



LOMA LINDA
UNIVERSITY
MEDICAL CENTER

LOMA LINDA UNIVERSITY MEDICAL CENTER

OPERATING POLICY

CATEGORY:	PRIVACY AND SECURITY OF INFORMATION RESOURCES	CODE:	E-16
		EFFECTIVE:	12/2019
		REPLACES:	05/2019
SUBJECT:	USE OF PATIENT INFORMATION FOR FUNDRAISING PURPOSES	PAGE:	1 of 5

Purpose:

The purpose of this policy is to provide guidance to Loma Linda University Medical Center (LLUMC) workforce members on the use of patient information for fundraising purposes. This policy also outlines the proper procedures to follow when a patient opts out of receiving fundraising communications.

LLUMC is committed to protecting the privacy of its patients and the confidentiality of their protected health information (PHI). All fundraising activities at LLUMC shall be conducted in accordance with state and federal laws and regulations, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended by the Final Omnibus Rule of 2013 Section §165.514(f).

Definitions:

Confidential Information:	Information whose loss, corruption, or unauthorized use and/or disclosure would be a violation of federal or state rules/regulations. Examples include but are not limited to: any LLUMC contracts, legal privilege, evidentiary privilege, peer review, credit card and bank account numbers, PHI, social security number
Protected Health Information (PHI):	Individually identifiable health information that contains any of the following: It is maintained or transmitted in any form or medium, e.g., written, oral, electronic, It is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health plan clearinghouse, It relates to the past, present, or future physical or mental health or condition of an individual, It describes the past, present, or future payment for the provision of health care to an individual, It identifies the individual or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.
Electronic Protected Health Information (ePHI):	Protected health information that is maintained in or transmitted by exclusively in electronic format.

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Demographic Information:	The patient's individually identifiable information that is used or disclosed for fundraising purposes which is limited to name, medical record number, address, other contact information such as phone number, fax number or email, age, gender, and date of birth.
Guarantor Information:	Individually identifiable information of the individual listed in the patient's record as responsible for payment of healthcare services provided to the patient which is limited to name, address, and other contact information.
Business Associate:	Any organization or individual working in association with or providing services to LLUH who performs, or assists in the performance of a function or activity involving the use or disclosure of Protected Health Information (PHI) and is not a member of LLUH's workforce.
Business Associate Agreement:	A contract between LLUH and a business associate that establishes the permitted and required uses and disclosures of protected health information by the business associate. It also provides that the business associate will among other obligations use protected health information only as permitted by the contract or as required by law, use appropriate safeguards, report any disclosures not permitted by the contract, ensure that agents to whom it provides protected health information will abide by the same restrictions and conditions, make protected health information available to individuals and make its record available to U.S. Department of Health and Human Services.
Disclosure:	The release, transfer, provision of access to, or divulging in any other manner, of information outside the entity holding the information.
Use:	With respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.
Authorization:	A document that gives covered entities permission to use specified protected health information (PHI) for specified purposes, which are generally purposes other than treatment, payment, or health care operations, or to disclose PHI to a third party specified by the individual. An authorization covers only the uses and disclosures and only the PHI stipulated in the authorization; it has an

expiration date; it also states the purpose for which the information may be used or disclosed.

Organized Health Care Arrangement (OHCA):

A clinically integrated health care delivery system, comprised of hospitals, physician clinics, health plans, etc., in which individuals typically receive health care from multiple health care providers who hold themselves out to the public as participating in a joint arrangement, and participate in joint activities, including at least one of the following: utilization review, quality assessment and improvement activities, or joint payment activities involving shared financial risk.

Notice of Privacy Practices:

A document that gives patients adequate notice of the uses and disclosures of PHI that may be made by LLUH and of the patient's rights and LLUH's legal duties with respect to PHI (reference Policy [Notice of Privacy Practices \(P-18\)](#))

1. General Provisions:

- 1.1 Fundraising activities shall only be conducted by Office of Philanthropy staff, or as authorized by the Office of Philanthropy, and shall be conducted in a manner that adheres to regulatory requirements and ethical standards.
- 1.2 The Office of Philanthropy may integrate philanthropy into strategic initiatives and organizational culture, engaging workforce members, and shall establish appropriate boundaries between patient care and philanthropic efforts for potential and established donors.
- 1.3 Advisory Councils may be established to assist LLUMC in strategic advancement efforts. Fundraising activities conducted under advisement of an established council shall be done in accordance with this policy.
- 1.4 LLUMC's Notice of Privacy Practices shall state that LLUMC may use or disclose the Protected Health Information as described in Section 2.1 below for the purpose of raising funds for its own benefit.
- 1.5 LLUMC shall not condition treatment or payment on the individual's choice with respect to the receipt of fundraising communications.
- 1.6 LLUMC shall not make fundraising communications to an individual where the individual has elected not to receive such communications, or has opted out from fundraising campaigns.

