

# LOS ANGELES GENERAL MEDICAL CENTER POLICY

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| Subject:<br><b>PROTECTED HEALTH INFORMATION: USE AND DISCLOSURE FOR MARKETING PURPOSES</b>  | Original Issue Date:<br>4/14/03   | Policy #<br><b>108</b>   |
|   | Supersedes:<br>9/13/16  | Effective Date:<br>4/24/23   |
| Policy Owner(s): Director, Health Information Management<br>Executive Sponsor(s): Chief Executive Officer   |   |  |
| Departments Consulted:<br>Ambulatory Care Services<br>Office of Community Relations<br>Customer Service Center<br>Nursing Services and Education<br>Support Services; Volunteer Services<br>Privacy Committee | Reviewed & approved by:<br><br>Attending Staff Association<br>Executive Committee<br>Senior Executive Officer | Approved by:<br>(Signature on File)<br>Chief Executive Officer<br><br>(Signature on File)<br>Chief Executive Officer |

## **PURPOSE**

To establish a policy for the use and disclosure of protected health information for marketing purposes.

## **POLICY**

The Los Angeles General Medical Center will obtain an individual's authorization for any use or disclosure of protected health information (PHI) for marketing purposes except when the communication is in the form of:

- A face-to-face communication made by the Medical Center to an individual; or
- A promotional gift of nominal value provided by the Medical Center.

If the marketing involves direct or indirect remuneration to the Medical Center from a third party, the authorization must state that such remuneration is involved.

## **DEFINITIONS**

### **Protected Health Information (PHI)**

Individually identifiable information relating to past, present, or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present, or future payment for health care provided to an individual.

### **Authorization**

The signed authorization language used by the Medical Center to obtain an individual's permission prior to using or disclosing that individual's PHI for purposes that do not fall within the definitions of treatment, payment, or health care operations activities, and other purposes that do not require the individual's permission.

### **Disclose or Disclosure**

With respect to PHI, the release of, transfer of, provision of access to, or divulging in any manner PHI outside of the Medical Center's internal operations or to other than its workforce members.

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Chief Executive Officer's Initials:  
(Initials on File)

**Marketing**

To make a communication about a product or service that encourages recipients of the communication to purchase or use the product or service, **unless** the communication is made:

- To describe a health-related product or service (or payment of 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 Medical Center or health plan Medical Center; 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.
- For the treatment of the individual; or
- For case management or care coordination for the individual, or to direct or recommend alternate treatments, therapies, health care providers, or settings of care to the individual.

**PROCEDURE**

- Marketing is any communication about a product or service that encourages recipients of the communication to purchase or use the promoted product or service.
  1. If the Medical Center discloses PHI to another entity to promote a product or service of that entity or its affiliates, and the Medical Center receives direct or indirect remuneration from that entity, disclosure of PHI (e.g., selling a patient list to a pharmaceutical company for promoting a new drug), is marketing and requires an authorization.
  2. Exclusions: the following communications are not considered marketing, and do not require an authorization.
    - When describing a health-related product or service provided by the Medical Center;
    - For treatment of any individual receiving the communication;
    - For case management or care coordination for an individual receiving the communication; and
    - When informing an individual about alternative treatments, therapies, health care providers, or settings of care.
- Except as provided in paragraph 3 below, the Medical Center cannot conduct marketing activities that involve the use or disclosure of PHI without an individual's authorization.
  - If marketing involves direct or indirect remuneration to the Medical Center paid by a third party, the authorization must state that such remuneration is involved.
- Notwithstanding the above, the Medical Center does not need an authorization for the following marketing activities:
  - A face-to-face communication made by the Medical Center to an individual (e.g. providing a sample or information of another entity's product); and
  - Giving an individual a gift of nominal value (e.g. mailing pens, calendars, and other inexpensive items provided by the Medical Center).

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- **Documentation Retention:** Documentation required or completed under this policy shall be retained for at least six (6) years from the date of creation or the date when it was last in effect, whichever is later.

**RESPONSIBILITY**

Administration  
Ambulatory Care Services  
Office of Community Relations  
Customer Services Center  
Nursing  
Attending Staff  
Volunteer Services

**REFERENCES**

45 Code of Federal Regulations Part 160 and 164: Section 164.508(a)(3) "Uses and Disclosures For Which An Authorization Is Required"  
DHS Policy No. 361.29 "Use and Disclosure of Protected Health Information (PHI) for Marketing Purposes"

**REVISION DATES**

March 12, 2007; September 25, 2008; September 13, 2016; April 24, 2023