

# Required Content for Authorizations to Disclose (2001)

Save to myBoK

This practice brief has been updated. See the latest version [here](#). This version is made available for historical purposes only.

---

*Editor's note: An updated version of this practice brief, incorporating the final changes to the Privacy Rule published in the Federal Register on 8/14/02, is available.*

In the past, healthcare providers disclosed individually identifiable health information to comply with valid authorizations, laws and regulations, professional ethics, and accreditation standards. The federal government had not yet established standards regulating the disclosure of most individually identifiable health information or what constituted a valid authorization, except in the case of substance abuse records. State laws or regulations relative to authorization content varied or were nonexistent.

On December 28, 2000, the standards for privacy of individually identifiable health information, also known as the HIPAA final privacy rule, were published in the Federal Register. The rule establishes standards for information disclosure, including what constitutes a valid authorization. The rule applies to covered entities (health plans, healthcare clearinghouses, and healthcare providers) who transmit specific information electronically. Most covered entities must comply with this rule by April 14, 2003.

This practice brief will explore the portion of the rule that addresses authorization content requirements. It will also provide an overview of other federal and state laws and regulations regarding authorization content.

## Legal Requirements

### *Federal*

**HIPAA:** Section 164.508 of the final privacy rule states that covered entities may not use or disclose protected health information without a valid authorization, except as otherwise permitted or required in the rule.

**General authorization content:** The rule states that a valid authorization must be in plain language and contain the following elements:

- a specific and meaningful description of the information to be used or disclosed
- the name or other specific identification of the person(s) or class of persons authorized to make the disclosure
- the name or other specific identification of the person(s) or class of persons to whom the covered entity may make the disclosure
- an expiration date or event that relates to the individual or the purpose of the use or disclosure
- a statement of the individual's right to revoke the authorization in writing
- a statement about the exceptions to the right to revoke
- a description of how the individual may revoke the authorization
- a statement that information used or disclosed pursuant to the authorization may be subject to re-disclosure by the recipient and no longer be protected by the rule
- signature of the individual
- the 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

**Authorizations requested by a covered entity for its own uses and disclosures:** There may be times when a covered entity will want to procure an authorization to use or disclose protected health information that it maintains for purposes not covered in the covered entity's consent and notice of privacy practices. Should that occur, in addition to the content requirements above, the covered entity must include the following:

- a statement that the covered entity will not condition treatment, payment, continued enrollment in the health plan, or eligibility for benefits on the individual's providing authorization (except when such a condition is allowed by the privacy rule as described below)
- a description of each purpose of the requested use or disclosure
- a statement that the individual may inspect or copy the protected health information to be used or disclosed as provided in section 164.524
- a statement that the individual may refuse to sign the authorization
- a statement that the covered entity will be remunerated directly or indirectly by a third party when disclosure will result in such remuneration

Additionally, when the covered entity requests an authorization for its own use or disclosure of information that it maintains, the covered entity must provide the individual with a copy of the signed authorization.

**Authorizations requested by a covered entity for disclosures by others:** When a covered entity needs an authorization to obtain information from another covered entity, in addition to the general authorization content requirements, the authorization must contain the following:

- a description of each purpose of the requested disclosure
- a statement that the covered entity will not condition treatment, payment, enrollment in the health plan, or eligibility for benefits on the individual's providing authorization for the requested use or disclosure, except for an authorization on which payment may be conditioned below
- a statement that the individual may refuse to sign the authorization

In addition, when a covered entity requests an authorization for disclosure by others, it must provide the individual with a copy of the signed authorization.

**Authorizations for uses and disclosures of protected health information created for research that includes treatment of the individual:** A covered entity that creates protected health information for the purpose in whole or in part of research that includes treatment of individuals must obtain a consent or authorization for the use or disclosure of such information, except:

- when the requirement is waived by an institutional review or privacy board, or
- the research meets other requirements specified in section 164.512 (uses and disclosures for which consent, an authorization, or opportunity to agree or object is not required)

Such authorization must contain all the general authorization requirements, those required of covered entities requesting authorization for their own use, and the following:

- a description of the extent to which protected health information will be used or disclosed to carry out treatment, payment, or healthcare operations
- a description of any protected health information that will not be used or disclosed for purposes permitted in section 164.510 (uses and disclosures requiring an opportunity for the individual to agree or object) and 164.512 (uses and disclosures for which consent, an authorization, or opportunity to agree or object is not required)

The covered entity may not include a limitation affecting its right to make a use or disclosure that is required by law or permitted by section 164.512(j)(1)(i) (This section addresses disclosure to prevent or lessen a serious and imminent threat to the health or safety of a person or the public.)

