

Evaluating Validity of Healthcare Authorizations under HIPAA

With all of the recent activity surrounding the HIPAA legislation, it may be valuable to review the statutory requirements in Wisconsin for a valid health care authorization. Wisconsin Statutes §146.82 addresses the confidentiality aspects of patient health care records. These records may be released with an appropriate written authorization presented by the patient or the patient's parent or legal guardian. The contents of such a written authorization must be scrutinized in order to ensure that the authorization is valid before the confidential records are released.

Listed below is a list of the **items which must be contained within a valid authorization** for the release of patient health care records:

- Patient name
- Patient identifying information (date of birth or Social Security number)
- Identification of the person(s) or class of person(s) authorized to make the use or disclosure of the protected health care information
- Description of the specific type of records to be disclosed and/or period of services for which records are disclosed.
- Purpose for the disclosure
- Identification of the specific person(s) or class of person(s) to whom records are being disclosed (letter of representation if broad company identification is provided)
- Signature of the patient or person authorized to sign on behalf of the patient, indicating their authority by which they can act for the patient
- Date signed by the patient or authorized person
- Written statement indicating the time period during which the authorization is effective
- Written statement regarding potential of re-disclosure of confidential health care information by the recipient of the records

Example of such a statement include:

“This information is protected by federal and Wisconsin confidentiality laws. Such laws prohibit making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by such laws. A general authorization for the release of medical or other information is not sufficient for this purpose. The federal rules (42C.R. part II) restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.”

- Statement regarding the patient’s right to revoke the authorization and instructions on the manner of revoking the authorization.

Example of such a statement include:

“This authorization may be revoked in writing by the undersigned patient upon presentation of such written revocation notice to...”

- Express statement that “treatment, payment, enrollment or eligibility of benefits may not be conditioned on obtaining the individual’s authorization.”

When reviewing written authorizations, particular attention should be given to the date of the patient’s signature in relationship to the date of patient records requested. It is important to note that the patient’s signature should be subsequent to the last date of the treatment reflected in records requested with the authorization. In addition, attention should be given to determine whether the patient’s signature is an original or a photocopy. Many health care facilities require an original signature on the authorization or language in the authorization indicating that a “photocopy is as valid as an original.”

In order to expedite processing of patient health care record requests, **checklists can be developed** by your office staff to review the validity of an authorization or otherwise notify a requesting party of an inadequate authorization. It is also suggested that chiropractors consider **requiring prepayment** for the duplication of voluminous patient health care records. Information regarding the checklist, sample medical authorizations, or charges for duplicating health care records for an individual chiropractor's specific needs can be requested from this law firm.

The Department of Health and Human Services has issued a list of frequently asked questions regarding the HIPAA privacy rules. This information is available at: <http://www.hhs.gov/ocr/privacy/hipaa/faq/index.html>

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