

**Policy Number:** \_\_\_\_\_

**Effective Date:** \_\_/\_\_/\_\_

**Subject:** \_\_\_\_\_

**Revised:** \_\_/\_\_/\_\_

**Policy Name:**     **Authorization**

**Approved:** \_\_\_\_\_

## **POLICY**

Except as expressly permitted by applicable law (as reflected in applicable policies), PHI shall not be used or disclosed without a valid authorization from the patient/client. The term “authorization” as used in this policy means a form that meets all the requirements of the Privacy Standards. In addition, the authorization which has been prepared for usage incorporates the additional requirements imposed under 42 C.F.R. Part 2.

## **PROCEDURE**

### 1. Content of Authorization

1.1 A valid authorization will contain the following elements:

- 1.1.1 A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion
- 1.1.2 The specific name or other specific identification of the person(s), or class of persons, authorized to provide the information
- 1.1.3 The name or other specific identification of the person(s), or class of persons, or organization authorized to receive the information
- 1.1.4 A description of the purpose of the use or disclosure
- 1.1.5 An expiration date or an expiration event
- 1.1.6 Signature of the patient and date (If a personal representative rather than the patient signs the authorization, the authorization must specify how the representative is authorized to act for the patient)
- 1.1.7 A statement about the individual’s right to revoke the authorization in writing and the exceptions to the right to revoke and a description of how the individual may revoke the authorization
- 1.1.8 A statement that the Covered Entity may not refuse to treat the individual if the individual refuses to sign the authorization, except for the provision of research related treatment or if the purpose of the treatment is solely to create PHI for disclosure to a third party (e.g., a fitness for duty evaluation)
- 1.1.9 A statement about the potential, if any, for the information to be redisclosed by the recipient of the information and no longer be protected. Under Federal law, substance abuse treatment information may not be redisclosed unless the individual consents in writing to redisclosure by the recipient of the information.

Each disclosure of substance abuse treatment information must include the notice prohibiting redisclosure, unless the individual has provided such consent. Additionally, state mental health laws may apply that are more stringent than HIPAA and would affect redisclosure of PHI.

- 1.2 The authorization may contain additional elements as long as they do not contradict the required elements.
2. Invalid Authorizations. An authorization is invalid if any of the following apply:
  - 2.1 The expiration date has passed or the expiration event has occurred
  - 2.2 A required element is not filled out completely
  - 2.3 The authorization is known to have been revoked
  - 2.4 The authorization conditions the provision of treatment on signing the authorization, unless otherwise permitted as described above
  - 2.5 The authorization requires the patient to waive his or her rights under the Privacy Standards as a condition of receiving treatment
  - 2.6 The authorization for use or disclosure of PHI is combined with an authorization for psychotherapy notes
  - 2.7 The authorization is combined with any other document, except where two authorizations for use or disclosure of PHI are combined or where an authorization for the use or disclosure of PHI for a research study is combined with any other type of written permission for the same or another research study
  - 2.8 Any material information in the authorization is known by the Covered Entity to be false
3. Additional Requirements
  - 3.1 The authorization must be written in plain language
  - 3.2 Any authorization for use or disclosure of PHI that is signed by the patient shall be retained in the patient's record
  - 3.3 A copy must be given to the patient (except where the patient furnishes the authorization form)
4. Compound and Future Research Authorizations
  - 4.1 An authorization may not be combined with another authorization to create a compound authorization except as follows:
    - 4.1.1 An authorization for use or disclosure of PHI for a research study may be combined with any other type of written permission for the same or another research study. This includes combining an authorization for the use or disclosure of PHI for a research study with another authorization for the same research study, with an authorization for the creation or maintenance of a research database or repository, or with a consent to participate in research. Where the provision of research-related treatment is conditioned on the provision of one of the authorizations, any compound authorization must clearly differentiate between the conditioned and unconditioned components and provide the individual with an opportunity to opt in to the research activities described in the unconditioned authorization.

- 4.1.2 An authorization for use or disclosure of psychotherapy notes may be combined only with another authorization for psychotherapy notes.
- 4.1.3 An authorization, other than for use or disclosure of psychotherapy notes or for a research study, may be combined with any other authorization except when a covered entity has conditioned the provision of treatment, payment, enrollment in the health plan, or eligibility for benefits on the provision of one of the authorizations.
- 4.2 An authorization for a research study may include future research studies if the individual is able to determine that the authorization applies to future research and that the Covered Entity could use or disclose PHI for future research. Such PHI may include information collected after the time frame of the original study in which the individual was involved.
- 5. Effect of Prior Authorization. PHI that was created or received prior to March 26, 2013, may be used or disclosed based on an authorization that was signed prior to March 26, 2013 as long as the authorization is otherwise valid (e.g., not expired, addresses the disclosure).

**ATTACHMENT**

Authorization Forms (for Release of Mental Health Treatment Information and Substance Abuse Treatment Information)

**REFERENCES**

45 C.F.R. §164.508