- If the covered entity has obtained or intends to obtain the individual's consent under section 164.506 (consent for uses or disclosures to carry out treatment, payment, or healthcare operations) or has provided or intends to provide the individual with a notice under section 164.520, the authorization must refer to that consent or notice, and indicate that the statements made relative to those sections are binding

An authorization to use and disclose protected health information created for research that includes treatment may be in the same document as:

- a consent to participate in the research
- a consent to use or disclose protected health information to carry out treatment, payment, or healthcare operations under section 164.506, or
- a notice of privacy practices under section 164.520

**Authorization not valid:** An authorization is not valid, according to the privacy rule, if the authorization has any of the following defects:

- the expiration date or event has passed
- the authorization has not been filled out completely with respect to the required content as identified in the rule
- the authorization is known by the covered entity to have been revoked
- the authorization lacks one or more of the required elements described above
- the authorization is a prohibited type of compound authorization
- any material information in the authorization is known by the covered entity to be false

**Compound authorizations:** An authorization for use or disclosure of protected health information may not be combined with any other document to create a compound authorization with the exception of the following:

- the authorization is for the use or disclosure of protected health information created for research that includes treatment
- the authorization for use or disclosure of psychotherapy notes is combined with another authorization for use or disclosure of psychotherapy notes
- a non-psychotherapy note authorization is combined with another non-psychotherapy note authorization, except when a covered entity has conditioned the provision of treatment, payment, enrollment in the health plan, or eligibility for benefits on obtaining the authorization

**Prohibition on conditioning authorizations:** A covered entity may not condition the provision of treatment, payment, enrollment in the health plan, or eligibility for benefits on the provision of an authorization, except:

- a covered healthcare provider may condition the provision of research-related treatment on provision of an authorization
- a health plan may condition enrollment in the health plan or eligibility for benefits on provision of an authorization requested by the health plan prior to enrollment
- a health plan may condition payment of a specific claim on an authorization
- a covered entity may condition the provision of healthcare that is solely for the purpose of creating protected health information for disclosure to a third party on acquisition of an authorization to allow such disclosure

**Revocation:** An individual may revoke an authorization at any time, in writing, except to the extent that:

- the covered entity has taken action in reliance thereon, or
- the authorization was obtained as a condition of obtaining insurance coverage, and another law provides the insurer with the right to contest a claim under the policy

**Documentation:** A covered entity must retain the original or an electronic copy of the signed authorization. Further, a covered entity must maintain a written or electronic record of the action taken in response to the authorization.

A valid authorization may contain additional information, provided that such additional elements or information are not inconsistent with the elements required by this section.

When a covered entity obtains or receives a valid authorization for its use or disclosure of protected health information, such use or disclosure must be consistent with the authorization.

In general, covered entities will be able to use or disclose protected health information pursuant to a signed authorization that does not comply with the required elements above, if the authorization was created or received before the compliance date.

## Discussion

One of the perhaps unintended consequences of the December 2000 privacy rule is that hand-written patient authorizations may often be invalid under the rule, as most do not contain an expiration date or a statement about the individual's rights to revoke the authorization. In order to minimize the number of invalid authorizations received, the covered entity may want to post its authorization form on its Web site and encourage their customers to use it.

## Substance Abuse

The Confidentiality of Alcohol and Drug Abuse Patient Records rule applies to federally assisted alcohol or drug abuse programs. The rule establishes the following content requirements for authorizations to disclose individually identifiable patient health information generated by alcohol or drug abuse programs:

1. The specific name or general designation of the program or person permitted to make the disclosure
2. The name or title of the individual or the name of the organization to which disclosure is to be made
3. Patient name
4. Purpose of disclosure
5. How much and what kind of information is to be disclosed
6. The signature of the patient or legal representative
7. The date on which the authorization is signed
8. A statement that the authorization is subject to revocation at any time, except to the extent that the program or person which is to make the disclosure has already acted in reliance on it (Acting in reliance includes the provision of services in reliance on a valid authorization or consent to disclose information to a third-party payer.)
9. The date, event, or condition upon which the authorization will expire if not revoked. This date, event, or condition must ensure that the authorization will last no longer than reasonably necessary to serve the purpose for which it is given

## State

Individual states may have laws or regulations defining authorization content. When such laws or regulations exist, consult section 160 of the HIPAA final privacy rule to determine how to apply the preemption requirements.

