



**Use and Disclosure of Patient Protected Health Information for
Fundraising Purposes #1660.035**

INITIAL EFFECTIVE DATE:	LAST REVISION DATE:	RESPONSIBLE UNIVERSITY DIVISION/DEPARTMENT
September 1, 2009	February 26, 2026	Office of Compliance and Integrity

POLICY STATEMENT

Florida International University’s (FIU) Health Insurance Portability and Accountability Act (HIPAA) Hybrid Designated Components (hereinafter facilities and programs) and the FIU Foundation are permitted to only use and disclose limited patient information consisting of demographic information and dates of service for fundraising purposes of the facility or program in narrow circumstances described below.

1. Disclosures must be specifically set forth in the facility’s or program’s Notice of Privacy Practices.
2. The disclosure can only be to the facility or program, a Business Associate of the facility and program, or an institutionally related foundation (e.g., the FIU Foundation) for the purpose of fundraising for the benefit of the facility or program only.
4. All fundraising materials must include information about how the recipient (i.e., patient) of the information may opt out of future fundraising communications. If the recipient opts out, the facility or program, the FIU Foundation, and its Business Associates may not send the recipient (patient) further fundraising communications.

FIU, its facilities and programs, the FIU Foundation and Business Associates cannot use or disclosure patient PHI for any other fundraising activities without first obtaining a written authorization from the patient.

As a University-wide policy and procedure, this policy and procedure takes precedence over any facility and program-specific policies, procedures, or protocols that conflict with this policy and procedure, unless prior approval is obtained from the Office of Compliance and Integrity. (FIU Policy and Procedure #1660.080) (Policies and Procedures, Changes to Policies and Procedures, and Documentation)

Facilities and programs may maintain HIPAA documentation in either paper or electronic form, provided that any format is sufficiently protected to ensure it will be retrievable throughout the required retention period. Unless otherwise indicated in FIU Privacy or Security Rule Policy and Procedure, the facility and program Privacy Coordinators are responsible for maintaining all HIPAA documentation relevant to his/her facility or program. (FIU Policy and Procedure #1660.080) (Policies and Procedures, Changes to Policies and Procedures, and Documentation)



All FIU Workforce members shall receive mandatory HIPAA Privacy and Security Rule training. (FIU Policy and Procedure #1660.075) (HIPAA Privacy and Security Rule Training)

Facility and program Workforce members who fail to adhere to this policy and procedure may be subject to civil and criminal penalties as provided by law, and/or administrative and disciplinary action. (FIU Policy and Procedure #1660.085) (Sanctions)

FIU reserves the right to amend, change or terminate this policy and procedure at any time, either prospectively or retroactively, without notice. Any ambiguities between this policy and procedure and the other policies and procedures should be accordingly made consistent with the requirements of HIPAA and state law and regulation. (FIU Policy and Procedure #1660.080) (Policies and Procedures, Changes to Policies and Procedures, and Documentation)

SCOPE

The policy applies to the FIU Components (facilities and programs) contained within FIU's HIPAA Hybrid Designation (FIU Policy and Procedure #1610.005) its Workforce members and Business Associates defined in this policy and FIU Policy and Procedure #1660.015 regarding Business Associate Agreements.

REASON FOR POLICY

The intent of this policy is to address the specific and limited uses and disclosures of patient Protected Health Information (PHI) for fundraising purposes and activities and when patient written authorization for uses and disclosure is required.

DEFINITIONS

Please refer to the following link for a complete list of definitions pertaining to all HIPAA policies.

[HIPAA Policies Definitions](#)

ROLES AND RESPONSIBILITIES

Compliance Oversight: The Director of Compliance and Privacy for Health Affairs:

- Evaluates all federal and state healthcare privacy laws, regulations, rules and ordinances (Rules) to ensure compliance with the Rules.
- Develops and maintains all required University-wide Privacy Rule policies and procedures.
- Develops and maintains HIPAA health care Privacy Rule training modules.

