

<b>SEPA Labs</b>	<b>Policy &amp; Procedure</b>  HIPAA / PRIVACY <b>MARKETING AND FUNDRAISING</b>	FUNCTION
		NUMBER 4c
		PRIOR ISSUE
		EFFECTIVE DATE January 1, 2014

**PURPOSE**

To ensure that all marketing and fundraising communications comply with the HIPAA Privacy Rule’s requirements, as well as any applicable state laws or regulations. The goal is for SEPA Labs to safeguard the patient’s Protected Health Information (“PHI”) when engaging in permitted marketing or fundraising activities.

**POLICY**

Marketing communications utilizing PHI require a prior written authorization from the patient with certain defined exceptions.

Fundraising communications that are made specifically for the benefit of SEPA Labs and contain only demographic information and dates of service do not require an authorization as long as SEPA Labs’s *Notice of Privacy Practices* describes this limited use of PHI. Fundraising materials must describe how an individual can opt out of receiving future fundraising communications and SEPA Labs must make reasonable efforts to comply with opt-out requests.

**PROCEDURE**

**Marketing**

1. The Privacy Rule defines marketing as a communication and/or disclosure of PHI that encourages an individual to use or purchase a product or service, except under the following conditions:
  - a. Communications made directly by SEPA Labs to describe s health related product or service it provides.
  - b. Communications made for treatment of the individual.
  - c. Communications for case management or care coordination for the patient.
  - d. Communications to direct or recommend alternative treatments, therapies, and health care providers or settings of care.
  - e. Face to face communications made by SEPA Labs representative to an individual.
  - f. Promotional gifts of nominal value (defined in policy; for example, less than \$25 each gift not to exceed \$100.00 per annum) provided by SEPA Labs.
  
2. SEPA Labs must obtain a valid, completed *Authorization to Use or Disclose Protected Health Information (“Authorization”)* form prior to using or disclosing PHI for purposes that meet the HIPAA definition of marketing and do not qualify for any of the exceptions listed in Item 1 above.
  - a. The authorization must conform to the authorization policy.

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- b. If direct or indirect remuneration to SEPA Labs from a third party is involved, the authorization must state the nature of such third party remuneration.

*Example:*

*Authorization is required to provide an Assisted Living Facility (ALF) with names and addresses of your discharged patients so that the ALF could send them a brochure about the ALF facilities.*

- 3. No authorization is required in the following situations:
  - a. Communications directed at an entire population (not to a targeted individual) that promote health in a general manner and do not endorse a specific product or service;
  - b. PHI is not disclosed in a marketing communication (such as a newspaper advertisement).
- 4. In the event a planned marketing activity involves payment to SEPA Labs (e.g., cash, referral, gifts, etc.), anti-kickback, inducement, self-referral and general fraud and abuse statutes and regulations may apply. These shall be considered and approved prior to implementation of the marketing activity. SEPA Labs will assure that any marketing activity is in compliance with such laws and regulations.
- 5. Business Associates and other third parties:
  - a. SEPA Labs may engage a marketing firm to conduct permitted marketing activities on SEPA Labs’s behalf. Should the marketing activities require the use or disclosure of PHI to the marketing firm, then a Business Associate relationship would exist and a BA Agreement/Addendum would be required. (See the Policy “Business Associates.”)
  - b. SEPA Labs may not sell or disclose PHI to a third party to help the third party market its own products or services without a signed authorization from the patient. (See Policy “Authorization for Release of Protected Health Information.”)

**Fundraising**

- 1. When fundraising for its own benefit, SEPA Labs may use or disclose without authorization the following PHI to a Business Associate or to an institutionally related foundation, such as a nonprofit charitable foundation to act on SEPA Labs’s behalf:
  - a. Demographic information relating to an individual, and
  - b. Dates of health care provided to an individual.
- 2. SEPA Labs’s *Notice of Privacy Practices* must include the following information:
  - a. SEPA Labs or its agent may contact the patient to raise funds for SEPA Labs, and
  - b. The patient may opt out of receiving any fundraising communications.

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3. Any fundraising materials SEPA Labs or its agent sends to an individual must describe how the individual may opt out of receiving any further fundraising communications.
4. If the fundraising is not for SEPA Labs's benefit or includes more than demographic or dates of service information, an authorization from the individual is required.
5. SEPA Labs must make reasonable efforts to ensure that individuals who decide to opt out of receiving future fundraising communications are not sent such communications.

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