

STANDARD ADMINISTRATIVE PROCEDURE

16.99.99.M0.04 HIPAA Compliance and Fundraising and Marketing Activities

Approved April 27, 2020

Next scheduled review: April 27, 2025

SAP Statement

This standard administrative procedure applies to the Texas A&M University (TAMU) components that have been designated as a TAMU HIPAA Health Care Component (TAMU HIPAA HCC) in Standard Administrative Procedure 16.99.99.M0.01, *Designation as a Hybrid Entity*.

Definitions

[Click to view Definitions](#)

Official Procedure

1. GENERAL

TAMU HIPAA HCCs may not use or disclose Protected Health Information (PHI) for fundraisingⁱ without an authorization that meets the applicable requirements under HIPAA except as defined below. This procedure is based on principles related to the uses and disclosures of protected health information for fundraising.

2. FUNDRAISING

2.1. PROCEDURE

The Vice President for Institutional Advancement and the TAMU Privacy Officer must authorize all fundraising activities in accordance with this procedure.

- 2.1.1. A TAMU HIPAA HCC may use, or disclose to a Business Associate or to an institutionally related foundation, the following PHI for the purpose of raising funds for its own benefit, without an authorization:
 - 2.1.1.1. Demographic information relating to an individual; and
 - 2.1.1.2. Dates of health care provided to an individual.
- 2.1.2. A TAMU HIPAA HCC must include in any fundraising materials it sends to an individual a description of how the individual may opt out of receiving any further fundraising communications.
- 2.1.3. A TAMU HIPAA HCC must make reasonable efforts to ensure that individuals who decide to opt out of receiving future fundraising communications are not sent such communications.
- 2.1.4. Business Associates and/or Vice President for Development for TAMU HIPAA shall maintain a list of all patients who have opted out and provide a copy of said list annually to the TAMU Privacy Officer.
- 2.1.5. The use of PHI for fundraising purposes other than as described herein is prohibited without a patient authorization which meets the requirements of the Notice of Privacy Practices and Acknowledgement Procedure as cited in Standard Administrative Policy 16.99.99.M0.07.

3. MARKETING

3.1. PROCEDURES

A TAMU HIPAA HCC may not use or disclose PHI for marketingⁱⁱ without an authorization signed by the patient. No marketing communications may be made without the prior approval of the TAMU Privacy Officer or designee in accordance with the following procedures:

- 3.1.1. 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.
- 3.1.2. Marketing does not include communications:
 - 3.1.2.1. 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 TAMU HIPAA HCC, 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;
 - 3.1.2.2. For treatment of the individual; or
 - 3.1.2.3. For 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.

- 3.1.3. An arrangement between the TAMU HIPAA HCC and any other entity whereby the TAMU HIPAA HCC discloses PHI to the other entity, in exchange for direct or indirect remuneration, for the other entity or its affiliate to make a communication about its own product or service that encourages recipients of the communication to purchase or use that product or service is always marketing, notwithstanding the above.
- 3.1.4. Authorization for Marketing.
- 3.1.4.1.A TAMU HIPAA HCC may not use or disclose PHI for marketing without an authorization signed by the patient, unless the communication is in the form of:
- A face-to-face communication made by the TAMU HIPAA HCC to an individual; or
 - A promotional gift of nominal value provided by the TAMU HIPAA HCC to an individual.

4. VIOLATIONS

The TAMU Privacy Officer has general responsibility for implementation of this procedure. Employees who violate this procedure will be subject to disciplinary action up to and including termination of employment. Anyone who knows or has reason to believe that another person has violated this procedure should report the matter promptly to his or her supervisor or the TAMU Privacy Officer. All reported matters will be investigated and, where appropriate, steps will be taken to remedy the situation. Where possible, every effort will be made to handle the reported matter confidentially. Any attempt to retaliate against a person for reporting a violation of this procedure will itself be considered a violation of this procedure that may result in disciplinary action up to and including termination of employment.

^{i,ii} HIPAA Code: §164.514(f)(1)

Contact Office

Office of University Risk, Ethics, and Compliance