

HIPAA Policy No. 3

Common Uses and Disclosures Made Without Authorization

Policy:

This policy sets forth the uses and disclosures that will routinely occur in the practice and which do not require a signed authorization from the patient.

3.1 Uses and Disclosures Permitted for the Practice's Treatment, Payment, and Health Care Operations

Patient information can be used for treatment, payment, and operations without obtaining authorization from the patient.

Some uses and disclosures that are considered treatment, payment, or operations and, therefore, do not require an authorization are:

- Use of patient information (including medical records from previous providers) by physicians and office staff for treatment decisions.
- Disclosure of patient information to other physicians or health care providers who are involved in the patient's treatment, including consultations and referrals.
- Disclosure of patient information to billing companies or collection agencies for payment purposes.
- Disclosure of patient information to another provider so that the other provider can obtain payment (e.g., disclosure of insurance or demographic information to an ambulance company, hospital, or another physician's office).
- Disclosure of patient information to health plans for payment, coverage determinations, eligibility determinations, medical necessity/appropriateness review, justification of charges, for payor audits, utilization review, pre-certification, or preauthorization.

3.2 Disclosures to another Health Care Provider for Treatment, Payment, or Operations

For Treatment: Disclosures may be made, as necessary, to another health care provider for treatment of the patient.

For Payment: Disclosures may be made to another health care provider or health plan, so that the other provider or plan can obtain payment for services.

For Health care Operations: Disclosures may be made to another health care provider or health plan for the other entity's health care operations, if both the practice and the other health care provider have a relationship with the patient and the disclosure is for one of the following purposes:

- quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines (the primary purpose of these studies cannot be to obtain generalized knowledge, i.e., cannot be research studies disguised as QA/QI)
- population based activities related to improving health or reducing health care costs
- protocol development
- case management and care coordination
- contacting providers and patients about treatment alternatives
- evaluation of providers
- evaluation of health plan performance
- conducting training programs
- accreditation, certification, licensing or credentialing activities

3.3 Disclosures to Family Members and Personal Friends

3.3.1 Disclosure relevant to health care or payment to person assisting with health care or payment. If the patient is given the opportunity to object and does not object, the practice may disclose the patient's health information without authorization to the following persons if they are involved in the patient's healthcare or payment of health care, provided that the information is directly relevant to the person's involvement with the patient:

- family member
- relative
- close personal friend
- other person identified by the patient as being involved in the patient's health care or payment of health care

3.3.2 Disclosure regarding condition, location or death. If the patient is given the opportunity to object and does not object, the practice may disclose information regarding the patient's general condition, location or death to the following people:

- a family member
- the patient's personal representative
- another person responsible for the care of the patient

3.3.3 Opportunity to object. Patients must be given the opportunity to object to all disclosures made to family members, friends, relatives, personal representatives and caregivers set forth above **unless:**

- a health care provider can infer from the circumstances that the patient would not object;
- the patient is not present, is incapacitated or an emergency situation exists which makes the ability to give the patient an opportunity to object impracticable AND a health care provider determines in the exercise of his/her professional judgment that it is in the best interests of the patient to make the disclosure; or

- the practice is assisting with disaster relief efforts and providing an opportunity to object would hamper these efforts.

After a patient is deceased, information can continue to be shared with friends or family members that is directly relevant to their involvement in the patient's treatment or payment activities, unless this would go against a prior expressed objection by the patient.

Procedure:

1. If a use or disclosure of patient information is for treatment, payment or operations of the practice or of another provider or health plan subject to the conditions set forth in paragraph 3.1, there is no need to obtain a signed authorization from the patient.
2. If the patient is given the opportunity to object and does not object, or is unable to object, patient information may be shared with a family member, friend, personal representative or caregiver described in 3.3.1 or 3.3.2, subject to the conditions of 3.3.3.

Authorities: 45 CFR §164.501 (definitions)
45 CFR §164.502 (general rules for uses and disclosures)
45 CFR §164.506 (treatment, payment, or operations)
45 CFR §164.510 (b) (disclosures to family members, etc.)