DEPARTMENT: Information Protection	**POLICY DESCRIPTION:** Authorization for Uses and Disclosures of Protected Health Information
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EFFECTIVE DATE: December 23, 2024	**REFERENCE NUMBER:** IP.PRI.010 (formerly HIM.PRI.010)
APPROVED BY: Ethics and Compliance Policy Committee	

SCOPE: All Company-affiliated facilities including, but not limited to, hospitals, ambulatory surgery centers, imaging and oncology services, physician practices, and shared service centers. All members of the workforce including, but not limited to employees, physicians, contractors, and volunteers.

PURPOSE: To establish the requirements for each Company-affiliated facility to utilize patient authorizations to use or disclose protected health information (PHI) as required by the Health Insurance Portability and Accountability Act (HIPAA), Standards for Privacy of Individually Identifiable Health Information, 45 CFR Parts 160 and 164, the Health Information Technology for Economic and Clinical Health Act (HITECH) component of the American Recovery and Reinvestment Act (ARRA), and the Information Blocking restrictions set forth at 45 CFR Part 171 and issued pursuant to the 21st Century Cures Act and all Federal regulations and interpretive guidelines promulgated thereunder.

POLICY: A patient's HIPAA compliant authorization is generally not required for a facility's own payment, treatment and limited healthcare operations activities. Special standards apply under 42 CFR Part 2 to certain information regarding substance use disorders. Consult Standards for Confidentiality of Substance Use Disorder Patient Records Policy, BEH.001, for special standards that may apply to that information.

Authorizations must be obtained for uses and disclosures of PHI that are not for treatment, payment or health care operations purposes or are not otherwise permitted by the HIPAA Privacy Rule. See IP.PRI.001. Per 45 CFR §164.508, an authorization for uses and disclosures of PHI must be obtained for:

- Disclosures of PHI not made by the facility for its own treatment but made to non-health care providers for treatment;
- Uses and disclosures of PHI to non-covered entities or health care providers for payment purposes of the recipient;
- Disclosures of PHI for the health care operations of the recipient if ALL of the following are not met: (i) each entity either has or had a relationship with the individual who is subject of the PHI being requested, (ii) the PHI pertains to that relationship, (iii) the disclosure is for health care operations listed in the first two paragraphs of the health care operations definition found in 45 CFR 164.501 or for fraud and abuse detection or compliance; and (iv) the recipient is a covered entity;
- Uses and disclosures for marketing except for:
  a. Face-to-face communication made by the facility to an individual; or
  b. A promotional gift of nominal value provided by the covered entity;

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- Sale of PHI, unless:
  a. For public health purposes pursuant to § 164.512(b) or § 164.514(e);
  b. For research purposes pursuant to § 164.512(i) or § 164.514(e), where the only remuneration received by the covered entity or business associate is a reasonable cost-based fee to cover the cost to prepare and transmit the PHI for such purposes;
  c. For treatment and payment purposes pursuant to § 164.506(a);
  d. For the sale, transfer, merger or consolidation of all or part of the covered entity and for related due diligence as described in paragraph (6)(iv) of the definition of health care operations and pursuant to § 164.506(a);
  e. To or by a business associate for activities that the business associate undertakes on behalf of a covered entity, or on behalf of a business associate in the case of a subcontractor, pursuant to § 164.502(e) and § 164.504(e), and the only remuneration provided is by the covered entity to the business associate, or by the business associate to the subcontractor, if applicable, for the performance of such activities;
  f. To an individual, when requested under § 164.524 or § 164.528;
  g. Required by law as permitted under § 164.512(a) (in compliance with applicable requirements of the Uses and Disclosures Required by Law Policy) and
  h. For any other purpose permitted by and in accordance with the applicable requirements of this subpart, where the only remuneration received by the covered entity or business associate is a reasonable, cost-based fee to cover the cost to prepare and transmit the PHI for such purpose or a fee otherwise expressly permitted by other law.
- Uses and disclosures for research unless an Institutional Review Board has waived the authorization requirement or other exclusion for research applies (i.e*.,* preparatory to research, research on decedent's information); and
- Uses and disclosures of psychotherapy notes except:
  a. To carry out the following treatment, payment or health care operations:
     i. Use by the originator of the notes for treatment;
     ii. Use or disclosure in training programs in which trainees, students, or practitioners in mental health learn under supervision to practice or improve their skills in group, joint, family, or individual counseling; or
     iii. Use or disclosure by a facility to defend itself in a legal action or other proceeding brought on by the individual.
  b. Use and disclosure with respect to oversight of the originator of the notes.

c. Use or disclosure that is required by law (in compliance with applicable requirements of the Uses and Disclosures Required by Law Policy) or required by the Secretary under 45 CFR Part 160, Subpart C to investigate or determine a covered entity's compliance with HIPAA.

The provision of treatment or payment to an individual may not be conditioned on signing an authorization except for:

- Research-related treatment; and
- Health care that is solely for the purpose of creating information for disclosure to a third party (e.g., employment drug testing).

