



# RELEASE OF INFORMATION

What is the process?







# OUTLINE

- **What is the Release of Information (ROI) process?**
- **Requirements of a valid authorization**
- **When is an authorization required?**
- **Steps to take when your organization receives an authorization**
- **Verbal disclosure**
- **What does “Minimum Necessary” mean?**
- **Ohio Confidentiality Laws**
- **Restrictions and Alerts**
- **Identity and Authority Verification**
- **Outside inquiries about the patient**
- **Examples of incorrect use of PHI**





Release of information (ROI) is the process of providing access to protected health information (PHI) to an individual or entity authorized to receive or review it.



## WHAT IS PHI?

Protected Health Information (PHI) refers to health information about a specific patient. The term is derived from a federal law, the Health Insurance Portability and Accountability Act of 1996 (HIPAA). It refers to the information created by a healthcare provider, health plan, employer or healthcare clearinghouse that :

Relates to the past, present, or future physical or mental health or condition of an individual and the payment for the provision of health care.

- **Section 164.508 of the final privacy rules** states that covered entities may not use or disclose protected health information (PHI) without a valid authorization, except otherwise permitted or required in the privacy rule.



## PRIVACY RULE?

The Rule requires appropriate safeguards to protect the privacy of personal health information, and sets limits and conditions on the uses and disclosures that may be made of such information without patient authorization. The Rule also gives patients rights over their health information, including rights to examine and obtain a copy of their health records, and to request corrections

## A valid authorization for an ROI must be written in plain language and contain at least the following:

1. The individual's name
2. The organization's name, employer or department authorized to make the disclosure
3. The name of the person, organization, or agency where the disclosure is to be made
4. Purpose of disclosure
5. A specific and meaningful description of the information to be used or disclosed
6. A description of each purpose of the requested use or disclosure. The statement "at the request of the individuals" is sufficient when an individual initiates the authorization and does not provide a statement of the purpose.
7. An expiration date or event that relates to the individual or the purpose of the use for disclosure. i.e. for research purposes only
8. Signature of the individual and date
  - If the authorization is signed by a personal representative of the individual, they must provide legal documentation indicating they are the legal representative

## A VALID AUTHORIZATION MUST ALSO INCLUDE:

- A statement of the individual's right to revoke the authorization in writing and the exceptions to the right to revoke, together with a description of how the individual may revoke it.
- A statement of the ability or inability to condition treatment, payment, enrollment or eligibility for benefits on the authorization.
- A statement that information used or disclosed pursuant to the authorization may be subject to re-disclosure by the recipient and may no longer be protected by the Privacy Rule.





## Required Authorization

- An authorization may not be required in situations regarding treatment, payment, healthcare operations, restrictions and alerts



## **Authorizations are REQUIRED when:**

1. Use or disclosure of psychotherapy notes
2. Except in limited circumstances, use and disclosure of PHI for marketing purposes
3. When selling PHI
4. Disclosures to the individual

## **Authorizations are NOT required when:**

1. Disclosures for law enforcement agencies under certain circumstances (i.e. toxicology screen)
2. Uses and disclosures for treatment by your physician
3. Uses and disclosures for quality assurance and public health activities



# STEPS TO TAKE WHEN YOU RECEIVE AN AUTHORIZATION?

1. Verify that the authorization was filled out completely and correctly.
2. Verify that all of the elements of a valid authorization exist.
3. If someone other than the patient is requesting the information please verify their identity and legal right to obtain.
4. Check a physical signature with a known signature on file.







# STEPS TO TAKE WHEN YOU RECEIVE AN AUTHORIZATION (CONT.)

5. Ask for a photo ID
6. Once you have verified the requestor, be sure that the individual has the right to access the information.
7. Document your release, verbal and written disclosures must be documented. Patients have the right to request a record of what PHI was released and to whom (accounting of disclosures)
8. Remember, be sure to provide only the **minimum necessary**, of what is required and authorized to be released for the specified purpose.



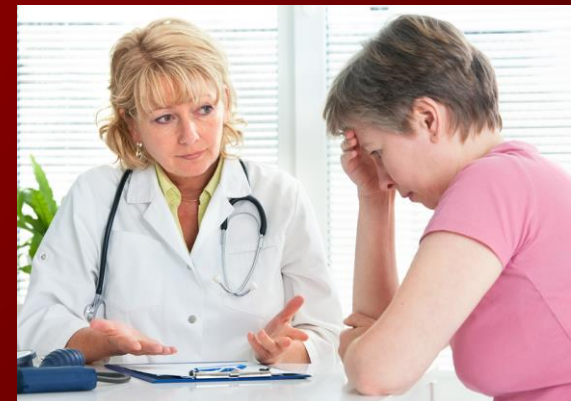
# Verbal Disclosure

- Verbal disclosure of information is permissible when:
  - Patient is present and alert
  - Patient is incapable of making wishes known – inferred permission to discuss current care
  - Needed for care or payment
    - Information needed for patient's care
    - Family member/friend must clearly be involved in payment for care

