

ORGANIZATION POLICY

POLICY TITLE: ONSLOW MEMORIAL HOSPITAL USE AND DISCLOSURE OF PATIENT INFORMATION FOR MARKETING

POLICY NUMBER: 1311

PURPOSE AND APPLICABLE LAW: The purpose of this Policy is to establish the Hospital's use and disclosure of protected health information for marketing purposes.

DEFINITIONS: Certain terms having specific definitions are used in this Policy, and these terms and definitions are as follows:

- A. Individually identifiable health information means information that is a subset of health information, including demographic information collected from an individual, and:
 - i. Is created or received by a healthcare provider, health plan, employer, or healthcare clearinghouse; and
 - ii. Relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and
 - 1. That identifies the individual; or
 - 2. With respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- B. Protected health information means individually identifiable health information that is:
 - 1. Transmitted by electronic media (e.g., internet, intranet, extranet, facsimile dial up lines);
 - 2. Maintained in any medium of electronic media (e.g., computer hard drives, removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card); or
 - 3. Transmitted or maintained in any other form or medium.
- C. Financial remuneration means direct or indirect payment from or on behalf of a third party whose product or service is being described.

PROCEDURE:

OMH must obtain an Authorization from an individual before any use or disclosure of the individual's protected health information for communications defined as "Marketing", EXCEPT when the communication is in the form of:

- A face-to-face communication made by OMH to a patient; or
- A promotional gift of nominal value provided by OMH.

A person or entity is “Marketing” if he or she makes a statement that encourages recipients of the communication to purchase products or to use services UNLESS such communication is made when OMH has not received financial remuneration for making such communication:

- For treatment of the patient;
- For case management or care coordination for the patient, or to direct or recommend alternative treatments, health care providers, or settings of care to the patient; or
- 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;
 - 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

In addition, “Marketing” includes any arrangement between OMH and any other entity whereby OMH discloses protected health information to the other entity, in exchange for direct or indirect payment of any kind in order to allow the other entity to communicate about its own product or service.

BLANKET MARKETING AUTHORIZATIONS ARE EXPRESSLY PROHIBITED!

Following are examples of communications that are NOT considered marketing:

- **Mailings promoting health in a general manner.**
For example:
 - reminding women to get an annual mammogram
 - providing information about how to lower cholesterol
 - information about new developments in health care (e.g., new diagnostic tools)
 - about health or “wellness” classes
 - about support groups
 - about health fairs
- **Communications about government and government-sponsored programs such as Medicare, supplemental benefits, or SCHP**

- **Calendars, pens, and the like that display the name of a product or provider** (but only when provided by OMH).

When considering whether, pursuant to the definition contained in this Policy, a communication is “Marketing”, OMH should consider whether the effect of the communication meets the definitional criteria of “Marketing”. It is irrelevant whether or not the *intent* of the communication was for marketing purposes.

If OMH’s staff member determines that pursuant to the definition in this Policy a communication is “Marketing”, OMH will request the individual to sign an **Authorization to Disclose Health Information** form prior to using or disclosing protected health information for Marketing purposes. Any questions regarding whether an activity is “Marketing” shall be addressed by the Privacy Officer.

OMH may not obtain a “blanket marketing” authorization. That is, OMH must obtain a written authorization form from a patient each time the patient’s protected health information will be used for a purpose other than described on a previous ***Authorization to Disclose Health Information*** form signed by the patient.

OMH must place executed authorization forms in the patient’s chart and retain them for six years from the date of signature or the date when it was last in effect, whichever is later.

EFFECTIVE DATE: June 2005

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