

Patient Authorization Requirements to Disclose Health Information

The HIPAA Privacy Rule allows a covered entity, such as a physician or a health plan, to disclose patient protected health information (PHI) without first obtaining a patient's authorization for treatment, payment, and other purposes such as research and quality improvement activities. The Rule requires a covered entity to obtain an authorization in writing from a patient prior to any other disclosures not specifically identified in the Rule.

Core elements of an authorization

The Privacy Rule requires that patient authorizations contain specific core elements and permits the inclusion of any other information that is not inconsistent with the core elements. The six core required elements are:

1. A description of the specific information that will be used or disclosed.
2. Specific identification of the person or group of persons authorized to use or disclose the information.
3. Specific identification of the person or group of persons who will receive the information.
4. Description of each intended purpose of the requested use or disclosure.
5. An expiration date or event that relates to the individual or to the purpose of the use or disclosure.
6. Signature of the individual or personal representative and the date (if signed by a personal representative, the authorization must describe the representative's authority to act on the individual's behalf).

Additional requirements are applicable to authorizations of the sale of PHI, for uses or disclosures for marketing purposes, and for uses and disclosures of psychotherapy notes.

Informing the individual

In addition to the six core elements, an authorization must inform individuals of the following:

- The individual has the right to revoke the authorization at any time in writing. Notice of this right must describe how to revoke the authorization and note any exceptions. If the covered entity created the written authorization and its Notice of Privacy Practices clearly describes the revocation process, the covered entity may refer the individual to that Notice.
- The possibility that the information may be re-disclosed by the recipient, who may not be required to comply with the Privacy Rule (e.g., if the recipient is not a covered entity or business associate).
- The consequences of a refusal to sign the authorization if the covered entity is permitted to condition the delivery of treatment, health plan enrollment, or benefits eligibility on whether the individual signs the authorization (the use of conditional authorizations is limited to very specific purposes). Otherwise, clearly state that the covered entity is not permitted to issue a conditional authorization.

Other general requirements

Authorizations must be written in plain language, and the covered entity must provide the individual with a copy of the signed authorization. An authorization may not be combined with another document to create a compound authorization except in a few limited circumstances, such as for research studies.

For more information on state and federal laws related to privacy, see www.healthinfolaw.org/topics/63. For more information about HIPAA, see www.healthinfolaw.org/federal-law/HIPAA. Follow us on Twitter at [@HealthInfoLaw](https://twitter.com/HealthInfoLaw).

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