MOREHOUSE MEDICAL ASSOCIATES

POLICY: USE AND DISCLOSURE OF PHI FOR MARKETING

SUBJECT: HEALTH INFORMATION MANAGEMENT

POLICY #: 0022

EFFECTIVE DATE: April 14, 2003

PURPOSE:

To establish Morehouse Medical Associates (MMA) policy that adheres to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) regarding the use and disclosure of Protected Health Information (PHI) for marketing purposes.

ACCOUNTABILITY:

The Medical Director shall ensure compliance with this policy. All managers and supervisors will be responsible for the implementation of this policy.

DEFINITION:

A. ***Marketing*** is defined as "making a communication about a product or service that encourages recipients of the communication to purchase or use the product or service." Marketing also means "an arrangement between MMA and any other covered entity whereby MMA discloses protected health information to the other entity, in exchange for direct or indirect remuneration; for the other 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."

B. The Privacy Rule makes **exceptions to the definition of "marketing"** under the following three categories.

C. A communication is not "marketing" if it is made:

1. To describe a health-related product or service (or payment for such product or service) that is provided by MMA. This exception permits communication by MMA of its own products or services.

2. For treatment of the individual. (E.g. Referrals to a specialist)

3. For case management or care coordination for the individual, or to direct or recommend alternative treatments, therapies, health care providers, or settings of care to the individual.

POLICY:

I. General

A. Other than the above listed exceptions, any communication that meets the definition of marketing is not permitted, unless Morehouse Medical Associates obtains an individual's authorization.

B. The HIPAA Privacy Rule gives individuals important controls over whether and how their protected health information (PHI) is used and disclosed for marketing purposes. With limited exceptions, the Privacy Rule requires an individual's written authorization before his or her protected health information can be used or disclosed for marketing.

C. MMA will not sell protected health information to a business associate or any other third party for that party's own purposes.

II. Marketing Authorization Requirements

A. An authorization for the use and disclosure of protected health information for marketing purposes must contain the following:

1. Description of the information to be used or disclosed.
2. Name of the person authorized to make the requested use or disclosure.
3. Description of each purpose of the requested use or disclosure.
4. An expiration date or expiration event that relates to the individual or purpose of the use or disclosure.
5. Signature of the individual and date.
6. If signed by representative, description of the representatives authority to act for the individual.
7. Statement that the individual has the right to revoke the authorization and how this can be done.
8. Statement that MMA will not condition treatment on whether or not the individual signs the authorization.

9. Statement in which the individual acknowledges that information used or disclosed to any entity other than a health plan or health care provider may no longer be protected by federal privacy law.

III. Marketing Exceptions

A. MMA will obtain an authorization for any use or disclosure of PHI for marketing, except if the communication is in the form of:

1. A face to face communication made by MMA to an individual, or
2. A promotional gift of nominal value provided by MMA, (e.g. pens, calendars, key chains, etc.)

IV. References

45 Code of Federal Regulations (CFR) 164.508

Exhibit (s)

I. Authorization to Use/Disclosure Protected Health Information for Marketing Purposes Form

By Direction of the Dean: _____
Medical Director

Exhibit I

MOREHOUSE MEDICAL ASSOCIATES

AUTHORIZATION TO USE/DISCLOSE HEALTH INFORMATION FOR MARKETING PURPOSES

I _____, authorize Morehouse Medical Associates to disclose my health information specified below, to:

_____

A vendor that is interested in selling me its products and services.

The purpose of the disclosure is marketing

By initialing the spaces below, I specifically authorize the use and/or disclosure of the following health information and/or medical records, if such information and/or records exist:

____Information about my specific injuries or medical condition
____Only general one-word condition
____My medical prognosis
____My age
____My city, county or state of residence
____The date and time of my expected or actual discharge from the hospital
____Medications I use
____Information necessary to take a photograph of me.
____Such other information as described here:_____

I understand that this company _____ is not covered by the federal privacy regulations and my health information may be re-disclosed and no longer protected by these regulations.

I further understand that I may refuse to sign this authorization and that my refusal to sign will not affect my ability to obtain treatment. I may inspect or copy any information to be used and/or disclosed under this authorization.

Finally, I understand that I may revoke this authorization in writing at any time, provided that I do so in writing, except to the extent that action ahs been taken in reliance upon this authorization.

Unless revoked earlier, this authorization will expire 90 days from the request date, unless I specify another date: **Specify date here**: _____

_____

Signature of Patient or Patient's Personal Representative Date

_____

Print Patient's Name

_____

Printed Name of Personal Representative (if applicable) Relationship to Patient