

ADAMHS BOARD FOR MONTGOMERY COUNTY		BP # 505	
TITLE : Use and Disclosure of PHI for Fundraising and Marketing		SUBJECT	
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PURPOSE: The Health Insurance Portability and Accountability Act of 1996 (HIPAA) granted individuals the right to receive adequate notice of the uses and disclosures of their protected health information (PHI) that may be made by a covered entity, and the individual's rights and the entity's legal duties with respect to PHI. This policy has been developed to assist the Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County to comply with the law and to guide Board staff in appropriate use of PHI for fundraising and marketing.

POLICY:

1. The Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County shall not use or disclose protected health information for fundraising and marketing purposes without a valid member/client authorization.
2. The Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County or its staff shall not provide PHI to another covered entity for the marketing purposes of the other covered entity.
3. The Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County shall provide the member/client with procedures to opt-out of the agency's fund raising activities.

DEFINITIONS

- 1.1 Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA is comprehensive law enacted by the United States government. The law has several subparts providing such benefits as guaranteed portability and renewal of insurance benefits between employers, tax provisions for medical savings accounts and administrative simplification to improve the efficiency and effectiveness of the health care system. During the latter part of the 1990's, the Secretary of the Department of Health and Human Services drafted regulations for standardizing the electronic interchange of administrative and financial data and protecting the security and privacy of personal health information. HIPAA requires health care providers, health plans and health care clearinghouses to transition to the use of standard code sets and "electronic data interchange (EDI) and to maintain reasonable and appropriate administrative, technical, and physical safeguards to insure the integrity and confidentiality of healthcare information; to protect against

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reasonably foreseeable threats and hazards to the security or integrity of the information; and, to protect against unauthorized uses or disclosure of the information. Compliance with the first of the HIPAA rules is scheduled for early 2003. HIPAA also provides criminal penalties for failure to comply with the regulations.

- 1.2 Individually Identifiable Health Information (IIHI). A subset of health information, including demographic information collected from an individual and that is created or received by a health care provider and relates to the past, present, or future physical or behavioral health or condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual, and which identifies the individual, or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.
- 1.3 Protected Health Information (PHI). The final rule defines PHI as individually identifiable health information that is transmitted by electronic media; maintained in any electronic medium such as magnetic tape, disc, optical file; or transmitted or maintained in any other form or medium (i.e. paper, voice, Internet, fax etc.).
- 1.4 Fundraising. Subject to certain conditions, the agency may engage in or contract for activities to raise money for its own benefit using specified member/client health information.
- 1.5 Marketing. The Privacy Rule defines marketing as a communication about a product or service that encourages the recipients of the communication to purchase or use the product or service. The Rule also adopts three categories of communications by a covered entity that are not marketing including: 1) communications about participating providers and health plans in a network, the services offered by a provider, or the benefits covered by a health plan; 2) communications about the individual's treatment; and, 3) communications related to case management or care coordination for that individual, or directions or recommendations for alternative treatments, therapies, health care providers, or settings of care to that individual.