



**POLICY TITLE:** 310.00 Fundraising - Use and Disclosure of Patient Information for Fundraising Activities

**Responsible Department:** Corporate Privacy Office

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## **SUMMARY & PURPOSE:**

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule provides Federal privacy protections for individually identifiable health information, called protected health information or PHI, held by most health care providers and health plans and their business associates. The HIPAA Privacy Rule protects all "*individually identifiable health information*" held or transmitted by a Baptist Health or its business associate, in any form or media, whether electronic, paper, or oral. The Privacy Rule sets out how and with whom PHI may be shared.

The HIPAA Privacy Rule permits the use of demographic information, dates of care, department of service, treating physician, outcome information, and health insurance status for fundraising activities. Covered entities seeking to raise funds for a specific program can target its fundraising campaign to patients who have experienced positive outcomes and have conditions related to the program and can avoid sending communications to individuals whose insurance status makes them unlikely to contribute.

## **POLICY:**

It is the policy of Baptist Health South Florida, Inc. ("BHSF" or "Baptist Health") to comply with applicable state and federal laws, including those protecting the confidentiality of patient health information and establishing certain individual privacy rights. It is our policy to implement these laws in a way that supports our primary mission to the community regarding the delivery of quality health care in an efficient manner. This policy governs the use and disclosure of patient information for fundraising activities.

## **SCOPE/APPLICABILITY:**

This policy applies to Baptist Health, its affiliates, all workforce members, and others as described below, that use or disclose patient information, including patient demographic information, for fundraising activities.

- **Workforce members.** Workforce members means employees, volunteers, trainees, temporary staff, and contractors/consultants who are not independent contractors under *Human Resources Policy 1150 - Independent Contractors*.
- **Medical staff members.** Medical staff members are treated as members of an organized health care arrangement with Baptist Health South Florida and must comply with this policy as if they are workforce members pursuant to their applicable medical staff bylaws.
- **Students.** Employed students are treated as workforce members. Non-employed students (fellows, residents, students) must comply with this policy as if they are workforce members pursuant to the terms of their applicable academic agreements.
- **Independent Contractors and Others.** Independent Contractors and others who have agreed to comply with Baptist Health's policies and procedures as a condition of receiving access to Protected Health Information (PHI) must comply with this policy as if they are workforce members.

**PROCEDURES TO ENSURE COMPLIANCE:**

1. Fundraising Communications
  - a. Baptist Health may use, or disclose PHI to a business associate or to a related foundation, for the purpose of raising funds for a BHSF facility, without an authorization, the following:
    - i. Demographic information relating to an individual, including name, date of birth, age, gender, address and other contact information;
    - ii. Dates of health care provided to an individual;
    - iii. Department of service information;
    - iv. Treating physician;
    - v. Outcome information; and
    - vi. Health insurance status.
2. A BHSF facility may also disclose patient information to its related foundations, or to a third party contractor that signs a Business Associate Agreement in accordance with the applicable HIPAA Privacy Policy.
3. Fundraising activity conducted for or by a BHSF facility should be conducted as follows:
  - a. Only limited patient information may be disclosed as detailed in section one of this policy;
  - b. Fundraising materials used for direct solicitation must include a description of how the individual may opt out of receiving any further communications; and
  - c. Fundraising activities conducted for or by a BHSF facility may not:
    - i. Send further fundraising communications to those individuals who have already opted out.
    - ii. Use patient information to raise funds for any entity other than the BHSF facility or re-disclose the patient information to a third party who is not a business associate of Baptist Health.
    - iii. Attempt to target former patients or engage in segmented mailings, no matter what the information source, based on the disease state or condition for which the patient received treatment from Baptist Health.
4. With each fundraising communication made to an individual, Baptist Health must provide the individual with a clear and conspicuous opportunity to elect not to receive any further fundraising communications.
  - a. The method for an individual to elect not to receive further fundraising communications may not cause the individual to incur an undue burden or more than a nominal cost.
  - b. Fundraising materials sent to prospective donors should include instructions for patients to opt-out of future solicitations.
  - c. These instructions should include relevant contact information and should not constitute an undue burden to the individual making the request.
  - d. Guidelines for instructions are as follows:

- i. Requiring individuals to write and send a letter to Baptist Health, asking to be opted out of fundraising communications would constitute an undue burden; however, requiring an individual to send back a pre-printed, pre-paid postcard would not constitute an undue burden.
  - ii. An example of what instructions may include would be an email as the method for individuals to opt out/or change their opt-out status for Baptist Health fundraising communications; however, said instructions must also include another contact method such as a telephone number to avoid an undue burden.
  - iii. All opt-out requests will be entered into a BHSF Foundation centralized donor database or list.
  - iv. All BHSF Foundation solicitation lists will be purged of patients who send in opt-out requests.
  - v. Baptist Health may not condition treatment or payment on an individual's choice to receive fundraising communications.
  - vi. Baptist Health may provide an individual who has elected not to receive further fundraising communications with a method to opt back in to receive such communications.
5. Deceased individuals
- a. Baptist Health must comply with the requirements of this policy with respect to the protected health information of a deceased individual for a period of 50 years following the death of the individual.

**SUPPORTING/REFERENCE DOCUMENTATION:**

- Health Insurance Portability and Accountability Act of 1996 as amended from time to time and including any regulations promulgated thereunder (collectively, "HIPAA")
- Applicable Florida State Laws

**RELATED POLICIES, PROCEDURES AND ASSOCIATED FORMS:**

- Corporate HIPAA Privacy Policies
- BHSF-74220-001.00 Unified Corporate Privacy Policy on HIPAA Compliance

**ENFORCEMENT & SANCTIONS:**

1. Reference: Corporate HIPAA Privacy Policy BHSF-74220-605.20 Sanctions for Privacy Violations
2. Violations of this policy will be determined by the Chief Privacy Officer in consultation with the appropriate levels of department leadership and appropriate Human Resources management level. Reference: HR policies 5250 Employee Conduct and 5300 Corrective Action.
3. Violations of this policy may lead to disciplinary action up to and including termination.
4. Enforcement of this policy will be performed by Baptist Health South Florida's Privacy Office in conjunction with Human Resources, as circumstances may dictate.