An individual may revoke an authorization in writing except to the extent that the facility has taken action in reliance thereon; or if an authorization was obtained as a condition of obtaining insurance coverage. In the event an individual revokes a compounded authorization (as permitted for multiple research projects), absent clarity from the individual on which specific component(s) the individual is revoking, the entire authorization will be considered revoked.

If the PHI involves substance use disorder information, consult the Standards for Confidentiality of Substance Use Disorder Patient Records Policy, BEH.001. If the Standards for Confidentiality of Substance Use Disorder Patient Records Policy, BEH.001, establishes different standards relating to individuals who may sign an authorization, or other standards for uses or disclosures, where applicable, the facility should not use or disclose information except where permitted by both the Standards for Confidentiality of Substance Use Disorder Patient Records Policy, BEH.001, and this Policy.

Refer to the HIPAA Privacy Standards, 45 CFR Parts 160.103, 164.103 and 164.501, and IP.PRI.001, Patient Privacy Program Requirements Policy, for definitions.

PROCEDURE:

1. A compliant authorization for all uses and disclosures outlined in the policy statement must be received before using or disclosing the PHI.
2. A valid authorization must contain at least the following elements and statements (see Attachment for a sample form):
   a. A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion;
   b. The name or other specific identification of the person(s), or class of persons, authorized to make the requested use or disclosure;
   c. The name or other specific identification of the person(s), or class of persons, to whom the facility may make the requested use or disclosure;

d. A description of each purpose of the requested use or disclosure. “At the request of the individual” is sufficient when the individual initiates the authorization;

e. An expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure (“end of research study,” “none,” or similar language is sufficient if the authorization is for use or disclosure of PHI for research);

f. A statement of the individual's right to revoke the authorization in writing and the exceptions to the right to revoke and a description of how the individual may revoke the authorization or a reference to the facility’s Notice of Privacy Practices for further instructions;

g. A statement that the provision of treatment and payment may not be conditioned on obtaining this authorization unless otherwise allowed (e.g., research related treatment);

h. 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 this rule;

i. A statement that the individual may inspect or copy the PHI to be used or disclosed in response to the authorization;

j. If the use or disclosure of the requested information will result in any direct or indirect remuneration to the facility from a third party, a statement that such remuneration will result;

k. If a facility seeks an authorization from an individual for their own use or disclosure of PHI, the facility must provide the individual with a copy of the signed authorization; and

l. The signature of the individual and date. If the authorization is signed by a personal representative (as defined by state law) of the individual, a description of such representative's authority to act for the individual.

3. The authorization must be written in plain language.

4. An authorization for use or disclosure of PHI may not be combined with any other document to create a compound authorization, except as follows:

   a. An authorization for the use or disclosure of PHI created for a research study may be combined with any other type of written permission for the same research study (e.g., consent to participate in the research study);

   b. An authorization for a research study may be compounded with authorizations for subsequent studies (e.g., a sub-study, contribution to a data/tissue bank for unspecified future research) provided that the facility has conditioned the provision of research-related treatment on the provision of one of the authorizations. Any compound authorization must clearly differentiate between the conditioned and unconditioned components and provide

the individual with an opportunity to opt in (not opt-out) to the research activities described in the unconditioned authorization; or

c. An authorization for a use or disclosure of psychotherapy notes may only be combined with another authorization for a use or disclosure of psychotherapy notes.

5. An authorization is not valid if the document has any of the following defects:
   a. The expiration date has passed or the expiration event is known by the facility to have occurred;
   b. The authorization has not been filled out completely with respect to a required element;
   c. The authorization is known by the facility to have been revoked; or
   d. Any material information in the authorization is known by the facility to be false.
6. If a facility receives a non-compliant authorization (the form fails to comply with Items 2-5 of this procedure), no PHI may be disclosed using the authorization (unless another HIPAA policy permits the disclosure to be made without an authorization). However, if PHI included within the scope of the non-compliant form constitutes EHI, refer to the Information Blocking Rule Compliance Policy, IP.GEN.006 for additional guidance on meeting information blocking exceptions that involve not fulfilling requests and procedures for fulfilling requests to access, exchange, or use of EHI (especially guidance on implementing the privacy exception).
7. Every signed authorization must be retained for a minimum of six (6) years from the date the form was created or last in effect, whichever is later.
8. To use or disclose PHI for research purposes without an authorization the facility must obtain documentation of a waiver of authorization from an IRB or Privacy Board or meet one of the other exclusionary criteria for research (e.g., preparatory to research, research on decedent's information). For specific information about research authorizations, refer to COG.IRB.008 and COG.RSH.006.
9. The covered entity may not charge the patient a retrieval fee, but may charge for the actual cost to reproduce a copy of requested information. Other requestors (e.g., attorney, insurance company, subpoenas) may be charged a retrieval fee and the costs to copy the information. The facility must follow the Patients' Right to Access Policy, IP.PRI.004, and state laws for specific requirements regarding what fees may be charged to patient and non-patient requestors.

