

# *Sample Authorization for Use or Disclosure of Protected Health Information*

**D R A F T [Date]**

## **Authorization for Use or Disclosure of Protected Health Information**

### **Purpose:**

To issue instructions to all regarding the use and disclosure of protected health information (PHI), and necessary documentation of authority for such use or disclosure, when use/disclosure is for purposes outside of those permitted under the individual's consent, i.e. for use/disclosure relating to treatment, payment or health care operations.

### **Applicability:**

This policy applies to all staff of [Practice name] employees.

### **Definitions:**

*Protected Health Information* (PHI) means individually identifiable information relating to the past, present or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present or future payment for health care provided to an individual.

*Treatment, Payment and Operations* (TPO) includes all of the following:

- ◆ Treatment means the provision, coordination, or management of health care and related services, consultation between providers relating to an individual, or referral of an individual to another provider for health care.
- ◆ Payment means activities undertaken to obtain or provide reimbursement for health care, including determinations of eligibility or coverage, billing, collection activities, medical necessity determinations and utilization review.
- ◆ Operations includes functions such as quality assessment and improvement activities, reviewing competence or qualifications of health care professionals, conducting or arranging for medical review, legal services and auditing functions, business planning and development, and general business and administrative activities.

*Personal Representative* means a person who has authority under applicable law to make decisions related to health care on behalf of an adult or an emancipated minor, or the parent, guardian, or other person acting in *loco parentis* who is authorized under law to make health care decisions on behalf of an unemancipated minor, except where the minor is authorized by law to consent, on his/her own or via court approval, to a health care service, or where the parent, guardian or person acting in *loco parentis* has assented to an agreement of confidentiality between the provider and the minor.

## **Policy:**

**A. Generally:** In compliance with 45 CFR Part 164 and Louisiana law, all uses and disclosures of PHI beyond those allowed pursuant to an individual's consent or as otherwise permitted or required by law require a signed authorization according to the provisions of this rule. A separate authorization is required for each separate entity that is to receive PHI.

The provision of treatment, payment, or eligibility for benefits may not be conditioned on the individual's provision of an authorization for the use or disclosure of PHI except:

- Relating to the provision of research related treatment;
- Relating to health care that is solely for the purpose of creating PHI for disclosure to a third party.

**B. Content Requirements:** Each authorization for the use or disclosure of an individual's PHI shall be written in plain language and shall include at least the following information:

- A specific and meaningful description of the information to be used or disclosed;
- The name or identification of the person or class of person(s) authorized to make the use or disclosure;
- The name or identification of the person or class of person(s) to whom the requested use or disclosure may be made;
- An expiration date, condition or event that relates to the individual or the purpose of the use or disclosure; the authorization shall state that it will expire after ninety days unless the individual has opted for a shorter or longer time. An individual may specify a longer period of time for the duration of the authorization only if the person:
  - Is part of an approved research study and has given authorization for a longer period of time, or;
  - Is expected to continue receiving services beyond ninety days and has given authorization for a longer period of time which may be up to one hundred and eighty days
- A statement of the individual's right to revoke the authorization in writing, and exceptions to the right to revoke, together with a description of how the individual may revoke the authorization. Upon written notice of revocation, further use or disclosure of PHI shall cease immediately except to the extent that the office, facility, program or employee has acted in reliance upon the authorization or as use or disclosure is otherwise permitted or required by law;
- A statement that the information may only be re-released with the written authorization of the individual, except as required by law;
- The dated signature of the individual, and;
- If the authorization is signed by a personal representative of the individual, a description of the representative's authority to act on behalf of the individual.

**C. Requests to Use or Disclose PHI for Own Purposes:** If the authorization is requested by the practice for its own use or disclosure of the PHI it maintains, for a purpose outside of TPO,

health care oversight or public health activities, the following elements are required in addition to those specified in section B. above:

- Except in circumstances where it is allowed, a statement that treatment, payment and eligibility for benefits will not be conditioned upon the individual's provision of an authorization.
- A description of each purpose of the requested use or disclosure;
- A statement that the individual may inspect or copy the PHI to be used or disclosed;
- A statement that the individual may refuse to sign the authorization;
- If applicable, a statement that the use or disclosure will result in direct or indirect remuneration from a third party, and;
- The individual must be provided with a copy of the signed authorization.

**D. Requests for PHI from Others:** If the authorization is requested for disclosures of PHI by others, the following elements are required in addition to those specified in section B. above:

- A description of each purpose of the requested disclosure;
- Except in circumstances where it is allowed, a statement that treatment, payment and eligibility for benefits will not be conditioned upon the individual's provision of an authorization;
- A statement that the individual may refuse to sign the authorization;
- The individual must be provided with a copy of the signed authorization.

**E. Use or Disclosure of PHI for Research:** Use or disclosure of PHI created for research generally requires an authorization unless such use or disclosure is permitted pursuant to [need to reference another policy or rule that specifies when PHI can be used or disclosed for research purposes pursuant to 164.512(i)]. Such authorizations must include the basic elements specified in sections B. and C. above, and also contain:

- A description of the extent to which PHI will be used to carry out treatment, payment or health care operations;
- A description of any PHI that will not be used or disclosed for purposes otherwise permitted, provided that the limitation may not preclude disclosures required by law or to avert serious threat to health or safety;
- The authorization must refer to any consent or privacy notice expected to be obtained from or given to the individual and must state that the statements in the consent or privacy notice are binding, and;
- This authorization may be combined in the same document with the consent to participate in research, the consent to use or disclose PHI for treatment, payment or health care operations, or the privacy notice.

**F. Accounting of Disclosures:** Pursuant to [policy on accounting of disclosures], the office, facility, or employee must document and retain all information about uses or disclosures of PHI required to be in an accounting for a period of six (6) years, including:

- Date of disclosure;
- Name and, if known, address of recipient of PHI;
- Description of PHI disclosed;
- Statement of purpose and basis for disclosure, or copy of authorization or request for disclosure.