

# AUTHORIZATION TO RELEASE PROTECTED HEALTH INFORMATION

**Policy:** The University of Connecticut will disclose protected health information (PHI) in accordance with the consent, authorization, or other legal permissions from an Individual.

**Rationale:** To maintain compliance with Title 45 CFR Part 164.506 and 508, Consent and Authorization.

The University may not use or disclose PHI without a valid authorization unless such use and disclosure is otherwise permitted or required under the privacy standard or as required by law.

## **I. General Procedures:**

The University routinely provides Individuals with copies of treatment or summary of care reports at the time of service so that Individuals can disclose the information as they choose. If Individuals provide authorization to the University, the University will disclose information on behalf of the Individuals to other parties.

All requests for review or release of PHI from persons or organizations not associated with a HIPAA-Covered Component must be made in writing and directed to the HIPAA-Covered Component's Director.

The University will not normally collect a general consent for use and disclosure of PHI. The University will normally require an authorization for any use or disclosure that is outside the scope of Treatment, Payment, or Health Care Operations for the University.

## **II. Legal Authorizations**

A. A legal authorization to release PHI must be in writing, written in plain language and signed by the Individual or his/her legally authorized representative in order for PHI to be released. Use or disclosure to authorized individuals/agencies must be consistent with the authorization.

B. A valid authorization must contain the following core elements/information:

- Individual's full name
- The name of person or class of persons authorized to make the use or disclosure of the PHI

- Description of the information to be used or disclosed (i.e. specific date of service, clinic visit, services provided, etc.)
- Identification of person/agency to whom the University is authorized to make the requested use or disclosure (i.e. name, address).
- Form and format requested:
 

If the Individual is requesting records for personal use, the Individual must specify whether he/she prefers to receive copies in paper format or electronic format. Only records maintained electronically will be released in electronic format. The Individual may specify the type of electronic format he/she prefers to receive. The University will comply to the extent possible, with requests for electronic formats selected by the Individual and will work with the Individual to provide the records in a machine readable electronic format as agreed upon by the Individual and the University.
- Description of the purpose for the use or disclosure
- The authorization's expiration date or expiration event that relates to the Individual or to the purpose or use of the requested disclosure and no longer protected
- A statement of the Individual's right to revoke the authorization in writing and how this can be done
- A statement that information used/disclosed under the authorization may be subject to re-disclosure by the recipient
- The signature of the Individual or Individual's authorized representative and date of signature
- A description and or copy of legal paperwork of the representative's authority to sign (if applicable)
- In addition, it is desirable to have the Individual's date of birth and address to further correctly identify the Individual
- A statement that treatment, payment, enrollment and eligibility for benefits cannot be conditioned on whether the Individual signs the authorization.

### **III. Invalid/Defective Authorizations**

- A. An authorization to use/disclose PHI is not valid if any of the following circumstances are present:
  - a. The expiration date has passed or the expiration event is known by the University to have occurred
  - b. The authorization has not been filled out completely with respect to the required core elements

- c. The authorization is known to have been revoked in writing
  - d. Any material information in the authorization is known by the University to be false
- B. Defective authorizations will be returned to the requestor with an explanation as to why the authorization will not be honored.

**IV. Revocation of Authorization**

- A. Each HIPAA-Covered Component shall provide a means by which an Individual may revoke their authorization for release of PHI.
- B. An Individual has the right to revoke an authorization at any time by means of a written revocation, except to the extent that the University has already used or released information while the authorization was still valid.
- C. Written revocation must be to the HIPAA-Covered Component Director. The University may not be able to prevent mailings or use of that information that was disclosed prior to the revocation.
- D. Upon receipt of the request to revoke authorization, the University will stop the processing of information for use or disclosure to the greatest extent practical (with the exception of information for treatment, payment or health care operations). The University shall not be required to call back any information previously released under a valid authorization.

**V. Documentation of Authorization**

- A. Each HIPAA-Covered Component shall document and retain the original or an electronic version of all authorizations for release of PHI on file.
- B. Each HIPAA-Covered Component shall keep all revoked authorizations on file along with documentation of any action taken based on the revocation of authorization.
- C. A copy of the signed authorization shall be given to the Individual.

**VI. Prohibition on Conditioning Authorizations:**

- A. The University's HIPAA-Covered Components may not condition the provision of treatment, payment, and enrollment in a health plan, or eligibility for benefits on the provision of an authorization, except:
  - 1. The University may condition the provision of research related treatment on provision of an authorization

2. The University may condition the provision of healthcare that is solely for the purpose of creating PHI for disclosure to a third party on acquisition of an authorization to allow such disclosure.