## FAMILY AND FRIENDS

Family or friends who are involved in the patient's care with patient's consent can be notified of:

- Patient's general condition
- Patient's location unless Psych
- Patient being ready for discharge



# Release of Information: Divorced parents of a minor patient

- **Question:** If a divorced parent calls to get information on their child. Can you release it?
- **Answer:** Either parent may have access to the child's records with a proper release. Assume that they can get records, unless told otherwise.

## WHEN PARENTAL RIGHTS ARE IN QUESTION:

- Obtain the court documents for the child's file from one of the parents.
- Step-parents: Unless appointed as legal guardian do not have access to their stepchildren's PHI. They can however, schedule an appointment for the child.
- If someone states they are the patient's legal guardian, obtain court documents appointing the individual as the guardian
- **If the individual is unable to provide court documents, do not discuss PHI with them**



## WHAT DOES THE “MINIMUM NECESSARY” MEAN?

The Privacy Rules introduced the standard of Minimum Necessary which is a “need to know” filter that is applied to limit access to a patient’s PHI used, disclosed and requested. Reasonable efforts should be made to limit the use or disclosure of PHI to the minimum necessary.

- This is left up to the covered entity, not for the patient to decide what “minimum necessary” means
- Some situations do not fall within the minimum necessary standard which include information disclosed in connection with treatment and when a patient authorizes a use or disclosure of information



# ACCOUNTING OF DISCLOSURES

- Why your organization **MUST** document all disclosures:
- Patients are allowed to request a history of their disclosures.
- You must keep the documentation of disclosures for at least 6 years
- Under HIPAA, it is a requirement to track your organizations disclosures.

## DISCLOSURES THAT DO NOT REQUIRE TRACKING:

Excluded disclosures made to:

- Treatment, payment, healthcare operations
- An individual
- Directory purposes
- Persons involved in a patients individual care
- National Security or Intelligence purposes
- Correctional Institutions or Law Enforcement officials
- Prior to the date of compliance with the privacy standard

# GENERAL OHIO CONFIDENTIALITY LAWS

- Ohio Law governs the confidentiality and record keeping requirements for many facilities and providers
- This information may only be released when there is consent, unless otherwise stated or excluded





# RESTRICTIONS AND ALERTS

- Individuals have the right to request restrictions pertaining to the use and disclosure of their protected Information that utilizes treatment, payment and healthcare operations.
- This law allows individuals to restrict what is disclosed and to who. For example, family or friends.
- In the manner of an emergency situation, it is required that entities request that the person receiving the information does not further disclose the information they have been given.



# IDENTITY AND VERIFICATION

- Verify the requestor's identity.
- Ensure that the person has the proper authority to obtain the PHI.
- Examples of written verification that may verify identity and purpose of the request include the following:
  - Proof of government status, such as an ID card with a photo,
  - Copy of conservator/guardian's court appointment
  - Order from the Probate Court
  - Correspondence from a medical facility.



# OUTSIDE INQUIRIES ABOUT THE PATIENT

- Patient may at the time of hospital admission, request that any or all information about them be held from outside inquiries. This would include information such as room number, patient status or if they were admitted to your facility.

# EXAMPLES OF PHI BEING USED INCORRECTLY

- Disclosing information about patients in the hospital
- Discussing private health information in public areas of the hospital, including the lobby of a hospital, an elevator or the cafeteria
- Discussing personal health information over the phone in a public area
- Not logging off your computer or a computer system
- The security guard in a healthcare institution needs to know the name and room number of patients to guide visitors. This is allowed; but, any other information, such as diagnosis or treatment, is not to be disclosed.
- A nurse needs access to personal health information for the patients in his/her unit but not for any patients that are not under her care.
- A health insurance company will need information about the number of visits the customer had; but, isn't allowed to view the entire patient history.
- Allowing members of the media to interview a patient in a substance abuse facility
- Including private health information in an email sent over the internet unencrypted.
- Releasing information about minors without the consent of a parent or guardian.

- References:
- <http://examples.yourdictionary.com/example-s-of-hipaa-violations.html#DW1lsumD61mAk7WS.99>
- <http://bok.ahima.org/doc?oid=85544#.WKcVgW8rKUk>
- <http://bok.ahima.org/doc?oid=300245#.WKcVqm8rKUk>
- <https://www.hhs.gov/hipaa/for-professionals/special-topics/mental-health/>
- <https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/access/>

