PURPOSE

The purpose of this policy is to ensure that all fundraising activities that occur under the auspices of The University of Texas MD Anderson Cancer Center (MD Anderson) umbrella comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the fundraising procedures and guidelines created by the Development Office.

POLICY STATEMENT

It is the policy of MD Anderson that all institutional fundraising activities comply with the HIPAA rules governing the Use of Protected Health Information (PHI) for fundraising, as well as Development Office rules and procedures. Departments or other individuals that wish to conduct fundraising activities or initiatives must contact the Development Office for assistance and coordination to ensure that no patient preferences are violated and that all privacy and fundraising policies are followed.

SCOPE

This policy includes all fundraising activities that take place within any department of MD Anderson and applies to all MD Anderson Workforce Members and Business Associates engaged in fundraising activities on behalf of MD Anderson.

Compliance with this policy is the responsibility of all MD Anderson Workforce Members.

TARGET AUDIENCE

The target audience for this policy includes, but is not limited to, all MD Anderson Workforce Members and Business Associates engaged in fundraising activities on behalf of MD Anderson.

DEFINITIONS

$\text{Business Associate:}$ See [HIPAA Definitions Plan](#).

$\text{Disclosure (or Disclose):}$ See [HIPAA Definitions Plan](#).

$\text{Protected Health Information (PHI):}$ See [HIPAA Definitions Plan](#).

$\text{Use:}$ See [HIPAA Definitions Plan](#).

$\text{Workforce Member:}$ See [HIPAA Definitions Plan](#).
PROCEDURE

1.0 General Rules Governing the Use and Disclosure of PHI for Fundraising Purposes

1.1 Generally, the HIPAA regulations state that PHI may not be Used or Disclosed without a written HIPAA Authorization from the individual. However, there are a number of exceptions to this general HIPAA authorization rule, including an exception for certain fundraising Uses and Disclosures of PHI. MD Anderson may, without first obtaining a HIPAA Authorization, Use or Disclose to a Business Associate or an institutionally-related foundation, the following PHI for the purpose of raising funds for its own benefit:

A. Demographic information relating to an individual, including name, address, other contact information, age, gender, and date of birth;
B. Dates of service;
C. Department of service;
D. Treating physician;
E. Outcome information; and
F. Health insurance status.

1.2 All other Uses and Disclosures of PHI for fundraising purposes require the individual’s written HIPAA Authorization. A statement regarding MD Anderson’s Use of certain PHI for fundraising purposes is included in MD Anderson’s Notice of Privacy Practices.

2.0 Content of Fundraising Communications

2.1 Any communication, whether verbal or written, that involves a solicitation constitutes a “fundraising” communication and must contain language describing how the individual may opt out of future solicitations.

2.2 As long as they do not contain “solicitations,” the following types of communications are generally not considered to be “fundraising communications,” and are not subject to these rules:

- Educational pieces such as Pathways, Conquest, Promise Newsletter, Research Milestones, and the Annual Report; and
- Invitations to Special Events that are not fundraising events and do not require a donation in order to attend.

2.3 For questions regarding whether a particular communication constitutes a “fundraising communication,” contact the Development Office or the Institutional Compliance Office.

2.4 Departments or individual physicians that wish to engage in fundraising activities must contact the Development Office for assistance and coordination of such fundraising activities. Such coordination is necessary to ensure that individuals who have opted out of receiving fundraising communications are not contacted, and to be sure that all privacy and fundraising-related policies are followed when conducting such activities.
3.0 **Opt-Out Methodology**

3.1 The opt-out methodology must not be overly burdensome. Generally, a phone number, website, and/or email address may be used as a method for individuals to contact MD Anderson in order to opt out of future solicitations. Requiring an individual to write, stamp, and mail a letter in order to opt out of future communications is generally considered to be overly burdensome.

3.2 The Development Office may choose to make the opt-out options as general or detailed as it would like. For example, the Development Office may allow individuals to opt out of all future fundraising communications, or it may allow individuals to choose to continue receiving certain communications but not others.

3.3 If an individual has opted out of receiving certain future fundraising communications, MD Anderson may not make future fundraising communications to that individual. However, MD Anderson may provide an individual who has elected not to receive further fundraising communications with a method to opt back in to receiving such communications.

3.4 MD Anderson may not condition treatment or payment on the individual’s choice with respect to the receipt of fundraising communications.

4.0 **HIPAA Authorizations**

4.1 If a Workforce Member wishes to Use or Disclose any health or identifying information that is not included in the list of permissible information above at Section 1.0, the Workforce Member must first obtain the individual’s written HIPAA Authorization. See [Patient Privacy: Authorization for Use and Disclosure of Protected Health Information Policy (UTMDACC Institutional Policy # ADM0396)](#). 

4.2 HIPAA Authorizations designed for fundraising Uses are available in the Development Office.

4.3 A copy of the signed HIPAA Authorization must be given to the individual, and the Authorization must be retained by MD Anderson in accordance with the [Patient Privacy: Authorization for Use and Disclosure of Protected Health Information Policy (UTMDACC Institutional Policy # ADM0396)](#).
ATTACHMENTS/LINKS

HIPAA Definitions Plan (Attachment # ATT0699).

RELATED POLICIES

Patient Privacy: Authorization for the Use and Disclosure of Protected Health Information Policy (UTMDACC Institutional Policy # ADM0396).

JOINT COMMISSION STANDARDS / NATIONAL PATIENT SAFETY GOALS

IM.02.01.01:


OTHER RELATED ACCREDITATION / REGULATORY STANDARDS

None.

REFERENCES

45 C.F.R. §§ 164.514(f).
POLICY APPROVAL

Approved With Revisions Date: 05/30/2017
Approved Without Revisions Date: 
Implementation Date: 05/30/2017
Version: 37.0

RESPONSIBLE DEPARTMENT(S)

Development Office