- a. Where an individual who has opted out of fundraising communications makes a donation to LLUMC, it does not serve, absent a separate election to opt back in, to automatically add the individual back onto the mailing list for fundraising communications.
- b. Where the individual elects to opt out of future fundraising communications, the opt out shall be effective for all forms of fundraising communications (e.g., mail, phone, email, in-person). Thus, the individual must be removed from all such lists.

1.7 LLUMC shall provide an individual who has elected not to receive further fundraising communications with a method to opt back in to receive such communications (e.g., include as part of a routine newsletter sent to all patients a phone number individuals can call to be put on a fundraising list).

2. Uses and Disclosures of PHI for fundraising purposes

As with any use or disclosure under the Privacy Rule, LLUMC must apply the minimum necessary standard (i.e., §164.502(b)) to ensure that only the minimum amount of protected health information necessary to accomplish the intended purpose is used or disclosed.

2.1 LLUMC may use, or disclose to a business associate, or to an institutionally related foundation, without a signed authorization from an individual the following Protected Health Information for the purpose of raising funds for its own benefit: (1) Basic demographic Information relating to an individual; (2) Dates of past health care services provided to an individual; (3) Department of service information (i.e., information about the general department of treatment, such as cardiology, oncology, or pediatrics), (4) Treating physician, (5) Outcome information (e.g., which may include information regarding the death of the patient or any sub-optimal result of treatment or services); and (6) Health insurance status.

- a. For pediatric patients, guarantor information may be used or disclosed in addition to the categories included in Section 2.1 above.

2.2 A Business Associate Agreement shall be in place before disclosing patient information to a consultant or outside entity for fundraising purposes.

2.3 In order to use or disclose other Protected Health Information related to an individual besides the categories included in Section 2.1 above, LLUMC shall obtain the patient or personal representative's authorization to use such information for fundraising purposes. Examples of such information include but are not limited to:

- a. A patient's illness, diagnosis, or treatment
- b. Other non-demographic information for fundraising purposes.

2.4 Unless patient authorization is obtained, as prescribed by Policy [Uses and Disclosures of Protected Health Information \(D-5\)](#) , use or disclosure of information other than

information described above in Section 2.1 for targeted mailings or other fundraising purpose is strictly prohibited.

- 2.5 Each fundraising communication shall include a clear and conspicuous statement describing how the patient can opt out of receiving future fundraising communications.
- a. Fundraising opt out instructions shall be clear so that an individual understands whether they are opting out of all or certain types of future fundraising solicitations. This applies to written and phone solicitations.
 - b. Individuals are to be provided with simple, quick, and inexpensive ways to opt out of receiving further fundraising communications (e.g., a toll-free number, e-mail, pre-printed, pre-paid postcard response card).
 - c. Individuals shall not be required to write letters to discontinue receiving fundraising communications or be required to use any other mechanism that places undue burden on the individual.
 - d. LLUMC shall make reasonable efforts to ensure that opt-out requests are promptly honored.

- 2.6 Permissible fundraising activities include, but are not limited to:
- a. Appeals for money, or
 - b. Sponsorship of events, e.g., auctions, rummage sales, or similar activities

- 2.7 Permissible fundraising activities do not include:
- a. Royalties, or
 - b. Remittance for the sale of products of a third party

3. Safeguarding and Secure Disposal of Confidential Information

- 3.1 Confidential Information, including but not limited to PHI, credit card or bank account numbers, demographic and other personally identifiable information used or disclosed for fundraising purposes shall be appropriately safeguarded during use, transmission or storage. In addition, such information shall be securely disposed of or returned to LLUMC once the fundraising campaign has concluded (reference policies [Credit Card, Cash, and Check Transactions \(C-53\)](#), [Disposal and Destruction of Confidential Media \(G-34\)](#) and [Information Classification and Protection \(E-12\)](#)).

APPROVERS: Hospital Executive Leadership, LLUMC Chief Executive Officer



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SUPPLEMENTAL MATERIAL

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Definition:

Minimum Necessary: The minimum amount of information used or disclosed that is reasonably necessary to achieve the intended purpose of the use or disclosure.

A - Outreach & Promotion

1. Patient access

Patients contacting Administration or the Office of Philanthropy for assistance with access to services and Administration's or the Office of Philanthropy's subsequent facilitation/coordination of care/services for such patients is appropriate, and does not create any privacy concern. Administration or the Office of Philanthropy is to abide by the Minimum Necessary standard.

2. VIPs

Administration or the Office of Philanthropy, for various reasons (e.g., business, legal, customer service), has a right to know who is in the facility. Administration or the Office of Philanthropy may contact the nurse/unit to see whether the patient is accepting visitors. Administration or the Office of Philanthropy, upon notification of the nurse/unit leadership, may visit the patient.