- Performs audits and assessments of the facilities and programs to ensure their compliance with the Privacy Rules and associated FIU Policies and Procedures.
- Partners with the Division of Information Technology HIPAA Security Officer to ensure compliance with all federal and state healthcare privacy and security laws, regulations rules, and ordinances.

HIPAA Components (Facilities and Programs):

- Each facility and program must designate a Privacy Coordinator responsible for overseeing and ensuring the facility’s or program’s implementation and compliance with the HIPAA Privacy Rule, federal law, Florida state statutes, and FIU’s associated HIPAA Privacy Policies and Procedures governing the confidentiality, integrity and availability of PHI and electronic PHI (ePHI), including, but not limited to the use and disclosure of patient PHI for fundraising purposes and activities.

FIU Foundation and/or Business Associates:

- Assist in coordination all fundraising activities involving the use and disclosure of patient PHI.
- Assist with obtaining patient Marketing and Fundraising Authorizations as required.
- Retain and safeguard the Marketing and Fundraising Authorizations as required under the HIPAA Privacy and Security Rules.
- Offer a toll-free number, an e-mail address, a web page, or similar opt-out mechanisms that are simple, quick and low, or no cost, to the patient.
- Assist with the use of patient PHI, including disease or condition information, without patient authorization, to develop mailing lists for purposes of identifying patients to whom a Marketing and Fundraising Authorization for use of PHI for fundraising should be sent.

RELATED RESOURCES

References

- 45 CFR §164.502
- 45 CFR §164.504
- 45 CFR §164.508
- 45 CFR §164.514
- 45 CFR §164.520
- 45 CFR §164.530
- Florida Statute §456.057
- Florida Statute §95.11

Related Policies and Procedures

- FIU Policy # 1610.005 (Designated Health Care Components of FIU Community)
- FIU Policy and Procedure #1660.070 (Designation of HIPAA Privacy Officer Component Privacy and Security Coordinators)
- FIU Policy and Procedure #1660.075 (HIPAA Privacy and Security Rule Training)
- FIU Policy and Procedure #1660.015 (Business Associate Agreements)
- FIU Policy and Procedure #1660.080 (Policies and Procedures, Changes to Policies and Procedures, and Documentation)
- FIU Policy and Procedure #1660.020 (Authorization for Uses and Disclosures of Patient Protected Health Information)
- FIU Policy and Procedure #1640.015 (Notice of Privacy Practices)
- FIU Policy and Procedure #1660.085 (Sanctions)

CONTACTS

For further information concerning this policy, please contact the Director of Compliance and Privacy for Health Affairs at (305) 348-0622 or hipaaprivacy@fiu.edu, or contact the appropriate Component Privacy Coordinator.

HISTORY

Initial Effective Date: September 1, 2009

Review Dates (*review performed, no updates*): n/a

Revision Dates (*review performed, updates made to document*): December 13, 2017; October 13, 2020; March 4, 2024; August 6, 2025; February 26, 2026 (update to unit name).



**Use and Disclosure of Patient Protected Health Information for
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PROCEDURE STATEMENT

I. Fundraising

The facility and program Privacy Coordinators are responsible for overseeing and ensuring the facility’s or program’s implementation and compliance with the HIPAA Privacy Rule, FIU’s associated HIPAA Privacy Policies and Procedures, and any applicable federal laws and Florida state statutes governing the confidentiality, integrity and availability of PHI and electronic PHI (ePHI), including, but not limited to fundraising communications to patients. Privacy Coordinators may delegate and share duties and responsibilities as necessary and appropriate but retain oversight responsibility. (FIU Policy and Procedure #1660.070) (Designation of HIPAA Privacy Officer and Component Privacy and Security Coordinators)

- A. All fundraising for FIU health care facilities and programs that involve the use and disclosure of patient PHI requires patient authorization and should be done in coordination with the FIU Foundation, an Institutionally Related Foundation.
- B. Requirements of the HIPAA Privacy Rule, HITECH, federal law, and Florida state statutes regarding the use and disclosure of PHI for Fundraising by FIU and the health care facilities and programs are as follows: **Fundraising That Requires Patient Written Authorization.**

