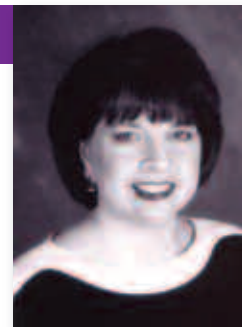


# PHI Authorizations Required By HIPAA



By Ann Bachman, MT (ASCP), CLC (AMT)

Under the HIPAA Privacy Rule, covered entities are required to obtain a signed authorization to release Protected Health Information (PHI) other than for treatment, payment, or health operations. This authorization must include the following elements:

- Description of the PHI to be released.
- Name of the entity, individual, or group of individuals authorized to release the PHI.
- Purpose for which the PHI may be released.
- Statement that the individual may revoke the authorization in writing. (A revocation does not cover information already released under the authorization.)
- Statement informing patients that treatment is not conditional on signing the statement, except as allowed by the Rule.
- Individual's signature and the date.
- Expiration date or event.

An authorization is "defective" if one of the above elements is missing, if the individual has revoked the authorization, or if the expiration date or event has passed. A valid authorization is required for the use or disclosure of PHI for uses other than treatment, payment, or health operations, or as required by law, including but not limited to the following:

- Marketing involving a third party.
- Psychotherapy notes (for other than treatment, payment, training healthcare workers, or defending entity in a legal case or other action brought by the person who is the subject of the notes).
- Sending PHI directly to an employer or a school (ex: excuse to return to work or school, restrictions, medications).

## OPPORTUNITY TO OBJECT

The HIPAA Privacy Rule allows covered entities to make certain uses or disclosures of PHI without a patient's authorization, provided the individual has been informed in

advance that the use or disclosure may be made and has been given an opportunity to agree, prohibit or restrict the use or disclosure. The notification of the use and the authorization or objection may be oral.

This provision within the HIPAA regulations allows covered entities to discuss PHI with a "relative, other family member or a close personal friend of the individual, or any other person identified by the individual" to the extent that person needs the information for the individual's care. This also allows covered entities to use PHI to notify or help notify the family member, personal representative or friend of the location and general condition of the individual, or to discuss PHI with or in front of persons who are present at the time of the healthcare delivery. However, the individual who is the subject of the information must have the opportunity to object.

If the individual is not present or is unable to agree or disagree, the healthcare provider must use professional judgment in releasing information. For example, this allows other people involved in the individual's care to pick up prescriptions or x-rays. It also allows providers to discuss health-related issues to individuals deemed needing to know in order for the patient to receive proper treatment. It also allows covered entities to provide required information to aid in disaster relief, even though the individual may not be able to give consent or to object due to his or her condition or location.

Another permitted use under this standard is the "facility directory." In its directory, a covered entity is permitted to release the patient's name, location within the facility, and general condition to persons who ask for the patient by name. It may also release religious affiliation to members of the clergy. Individuals must be notified in advance and must be given an opportunity to prohibit release of the information.

## AUTHORIZATION/OPPORTUNITY TO OBJECT NOT REQUIRED

HIPAA allows covered entities to use or disclose protected health information without a signed authorization or an opportunity to object for the following purposes. These purposes, however, must be included in the covered entity's Notice of Privacy Practices:

- Treatment, payment, or health operations.
- Communication with friends or family in an emergency.
- Disclosures required by law (minimum necessary applies).
- Public health activities authorized by law.
- Workplace medical surveillance (OSHA-related activities).
- Reporting abuse, neglect or domestic violence.
- Health oversight activities required by law (ex: CLIA surveys).
- Certain law enforcement purposes.
- Identification of a criminal or to report a crime.
- Cadaveric donation.
- Certain research purposes if under a privacy or institutional review board.
- Identification of a decedent or determination of the cause of death.
- Report a serious threat to health or safety.
- Specialized government functions.
- Workers' compensation. ■

*Ms. Bachman is director of the Compliance Department at DoctorsManagement, LLC.*

*You can contact her at [abachman@drsmgmt.com](mailto:abachman@drsmgmt.com) or 1-800-635-4040.*

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