3. Volunteer Groups

The participation of selected staff, patients or family members of patients on advisory boards and councils does not pose a privacy concern if board and council members are advised in advance of their roles and responsibility to be advisors to the board, ambassadors of the organization and financial supporters, and standards are in place to address selection processes.

B - Identification of Prospects

1. Prospect Visitation

Administration or the Office of Philanthropy can contact the nurse/unit leadership to state his or her desire to visit with the patient on behalf of the Chief of Staff or Administration. The nurse/unit leadership can ask the patient if he/she would like a visit from Administration or the Office of Philanthropy. Administration or the Office of Philanthropy, upon the patient's permission, can visit the patient.

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2. Physician Referrals (i.e., Patient Lists)

A physician may provide the Office of Philanthropy with a list of those patients that he/she chooses to refer. Patient authorization is not required when such a referral is made providing that the data the physician provides is limited to the categories listed on Section 2.1 of policy “Fundraising Activities.” From an ethical standpoint, physicians who wish to give their patients an opportunity to partner in development opportunities will want to determine or set criteria for when it is appropriate to speak directly with patients about these opportunities or refer a patient’s name to the Office of Philanthropy to assist with these efforts.

C – Screening

Data obtained from patient lists according to terms of policy “Fundraising Activities” may be used for fundraising purposes, which includes various screenings to identify ability or inability to give. One screening that would not be allowed, however, would be a screening or series of screenings that could lead to the identification of patient’s illness, diagnosis, or treatment. For screening, there is no implied or express prohibition in the Privacy Rule.



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Fundraising by a legal entity with affiliated organizations/clinics/institutes of care (e.g., MC fundraising)

1. Data obtained by the Office of Philanthropy for fundraising would be obtained from a global patient list (e.g. through IS or other business office), not specific to any particular service. The data provided would only include the allowed data elements listed in policy “Fundraising Activities”.
 - 1.1 Filters would only be applied to remove patients not likely to give
 - 1.2 Successive filtering would not be applied (i.e., to identify a specific targeted group of patients)
2. Physicians within the organized healthcare arrangement (OHCA), nurses or designated staff employed by an LLUH-affiliated organization/clinic/institute of care could refer patient names to the Office of Philanthropy.
3. Departments/organizations/clinics/institutes of care could create up-front opportunities for patients to partner with them. For example,
 - 3.1 Promote and direct patients to department websites. Make information on websites about opportunities to partner with LLUH-affiliated organizations/clinics/institutes of care more prominent and inviting.
 - 3.2 Place visually affective patient name and address “opt-in” cards in strategic areas/departments using language like “Learning More About the Services We Provide and How You Can Help to Enhance The Community...” The cards could not be used for identifying a specific area/institute of care (e.g., via collection/data entry process or notations on cards) but could have checkboxes of those areas/institutes of care that the patient would be most interested in learning about.
4. Departments/organizations/clinics/institutes of care can send the following communications that are not subject to fundraising requirements to its patients:

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- 4.1 Communications that describe health related products or services that are provided by the covered entity to its patients
- 4.2 Communications about disease management, health promotion, preventive care and wellness programs
 - a. These communications can be tailored and sent to a specific population or to patients that received care at a specific LLUMC department/organization/clinic/institute of care.
 - b. The content of the communication must serve the primary purpose of the communication (e.g., describe health related products, disease management, wellness, etc.)
 - c. Departments/organizations/clinics/institute of care can include offers for the patient to learn more about giving opportunities in these communications
 - d. Departments/organizations/clinics/institute of care can include fundraising material/inserts in these communications but the fundraising material itself would require opt-out language. From a business/legal standpoint, it would have to be determined if just the fundraising material would be removed if a patient requested to opt-out or if the opt-out would apply to the entire mailing.
5. LLUH can fundraise on behalf of its affiliated organizations/clinics/institutes of care without HIPAA restriction to individuals that are not patients.
6. Departments/organizations/clinics/institutes of care can send individual information about educational and other events that it sponsors, even if those events will contain active or passive fundraising, as long as the event is not primarily a fundraising event. The Office of Philanthropy should not sponsor the event, but they can participate/assist under the request/direction of the educational event sponsor.
7. The Office of Philanthropy can send fundraising information to patients that have received care from General Medical/Surgical departments or other departments where a patient's illness, diagnosis, or treatment cannot be determined. Counsel should be obtained to help determine those departments that could safely fall outside of the targeting prohibition. Note that this option is not expressly addressed in regulations or known practice guidance but it might be an acceptable practice.
8. Events that are fundraising focused should state on invitation that it is a fundraising event.