

USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR MARKETING

PURPOSE:

To ensure that all marketing communications made to patients using protected health information comply with federal and state laws. The marketing of patient information (described in detail below) refers to using protected health information to sell services that are not provided in the normal course of treating the patient.

DEFINITION:

The Privacy Rule defines “marketing” as: “a communication about a product or service that encourages recipients of the communication to purchase or use the product or service.” The term “marketing” also is defined as an arrangement between Generations Family Practice and another entity whereby Generations Family Practice discloses protected health information to the other entity, in exchange for direct or indirect payment, for the entity or its affiliate to make a communication about its own product or service that encourages recipients of the communication to purchase or use that product or service.

EXCEPTIONS:

So long as Generations Family Practice does not receive financial remuneration (other than payment for providing treatment) for doing any of the following, Generations Family Practice is ***not*** marketing when we:

- Provide refill reminders or otherwise communicate about a drug or other biologic that is currently being prescribed for the patient (in this case, Generations Family Practice may receive a direct or indirect payment from a third party, but only if any direct or indirect payment received from a third party in exchange for making the communication is reasonably related to Generations Family Practice’s cost of making the communication).
- Communicate with a patient about treatment we are providing, including case management or care coordination for the patient.
- Communicate with a patient in order to direct or recommend alternative treatments, therapies, health care providers, or settings of care.
- Communicate with a patient about case management or care coordination, to provide information about treatment alternatives, and related functions even if Generations Family Practice is not actively treating the patient.

POLICY:

Generations Family Practice may not use or disclose protected health information for marketing communications, except in accordance with this Policy.

PROCEDURES:

1. If Generations Family Practice uses or discloses a patient's protected health information for marketing, it must obtain the patient's prior written authorization, unless the marketing communication:
 - a. Occurs in a face-to-face encounter with the patient (*e.g.*, during a medical appointment); or
 - b. Concerns products or services of nominal value (such as distributing pens, toothbrushes, or key chains with the name of Generations Family Practice or a health care product manufacturer on it).
2. If Generations Family Practice receives direct or indirect payment from a third party for the marketing communication, the patient's authorization must state that such payment is involved.
3. When a patient submits to Generations Family Practice a written statement indicating he or she wishes to opt out of receiving a marketing communication, Generations Family Practice shall consider the patient to have opted out of receiving all future marketing communications.
4. When Generations Family Practice enters into a Business Associate Agreement with a business associate, it shall inform the business associate of the requirement to obtain a patient's written authorization before the business associate may use or disclose the patient's protected health information for marketing.

ENFORCEMENT:

Violation of patient confidentiality policies will be grounds for disciplinary action, up to and including termination. In addition, persons violating patient confidentiality practices may be subject to civil and criminal liability under applicable law.