

**DEPARTMENT OF HEALTH SERVICES  
COUNTY OF LOS ANGELES**



**SUBJECT:** USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION (PHI) FOR FUNDRAISING

**POLICY NO:** 361.28

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**PURPOSE:**

To establish a policy and procedure for the use and disclosure of Protected Health Information (PHI) for fundraising.

**POLICY:**

It is the policy of DHS facilities to obtain an individual's authorization to use or disclose Protected Health Information (PHI) for the purpose of fundraising, unless DHS limits its fundraising activities as provided by this policy and procedure.

**DEFINITIONS:**

*Authorization* means the signed Authorization language used by DHS 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* means, with respect to PHI, the release of, transfer of, provision of access to, or divulging in any manner of PHI outside of DHS' internal operations or to other than its Workforce Members.

*Protected Health Information (PHI)*: means 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.

*Fundraising*: means any communication for raising funds for the benefit of DHS.

*Opt out*: means to choose not to participate.

*Use or Uses* means, with respect to PHI, the sharing, employment, application, utilization, examination or analysis of such information within DHS' internal operations.

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**APPROVED BY:**

**EFFECTIVE DATE:** April 14, 2003

**SUPERSEDES:**

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## PROCEDURES:

1. Except as provided in section 2 below, DHS cannot conduct fundraising activities that involve the use or disclosure of PHI without an individual's authorization.
2. Notwithstanding the above, DHS may conduct fundraising activities using or disclosing PHI, provided that DHS:
  - A. Limits PHI used or disclosed about an individual receiving fundraising communications to:
    - i. Demographic information (e.g., name, street address, email address, telephone number, age, gender, ethnicity, marital status); and
    - ii. Dates of health care provided to that individual.
  - B. Includes in its Notice of Privacy Practices that DHS may contact the individual to raise funds for itself;
  - C. Describes in fundraising communications how to opt out of receiving such communications in the future; and
  - D. Makes reasonable efforts to prevent fundraising communications from being sent to those who opted out.
    - i. If a patient chooses to "opt out" of receiving fundraising communications, the facility will acknowledge the patient's request by documenting the patient's request to opt out in the hospital information system (HIS).
3. DHS may, without authorization, disclose the limited PHI, as described in section 2(A) above, to:
  - A. Its Business Associate to raise funds for DHS; and
  - B. Its institutionally related foundation, as defined by Section 501(c)(3) of the Internal Revenue Code, which has an explicit link to DHS in its charter statement of charitable purposes. Organizations with general charitable purposes (e.g., American Cancer Association) are not foundations that are institutionally related to a Hospital.

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

**REFERENCES:**

Code of Federal Regulations 45 Part 160 and 164: Section 164.514(f) "Other Requirements Relating to Uses and Disclosure of Protected Health Information – Uses & Disclosures of PHI for Fundraising".

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