If a facility or program desires to use or disclose any PHI of a patient other than as described below in Section I.B.2. for fundraising purposes, it may be done only after the patient has authorized the use and/or disclosure of their PHI by completing and submitting an Authorization for Use and Disclosure of Medical Information for Marketing/Promotion or Fundraising Activities form. (Marketing and Fundraising Authorization) (See Section III below). -

- a. The facility and program Privacy Coordinators must obtain written authorization from the patient or the patient’s legally authorized representative (Representative) before using or disclosing PHI in a fundraising communication or other fundraising materials. This includes, but is not limited to the patient’s

diagnosis, nature of services provided, or treatment information. (See FIU Policy and Procedure #1660.001 (Representative))

For example, PHI that includes a patient’s photograph, story or testimonial that is sent in a letter, brochure, or other materials to potential donors.

- b. Due to the sensitive nature of the following testing, diagnosis and/or treatment information, the facility or program Privacy Coordinator must evaluate and comply with the additional federal and Florida state written authorization requirements prior to using or disclosing the following PHI for fundraising communications.
- Mental health diagnosis and treatment.
 - Psychotherapy Notes.
 - Substance misuse testing and treatment.
 - Communicable diseases testing and treatment.
 - Sexually transmitted infections testing and treatment.
 - HIV and AIDS testing and treatment.
 - Genetic testing.
- (See FIU Policy and Procedure #1660.150) (Super-Confidential Protected Health Information)

(NOTE: It is recommended that the Director of Compliance and Privacy for Health Affairs be consulted prior to obtaining a patient’s specific written authorization for this type of information) (“Super-Confidential” PHI).

- c. The facility and program Privacy Coordinators may use the minor’s guarantor’s contact information consistent with this policy and procedure.
- d. The facility and program Privacy Coordinators may use a patient Representative’s contact information consistent with this policy and procedure and FIU Policy and Procedure #1660.001. (Representatives)

NOTE: The patient’s spouse, other family members, or a friend(s) contact information may not be used for fundraising purposes.

IMPORTANT: Marketing & Strategic Communications is not part of the FIU HIPAA Hybrid Designation. Therefore, health care facility and program Workforce members will not disclose the identity of patients and/or their Protected Health Information (PHI) to staff members within the Marketing & Strategic Communications, unless specifically authorized in writing by the patient or their Representative or as permitted or required by the HIPAA Privacy Rule, Florida state statute, and FIU Policy and Procedure.

e. **NOTE:** A treating healthcare provider may not use PHI obtained during course of treatment to request donations from their patient.

1. **Fundraising That Does Not Require Patient Written Authorization.**

Fundraising that does not involve the use or disclosure of patient PHI or that involves the use or disclosure of limited patient information

a. **Fundraising That Does Not Involve the Use or Disclosure of Patient PHI by the Facility and program.**

- i. If an individual (patient, family, or friend) approaches a Workforce member and requests information about how to make a donation to FIU or a facility and program, this information may be provided and the donation accepted without written authorization from the patient or Representative. When individuals spontaneously donate, not in response to a Fundraising Communication, the donation is not subject to the HIPAA Privacy Rule and Florida state statute patient privacy rules.

b. **Fundraising Communications based solely on non-PHI sources of information.**

- i. Fundraising Communications based solely on non-PHI sources of information, such as a purchased mailing list, alumnus or employee information, or direct contact initiated by a potential donor, are not Fundraising Communications subject to the HIPAA Privacy Rule and Florida state statute patient privacy rules.

c. **Fundraising that Involves the Use or Disclosure of Demographic Information and Other Limited Information (Permitted Fundraising PHI).**

- i. Without the patient's or Representative's written authorization, the facility or program Workforce members may use internally or disclose for fundraising on its behalf:
 - 1. Demographic information which is limited to the patient's name, age, and gender.
 - 2. Dates of health care provided to the patient.
 - 3. The patient's address and contact information.
 - 4. General department of service (e.g., cardiology, pediatrics).
 - 5. The name of the treating health care provider(s).
 - 6. Dates of patient's health care services.
 - 7. Outcome information (including death or sub-optimal treatment), and

8. Health insurance status (not defined in the Privacy Rule but interpreted to mean whether patient is insured and type of insurance).

