the individual's Legally Authorized Representative is required for the use or disclosure of PHI for marketing, except as specified below. Any PHI that is used or disclosed by TTUHSC in compliance with this Policy will be limited to the minimum necessary to achieve the purpose of the use or disclosure.

a. Use and Disclosure of PHI for Marketing – Authorization Not Required

TTUHSC may use PHI for the following marketing purposes:

1. Face to face communications between TTUHSC and the patient;
2. A promotional gift of nominal value provided by TTUHSC to the patient (e.g., a pen or pad of paper with TTUHSC logo).

c. Use and Disclosure of PHI for Marketing – Authorization Required

1. If TTUHSC uses PHI for purposes of Marketing and receives financial remuneration from a third party, the transaction requires TTUHSC to first obtain the individual's Authorization.
2. If TTUHSC sells lists of patients to third parties or discloses PHI to a third party for the independent marketing activities of the third party, TTUHSC must obtain the individual's Authorization.
3. The authorization must be specific to the use and disclosure requested. A blanket authorization for the use and disclosure of PHI is invalid. If the marketing involves direct or indirect remuneration to the covered entity

from a third party, the authorization must state that such remuneration is involved.

a. See Attachment A for a valid Marketing Authorization Form.

4. Contact the Office of Communications & Marketing or the Office of Institutional Compliance with any questions regarding whether an authorization is required for marketing purposes.

a. See OP 67.02 for approval requirements for marketing campaigns and advertising guidelines.

Knowledge of a violation or potential violation of this policy must be reported directly to a Regional Privacy Officer, the Institutional Privacy Officer or to the employee Compliance Hotline at (866) 294-9352 or www.ethicspoint.com under HSC.

Approval Authority

Questions regarding this policy may be addressed to the Regional Privacy Officer ([Amarillo, Permian Basin](#)), the [Institutional Privacy Officer](#), or the [Institutional Compliance Officer](#).

Responsibility and Revisions

This policy may be amended or terminated at any time to reflect changes in TTUHSC operating policies or applicable laws and regulations.