

SAN ANTONIO COSMETIC SURGERY, PA

HIPAA-COMPLIANT AUTHORIZATIONS

An individual's *authorization* is required for uses and disclosures of PHI which are not for (1) purposes of treatment, payment, or health care operations or (2) any other purpose for which disclosure is allowed without an authorization. Authorizations must be specific to the use or disclosure being contemplated. Core Elements and Required Statements to be included in HIPAA authorizations are found in the Privacy Rule.

Special Rules for Psychotherapy Notes -- The Privacy Rule requires providers to obtain authorization and not use or disclose PHI maintained in psychotherapy notes except:

- use by the originator of the notes for treatment;
- use by the covered entity for its own training programs;
- use or disclosure by the covered entity to defend itself in a legal action or other proceeding brought by the individual;
- use or disclosure when demanded by DHHS as part of its enforcement activities; or
- use or disclosure required by law, health oversight activities involving the originator of the notes, disclosures about decedents made to coroners and medical examiners, disclosures a covered entity is permitted to make to avert a serious threat to health or safety.

CONTENTS OF AN AUTHORIZATION

CORE ELEMENTS:

- (1) A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion.
- (2) The name or other specific identification of the person(s), or class of persons, authorized to make the requested use or disclosure.
- (3) The name or other specific identification of the person(s), or class of persons, to whom the covered entity may make the requested use or disclosure.
- (4) A description of each purpose of the requested use or disclosure. The statement "at the request of the individual" is a sufficient description of the purpose when an individual initiates the authorization and does not, or elects not to, provide a statement of the purpose.
- (5) An expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure. The statement "end of the research study," "none," or similar language is sufficient if the authorization is for a use or disclosure of protected health information for research, including for the creation and maintenance of a research database or research repository.
- (6) Signature of the individual and date. If the authorization is signed by a personal representative of the individual, a description of such representative's authority to act for the individual must also be provided.

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REQUIRED STATEMENTS: The authorization must contain statements adequate to place the individual on notice of all of the following:

- (1) The individual's right to revoke the authorization in writing, and either:
 - (a) The exceptions to the right to revoke and a description of how the individual may revoke the authorization; or
 - (b) To the extent that the information is included in the Notice of Privacy Practices (discussed below), a reference to the covered entity's notice.

- (2) The ability or inability to condition treatment, payment, enrollment or eligibility for benefits on the authorization, by stating either:
 - (a) The covered entity may not condition treatment, payment, enrollment or eligibility for benefits on whether the individual signs the authorization when the prohibition on conditioning of authorizations applies; or
 - (b) The consequences to the individual of a refusal to sign the authorization when the covered entity can condition treatment, enrollment in the health plan, or eligibility for benefits on failure to obtain such authorization.

- (3) The potential for information disclosed pursuant to the authorization to be subject to redisclosure by the recipient and no longer be protected by this subpart.

Plain language requirement. The authorization must be written in plain language.

Copy to the individual. If a covered entity seeks an authorization from an individual for a use or disclosure of protected health information, the covered entity must provide the individual with a copy of the signed authorization.

REVOKING AN AUTHORIZATION

An individual may revoke an authorization to a health care provider or other covered entity at any time, provided that the revocation is in writing, except to the extent that:

- (1) The covered entity has taken action in reliance on the authorization; or
- (2) If the authorization was obtained as a condition of obtaining insurance coverage, other law provides the insurer with the right to contest a claim under the policy or the policy itself.

Result: A health care provider that wishes to use or disclose PHI pursuant to an authorization and does so after obtaining an authorization from the individual, may rely on the authorization, even if the individual immediately revokes it after the service has been provided.