C. The FIU Health Care Facilities and Programs Notice of Privacy Practices.

- a. The FIU health care facilities and programs Notice of Privacy Practices contains a statement that the facility or program may contact the patient to raise funds for the facility or program, and it describes the patient's right to opt-out of receiving communications. (FIU Policy and Procedure #1640.015 (Notice of Privacy Practices Distribution and Acknowledgement)

Therefore, the actual opportunity to opt-out is not required to be provided pre-solicitation.

- b. The facility and program Privacy Coordinators may contact the patient for fundraising purposes, the "Permitted Fundraising PHI" may be used for fundraising communications without obtaining the patient's or Representative's written authorization, and the patient has a right to opt-out of fundraising communications. Therefore, the Privacy Coordinator is not required to send a communication permitting the patient to opt-out of a fundraising communication *prior to the first fundraising communication*.

D. Opt-Out Notice

- a. The facility and program Privacy Coordinators will ensure that each fundraising communication provides the patient with a clear and conspicuous opportunity to opt-out of receiving any further fundraising communications. The method for opt-out must not require the patient to incur an undue burden or more than a nominal cost.
- b. The facility and program Privacy Coordinators will ensure that the opt-out method is "simple, quick and inexpensive". The Privacy Coordinator should consider offering a toll-free number, an e-mail address, a web page, or similar opt-out mechanisms that are simple, quick, written in plain language, and are able to be completed at low or no cost to the patient.
- c. The facility and program Privacy Coordinators will ensure that at a minimum the opt-out provision in the Fundraising Communication is the same size font as is used in the rest of the Fundraising Communication document. **NOTE:** The best practice is to display a separate statement in the Fundraising Communication (e.g., footer, use larger, bold and/or in different color font).

- d. **NOTE:** The facility and program Privacy Coordinators will not require patients to send a written letter opting out of fundraising communications because this would constitute an undue burden, although including a pre-printed, pre-paid, business reply postcard or directing a patient to an opt-out on a web page would be permitted.
- e. The facility and program Privacy Coordinators may permit general opt-out for all future communications, or to a particular fundraising campaign. Once implemented, however, the Privacy Coordinators must ensure that the facility or program does not send further fundraising communications.
- f. The facility or program will not condition treatment or payment on the patient's choice concerning the receipt of further communications related to fundraising.
- g. The facility and program Privacy Coordinators will not make fundraising communications to a patient who has opted-out of receiving such communications.
- h. Patients who have opted-out of receiving fundraising communications may be given the opportunity to opt back in, but only through an affirmative step to opt back in (e.g., an opt out may not lapse after a period of time).
- i. There is no-time limit or expiration of the opt-out decision made by the patient of the Fundraising Communication. However, if the patient makes an active decision to opt back in (e.g., notifies the facility or program - preferably in a written communication) the facility or program is permitted to include the patient back in its Fundraising Communications.

F. Opt-Out List

- a. The facility and program Privacy Coordinators must create and maintain an Opt-Out List containing the names of individuals who have opted-out from receiving Fundraising Communications.

G. Individuals on Opt-Out List

- a. Individuals on the Opt-Out List will not be sent Fundraising Communications, approached, or solicited for fundraising donations by any means.
- b. All requests to opt-out of receiving Fundraising Communications will be shared with the Office of Compliance and Integrity upon demand.

H. Mailing Lists.

- a. The facility and program Privacy Coordinators may use PHI, including disease or condition information, without patient authorization, to develop mailing lists for purposes of identifying patients to whom a Marketing and Fundraising Authorization should be sent.
- b. Facility and program Workforce members who work with specific physicians may be given a list of patients with higher disposable income to review with physicians as to appropriateness for fundraising purposes.
- c. Facility and program Workforce members may obtain a listing of patients, pair Permitted Fundraising PHI with a commercial dataset and work with Chair, Committee or treating physicians to identify patients to approach for fundraising.
- d. **NOTE:** Facility and program health care providers may not provide additional PHI to the Workforce members, such as demographic identifiers that are not listed in the HIPAA Privacy Rule Permitted Fundraising PHI or diagnostic information. If a Health Care Provider inadvertently shares identifiers not listed in the HIPAA Privacy Rule Permitted Fundraising PHI, the Workforce members may not use it in any Fundraising Communication with the intended recipient.