## **GENERAL PROCEDURES REGARDING AUTHORIZATIONS:**

### **I. Signatures on Authorizations**

- A. An Individual is required to sign a valid authorization for the release of his/her PHI, except when that information is used for treatment, payment, or health care operations.
- B. Circumstances when authorization is required include but are not limited to:
  1. When the Individual has initiated the authorization because he/she wants the University to disclose PHI to a third party
  2. For marketing of health and non-health items and service
  3. For disclosure to a health plan or provider for the purpose of making eligibility or enrollment determinations prior to the Individual's enrollment in the plan
  4. When disclosing information to an employer for use in employment determinations
- C. The University will not disclose PHI to a requestor without first verifying the identity of the requestor and the authority of the requestor to receive the information.
- D. Authorizations must be signed by:
  1. The Individual whose PHI is to be released.
  2. If the Individual is deceased, authorization to use or disclose PHI must be signed by the executor or administrator of the deceased's estate. If an executor of the estate does not exist, the immediate next of kin (in relationship order of spouse, adult child, parent, adult sibling, grandparent) may sign the authorization to release PHI.
  3. If the Individual is a minor age under 18, the parent or legal guardian must sign the authorization for use or disclosure of PHI. If the guardian is not the parent, legal guardianship is required.
  4. Emancipated minors do not require the consent of the parent or guardian. They must supply court documents to prove status of emancipation.
  5. Psychiatric records of minors aged 16-17 require both the minor's and the parent's/guardian's signature on the authorization. If the minor Individual aged 16-17 signs for permission to treat, they are the only person who can authorize the use or disclosure of those records.
  6. Records of minors involving venereal disease, drug abuse, or pregnancy/contraception require the minor's authorization only.
  7. If the Individual is between 0-18 and is in the custody of the State, required authorization from the Department of Children and Youth

Services and a court certificate of removal from parents is required. If custody is retained by the parents, they are the only individuals who can authorize use or disclosure of the records.

8. If an Individual under the age of 18 is deceased, the parent's/guardian's authorization is sufficient (a court certificate is not required).
  9. A stepparent may not authorize the release for minor's records unless the child was adopted. If the child was adopted by the stepparent, proof is required.
  10. If a minor is living in a foster home, the foster parent is not necessarily the legal guardian. The University requires proof of guardianship in this case.
  11. In the case of divorce, either parent may authorize release of the child's records. If the parent has lost their parental rights, they are not entitled to authorize use or disclosure of PHI.
  12. Authorization to release PHI for HIV/AIDS must be signed by the "protected individual."
- E. If the University has obtained an authorization (on the "Authorization to Release Health Information" form) from an Individual and receives any other conflicting authorizations or legal written permission from the Individual for a disclosure of PHI, the University will resolve the conflict by:
- a. Relying on the authorization with the most recent date; or
  - b. In the absence of dated authorizations, relying on the most restrictive of the authorizations; or
  - c. Contacting the Individual to seek clarification of the preference.
- F. The authorization form supplied by the University will include statements indicating that:
- a. An Individual may revoke the authorization;
  - b. PHI that is used or disclosed according to an authorization may be subject to re-disclosure by the recipient and no longer protected by Title 45 CFR Parts 160 and 164;
  - c. The University will not condition treatment, payment, enrollment in a health plan, or eligibility for benefits on the Individual providing authorization;
  - d. The Individual may inspect or copy information to be used or disclosed;
  - e. The Individual may refuse to sign the authorization; and
  - f. If use or disclosure of the information will result in direct or indirect payment to the University from a third party, a statement saying that such payment will result.

## **II. Specific Procedures:**

1. When an authorization is received,
  - a. The administrative staff will verify that the authorization:
    - i. Is in writing. They may be written on the form provided by the University's HIPAA-Covered Component ("Authorization to Release Health Information") or they may be letters that includes the same information.
    - ii. Covers only the uses and disclosures and only the PHI stipulated in the authorization;
    - iii. Has an expiration date or event;
    - iv. States the purpose for which the information may be used or disclosed;
    - v. Specifies the recipient of the information;
    - vi. Specifies the University as the institution releasing the information;
    - vii. Is signed by the patient or legal representative of the patient (and if signed by the legal representative, contain a description of the representative's authority to act for the patient);
    - viii. Is dated after the date of care or service; and
    - ix. Is not older than six (6) months.
  - b. The administrative staff will then
    - i. Place a copy of the authorization in the Individual's file;
    - ii. Provide the Individual with a copy of the authorization;
    - iii. Disclose the information as authorized.
  
2. When a request to revoke an authorization is received,
  - a. The administrative staff will verify that the request for revoking authorization:
    - i. Is in writing;
    - ii. Clearly identifies the authorization to be revoked or states that all current authorizations are to be revoked;
    - iii. Is signed by the Individual or the Individual's legally authorized representative (and if signed by the legal representative, contain a description of the representative's authority to act for the Individual);
    - iv. Is dated after the authorization(s) to be revoked.

References:

- §164.508 Health Insurance Portability & Accountability Act of 1996
- HITECH Rule Section 13405(e) as outlined 1/25/13 in § 164.524 (c) (2) (i)