REFERENCES:

1. Health Insurance Portability and Accountability Act (HIPAA), Standards for Privacy of Individually Identifiable Health Information, 45 CFR Parts 160 and 164
2. American Recovery and Reinvestment Act of 2009, Title XIII, Subtitle D
3. Patient Privacy Program Requirements Policy, IP.PRI.001

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4. Privacy Official Policy, IP.PRI.002
5. Patients' Right to Access Policy, IP.PRI.004
6. Notice of Privacy Practices Policy, IP.PRI.007
7. Marketing Under the HIPAA Privacy Standards/HITECH Model Policy
8. IRB Review of Research Informed Consent and Its Documentation Policy, COG.IRB.008
9. Handling Research Informed Consent Documents (Non-IRB Requirements) Policy, COG.RSH.006
10. http://privacyruleandresearch.nih.gov/
11. Standards for Confidentiality of Substance Use Disorder Patient Records, 42 CFR Part 2
12. Standards for Confidentiality of Substance Use Disorder Patient Records Policy, BEH.001
13. Information Blocking Rule, 45 CFR Part 171
14. Information Blocking Rule Compliance Policy, IP.GEN.006
15. Authorization for Release of Information Form
16. Uses and Disclosures Required by Law Model Policy

SAMPLE

Authorization for Release of Information Form Attachment to IP.PRI.010

Section A: This section must be completed for all Authorizations

Patient Name:	**Recipient's Name:**
Patient's Phone:	**Recipient Address:**
Date of Birth:	**City:** **State:** **Zip:**
Last 4 digit SSN (optional)	**Recipient's Phone:**
Request Dates of Service:	**Email (for releases to email):**
Facility Name(s) and Addresses:	**Purpose of disclosure: ☐ At the request of the individual; or ☐ Other 3rd party recipient (please specify purpose):**

Request Delivery (If left blank, a paper copy will be provided): ☐ **Paper Copy** ☐ **Electronic Media, if available** ☐ **Encrypted Email** ☐ **Unencrypted Email** There is some level of risk that a third party could see your information without your consent when receiving unencrypted electronic media or email. We are not responsible for unauthorized access to the PHI contained in this format or any risks (e.g., virus) potentially introduced to your computer/device when receiving PHI in electronic format or email. **Note:** In the event the facility is unable to accommodate an electronic delivery as requested, an alternative delivery method will be provided (e.g., paper copy).

This authorization will expire after 180 days or on the following (please choose only one):
Expiration Date: **Expiration Event:**

Is this request for psychotherapy notes? ☐ No, then you may check as many items below as you need.
☐ Yes, then this is the only item you may request on this authorization. You must submit another authorization for other items below.

Description of information to be used or disclosed

☐ **All Pertinent Records** includes those listed below
- ☐ Consultation
- ☐ Discharge Summary
- ☐ ER Report
- ☐ EKG Report
- ☐ History and Physical
- ☐ Clinical / Laboratory Report
- ☐ Medication List
- ☐ Operative Report
- ☐ Pathology Report
- ☐ Problem List
- ☐ Radiology Report

Other Records:
- ☐ Discharge Instructions
- ☐ Labor and Delivery Record
- ☐ Specialty Test / Therapy
- ☐ Physician Orders
- ☐ Progress Notes
- ☐ Other

For USCDI Release Requests: to include all elements as defined in the United States Core Data for Interoperability.
Requires Direct Address or National Provider Identifier:

All types of information found in the records selected above will be provided (if applicable), including information that may be viewed as sensitive, such as alcohol, drug abuse, genetic information, psychiatric, HIV testing, HIV results or AIDS information. Specify any information you want to exclude:

I understand that:
1. I may refuse to sign this authorization and that it is strictly voluntary.
2. My treatment, payment, enrollment or eligibility for benefits may not be conditioned on signing this authorization.
3. I may revoke this authorization at any time in writing, but if I do, it will not have any effect on any actions taken prior to receiving the revocation. Further details may be found in the Notice of Privacy Practices.
4. If the recipient is not a health plan or health care provider, the released information may no longer be protected by federal privacy regulations and may be redisclosed.
5. I understand that I may see and obtain a copy the information described on this form, for a reasonable copy fee, if I ask for it.
6. I get a copy of this form after I sign it.

Section B: Is the request of PHI for the purpose of marketing and/or does it involve the sale of PHI? ☐ Yes ☐ No
If yes, the health plan or health care provider must complete Section B, otherwise skip to Section C.

Will the Provider receive financial remuneration in exchange for using or disclosing this information? ☐ Yes ☐ No
If yes, describe:
May the recipient of the PHI further exchange the information for financial remuneration? ☐ Yes ☐ No

Section C: Signatures

I have read the above and authorize the disclosure of the protected health information as stated.

Signature of Patient/Patient's Representative:	**Date:**
Print Name of Patient's Representative:	**Relationship to Patient:**