## Recommendations

1. Study both federal and state requirements for authorizations.
2. Draft a sample general authorization form that complies with federal and state laws and regulations. (See [sample authorization form](#))
3. Ask the risk manager and legal counsel to review your draft authorization form.
4. Update or generate new policies and procedures relative to the new authorization.
5. Order appropriate quantities of the approved authorization form.
6. Educate and train staff.
7. Replace old authorization forms with new ones.
8. Draft authorizations for research, special programs where the covered entity is being remunerated, and so forth.
9. Post the approved authorization form on the organization's Web site.

## Sample Form: Authorization for Release of Patient-Identifiable Health Information

<b>Authorization to Disclose Health Information</b>	
Patient Name: _____	Health Record Number: _____
Date of Birth: _____	
<p>1. I authorize the use or disclosure of the above named individual's health information as described below.</p> <p>2. The following individual or organization is authorized to make the disclosure:</p> <p>_____</p>	

Address: \_\_\_\_\_

3. The type and amount of information to be used or disclosed is as follows: (include dates where appropriate)

☐ problem list

☐ medication list

☐ list of allergies

☐ immunization record

☐ most recent history and physical

☐ most recent discharge summary

☐ laboratory results

from (date) \_\_\_\_\_ to (date) \_\_\_\_\_

☐ x-ray and imaging reports

from (date) \_\_\_\_\_ to (date) \_\_\_\_\_

☐ consultation reports

from (doctors' names) \_\_\_\_\_

☐ entire record

Other \_\_\_\_\_

4. I understand that the information in my health record may include information relating to sexually transmitted disease, acquired immunodeficiency syndrome (AIDS), or human immunodeficiency virus (HIV). It may also include information about behavioral or mental health services, and treatment for alcohol and drug abuse.

5. This information may be disclosed to and used by the following individual or organization:

Address: \_\_\_\_\_

for the purpose of \_\_\_\_\_.

6. I understand that I have a right to revoke this authorization at any time. I understand that if I revoke this authorization I must do so in writing and present my written revocation to the health information management department. I understand that the revocation will not apply to information that has already been released in response to this authorization. I understand that the revocation will not apply to my insurance company when the law provides my insurer with the right to contest a claim under my policy. Unless otherwise revoked, this authorization will expire on the following date, event, or condition: \_\_\_\_\_. If I fail to specify an expiration date, event or condition, this authorization will expire in six months.

7. I understand that authorizing the disclosure of this health information is voluntary. I can refuse to sign this authorization. I need not sign this form in order to ensure treatment. I understand that I may inspect or copy the information to be used or disclosed, as provided in CFR 164.524. I understand that any disclosure of information carries with it the potential for an unauthorized redisclosure and the information may not be protected by federal confidentiality rules. If I have questions about disclosure of my health information, I can contact (*insert HIM director, privacy officer, or other office or individual's name or contact information*).

\_\_\_\_\_ The types of documents listed on the authorization form above may need to be modified depending on the particular health setting. Condition-specific forms should be developed for research, or when a covered entity is seeking information for which it will be remunerated, etc. This sample form was developed by AHIMA for discussion purposes only. It should not be used without review by your organization's legal counsel to ensure compliance with local and state laws.

\_\_\_\_\_  
Signature of Patient or Legal Representative Date

\_\_\_\_\_  
If Signed by Legal Representative, Relationship to Patient Signature of Witness

## References

Brandt, Mary D. *Release and Disclosure: Guidelines Regarding Maintenance and Disclosure of Health Information*. Chicago: American Health Information Management Association, 1997.

Public Health Service, Department of Health and Human Services. "Confidentiality of Alcohol and Drug Abuse Patient Records." *Code of Federal Regulations*, 2000. 42 CFR, Chapter I, Part 2.

"Standards for the Privacy of Individually Identifiable Health Information: Final Rule." 45 CFR Parts 160 through 164. *Federal Register* 65, no. 250 (December 28, 2000). Available at <http://aspe.hhs.gov/admnsimp>.

## Prepared by

Gwen Hughes, RHIA, HIM practice manager  
Cheryl Smith, BS, RHIT, CPHQ

## Acknowledgments

Holly Ballam, RHIA  
Jill Callahan Dennis, JD, RHIA  
Michelle Dougherty, RHIA  
Beth Hjort, RHIA  
Harry Rhodes, MBA, RHIA

---

**Article citation:**

Hughes, Gwen and Cheryl Smith. "Required Content for Authorizations to Disclose (AHIMA Practice Brief)." *Journal of AHIMA* 72, no.10 (2001): 72A-D.

---

Driving the Power of Knowledge

Copyright 2022 by The American Health Information Management Association. All Rights Reserved.