



HIPAA Privacy Procedure #9

Effective Date: April 14, 2003

Use or Disclosure of Protected Health Information in

Reviewed Date: February, 2011

Marketing

Revised Date:

Scope: Radiation Oncology

Policy Expectation:

Radiation Oncology has adopted a policy that provides guidelines and instructions on the appropriate use of Protected Health Information (PHI) for marketing purposes.

General Rules:

- The following types of direct consumer communications from Radiation Oncology and their formally recognized Business Associates to an individual(s) are part of Health Care Operations and are not considered Marketing. Therefore, a prior written Authorization is not required:
 - Communications about the individual’s Treatment, or about alternative Treatments, therapies, Health Care Providers or settings that may benefit the medical status of that Individual;
 - Communications that merely promote health in a general manner and do not promote a specific product or service from a particular provider. Examples include mailings or newsletters widely distributed to Individuals, enrollees, or other broad groups of persons about health improvement or disease prevention, new development in diagnosis or Treatment of a disease, health fairs, health/wellness-oriented classes or support groups; or
 - Communication to Individuals about an employee health plan, providers participating in the plan, the services offered by those providers or the benefits covered by the health plan.
- Making marketing materials about medical goods, general or disease-specific Treatment or services of Radiation Oncology or any commercial or organizational partners or providers, where the Individual has the option to voluntarily select or not select are not considered use of PHI in Marketing. Example: Treatment or service brochures displayed in waiting rooms.
- Releasing PHI to any non-WU/BJH organization, agency or company for the purpose of planning to promote or promoting that organization’s goods, services or goals directly to the consumer **is considered marketing and requires prior Authorization.**

Why is this important?

- Compliance with all HIPAA privacy regulations is required of all Radiation Oncology Divisions creating, collecting or holding PHI regarding Individuals.
- Failure to comply may result in being liable for civil or criminal penalties.
- Individuals have a right to privacy and confidentiality regarding their health status and medical Treatment.

What do you need?

Copy of WU HIPAA Policy on Use or Disclosure of Protected Health Information in Marketing

Steps:	Additional Information
<p>1. Determine the purpose of communication.</p> <p>a. Health Care Operations includes informing Individuals about Treatment, services or other provisions of WU, Barnes-Jewish Hospital and St. Louis Children’s Hospital. If the intended communication meets this definition, no prior Authorization is required.</p> <p>b. Marketing includes direct-to-consumer communication by other organizations (e.g. pharmaceutical and medical equipment companies, professional medical societies, charitable organizations, publications and promotions companies) using an Individual’s PHI to promote their goods and services, even when such promotion is consistent with objectives of RO. This is considered Marketing by HIPAA and needs prior written Authorization by each Individual. This includes all forms of direct-to-consumer media (print, Internet, electronic, telecommunications).</p>	<p>Business Associates cooperating in the processing, distributing or mailing of the communications that include PHI must have signed Business Associate Agreements.</p> <p>See HIPAA Policy on Authorization</p>
<p>2. Adhere to the follow standards when communicating either Health Care Operations or Marketing information to Individuals. All of these elements must be in the communication as applicable.</p> <ul style="list-style-type: none"> • Notice of payment or cost underwriting of the material by any organization or company. • Name and contact address/telephone/email of the organization sending the information • Provision for opt-out procedures for recipients • Proper use of the WU or BJH logotype 	<p>The mere fact that a 3rd-party is paying for communication or marketing materials does not imply HIPAA relevance. Only when the individuals’ PHI is given to or made accessible to the 3rd party, do HIPAA rules apply. It is a professional ethical issue and RO policy that requires acknowledgment of any 3rd-party sponsorship or funding.</p>
<p>3. Provide consistency in the application of this procedure as follows:</p> <ul style="list-style-type: none"> • Send all proposed information to be communicated to The Privacy Officer, or review first with FPP Communications and Marketing or WU Department of Medical Public Affair. • Do not proceed without approval from the reviewing party. 	