I. Ongoing Communications with Donors, Approaching a Donor for a Subsequent Donation and Fundraising Gifts.

- a. Once a donor has agreed to provide a gift, ongoing communication between the facility or program and the donor to work out the details of that fundraising gift does not require further opt-out notice in subsequent communications regarding the fundraising gift.
- b. Approaching a donor for a subsequent donation requires that the facility or program will not approach a donor for a subsequent donation, unless the Privacy Coordinator informs the donor of their right to opt-out of additional Fundraising Communications.

NOTE: A patient's choice to provide a fundraising gift or an additional gift is not a revocation of an earlier opt-out request.

J. Minimum Necessary.

- a. When permitted, the FIU Health Care facility and program Privacy Coordinators, or designees must use or disclose only the minimum amount of PHI necessary (minimum necessary) for fundraising purposes, or as permitted by this policy and procedure. (FIU Policy and Procedure #1640.025) (Minimum Necessary)

K. Educational Events Co-Sponsored with a Third Party.

- a. Facilities and programs may offer educational or awareness campaigns co-sponsored by a third party (e.g., American Heart Association) or include speakers or information from such third-parties.
- b. Facilities and programs are prohibited from sharing patient PHI with the third-party or permitting the third-party to use any facility and program patient mailing lists or permitted Fundraising PHI to be sent in co-sponsored fundraising solicitations.
- c. Facilities and programs will not include third-party fundraising information within the event's communications. (e.g., invitation, brochure, or similar communication tools).
- d. Facilities and programs cannot use or disclose PHI with a non-affiliated, non-profit association for their fundraising purposes.
- e. Facilities and programs will not include third-party fundraising information within the event's communications. (e.g., invitation, brochure, or similar communication tools).
- f. At the event, the third-party may invite patients to provide their contact information in writing, such as a sign up log, that clearly identifies the third-party request to contact the patients attending the event, including the possibility that they will be contacted for the third-party's own fundraising efforts.
- g. No fundraising related to the third party will occur at the event.
- h. If a patient opts-out of all Fundraising Communications, the facility and program Workforce members may continue to send notice of education or awareness events that do not include fundraising.

For example, communications about disease management, health promotion, wellness programs, or new services that are not funded by a third-party would be acceptable. However, facility and program Workforce members are required to comply with other applicable provisions of the HIPAA Privacy Rule, federal law, and Florida state statutes, such as marketing requirements which are reviewed in a separate Marketing training module.

- i. When sending an educational event mailer, in which Fundraising Communications may occur at the educational event, the facility and program Workforce members should engage in best practice and list the name of the facility and program on the outside of the mailer with a specific diagnosis (e.g., cancer) within the inside of the mailer.

NOTE: The facility and program Privacy Coordinators should also consider identifying any co-sponsor whose name may suggest a diagnosis, such as Juvenile Diabetes Research Foundation, on the inside the mailer.

K. Non-Profit Associations

- a. Facility and program health care providers who specialize in the diagnosis and treatment of a specific disease or condition may use or disclose patient PHI with a non-profit association that fundraises for research, awareness, and treatment of diseases within that specialty.
- b. Facilities and programs cannot use or disclose PHI with a non-affiliated, non-profit association for their fundraising purposes.

II. Record/ Documentation Retention

- A. The FIU health care facilities and programs, FIU Foundation, and Business Associates must retain all documentation for seven (7) years from the date of its creation or the date when it was last in effect, whichever is later. (FIU Policy and Procedure #1660.080) (Policies and Procedures, Changes to Policies and Procedures, and Documentation)

III. Form

- Authorization for Use and Disclosure of Medical Information for Marketing/Promotion or Fundraising Activities.