



UNIVERSITY OF ARKANSAS  
FOR MEDICAL SCIENCES

## UAMS ADMINISTRATIVE GUIDE

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**SECTION: ADMINISTRATION**

**AREA: GENERAL ADMINISTRATION**

**SUBJECT: POLICY ON USE AND DISCLOSURE OF PHI FOR FUNDRAISING**

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### SCOPE

UAMS physicians, employees, volunteers, trainees, and other persons whose conduct, in the performance of work for UAMS, is under the direct control of UAMS, whether or not they are paid by UAMS.

### PURPOSE

To establish guidelines and restrictions for the use and disclosure of Protected Health Information in connection with all UAMS Fundraising activities.

### DEFINITIONS

For purposes of this policy, the following definitions apply:

**Authorization** means a valid UAMS HIPAA Authorization or a valid HIPAA Authorization that meets the required elements of the federal HIPAA regulations.

**Business Associate** is a person or entity who is not a member of the UAMS Workforce, and who performs or assists in the performance of a function or activity *for or on behalf of UAMS* which involves disclosures that are regulated and permitted by HIPAA and which involve the creation, use or disclosure of Protected Health Information (PHI) by the Business Associate

**Demographic Information** shall be limited to the following types of information: (a) the patient's name, address, and other contact information; (b) age; (c) gender; and (d) insurance status.

**Fundraising** means any activity relating to the efforts of raising funds for the institution of UAMS and its related healthcare facilities.

**Protected Health Information (PHI)** means information that is part of an individual's health information that identifies the individual or there is a reasonable basis to believe the information could be used to identify the individual, including demographic information, and that (i) relates to the past,

present or future physical or mental health or condition of the individual; (ii) relates to the provision of health care services to the individual; or (iii) relates to the past, present, or future payment for the provision of health care services to an individual. This includes PHI which is recorded or transmitted in any form or medium (verbally, or in writing, or electronically). PHI excludes health information maintained in educational records covered by the federal Family Educational Rights Privacy Act (FERPA) and health information about UAMS employees maintained by UAMS in its role as an employer.

## **POLICY**

UAMS may not use or disclose a patient's Protected Health Information (PHI) for Fundraising purposes without a signed HIPAA Authorization from the patient, except as allowed by federal and state law, including the Federal HIPAA Privacy Regulations. UAMS will include an opt-out provision in its Fundraising materials to instruct the recipient on how to opt out of receiving future communications related to Fundraising.

## **PROCEDURES**

### **A. General Rule: An Authorization is Required for Use or Disclosure of PHI for Fundraising Purposes:**

A patient's protected health information (PHI) may not be used or disclosed by UAMS for Fundraising purposes, without the patient's signed HIPAA authorization. The authorization must be a HIPAA Authorization form meeting the required elements of the federal HIPAA regulations.

If a HIPAA Authorization to release PHI for Fundraising has not been signed, the patient's Demographic Information (name, address, other contact information, age, gender, and insurance status) and dates of healthcare services provided may be used or disclosed for the purpose of raising funds for the benefit of UAMS, only when such information does not reveal any one of the following:

- Diagnosis or possible diagnosis; or
- Nature of the healthcare services provided or to be provided; or
- Treatment provided or to be provided; or
- Name of the physician treating the patient; or
- Place or location within UAMS where patient received or will receive services, unless such information would not disclose any of the above (diagnosis, nature of services, treatment, or physician name).

## **EXAMPLES**

### **Example 1:**

Without a signed patient Authorization, it is not permissible to access or disclose the patient's PHI, even if it is just the name of a patient, so that the information

can be used for Fundraising purposes when the access to or disclosure of the name would reveal the nature of the healthcare services provided to the patient. For example, if the Department of Psychiatry were asked to provide patient names for Fundraising purposes, the person receiving the names knows that the source of the information is from the Department of Psychiatry, and therefore, knows that the patients received some type of psychiatric services.

Example 2:

The location within the hospital where the patient received treatment cannot be used or disclosed for Fundraising purposes if the location information could identify the diagnosis, treatment, nature of services provided, or treating physician name(s).

Example 3:

A patient's name and address may not be used for Fundraising purposes to target a mailing to UAMS patients based on the patient's diagnosis, treatment, or nature of services provided. For example, the Cancer Institute would not be able to send Fundraising materials to its patients. However, the Cancer Institute can send Fundraising materials to donors, volunteers, prospective donors and other persons where the source of the names is not from the Cancer Institute's patient information.

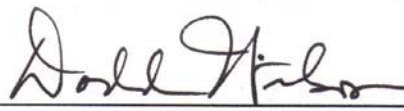
**B. Public Information:** UAMS may use the following information for Fundraising purposes:

- public information; or
- information obtained outside UAMS as permitted by law; or
- information provided voluntarily by the patient to a member of UAMS' Fundraising staff when the patient is made aware that the person is a member of the UAMS Fundraising staff and will use the patient's information for Fundraising purposes, and a HIPAA Authorization form has been signed.

**C. Opt-Out Provision in Fundraising Materials:** UAMS will include in all Fundraising materials instructions on how the individual may opt out of receiving any future communications relating to Fundraising. An example of such language would be: "Please write to us at our address if you wish to opt out of future development mailings," and the address information would be included. UAMS must make reasonable efforts to ensure that individuals who decide to opt out of receiving Fundraising communications are not sent such communications.

**D. Business Associate Agreement:** UAMS will enter into an appropriate Business Associate Agreement pursuant to the UAMS [\*Business Associate Policy, 3.1.33\*](#) prior to disclosing any PHI (including the Demographic Information and dates of healthcare services described above) to an outside consultant or outside entity for Fundraising activities on behalf of UAMS. UAMS is not required to have a Business Associate Agreement with the University of Arkansas Foundation, Inc.;

however, any and all disclosures of PHI to the University of Arkansas Foundation must otherwise meet the requirements of this policy on Use and Disclosure of PHI for Fundraising.

SIGNATURE:   
Chancellor

Date: February 27, 2009