Effective Date of This Revision: February 20, 2026

Contact:	HIPAA Chief Privacy Officer "Insert Addressee Here" "Insert Street Address Here" "Insert Phone Number Here"	Responsible Department:

Applies to:	☐ Officers	☐ Staff/ Faculty	☐ Student clinicians	☐ Volunteers
	☐ Other agents	☐ Visitors	☐ Contractors	

I PURPOSE

Provide guidance to **"Covered Entity's Name"** regarding the release of protected health information (PHI) for purposes requiring an individual's authorization, and to describe required elements, revocation procedures, special categories (psychotherapy notes, SUD records under 42 CFR Part 2), and AI/automated tool considerations. The individual has the right to revoke the authorization at any time.

"Covered Entity's Name" may not condition the provision of treatment, payment, enrollment in the health plan, or eligibility for benefits on the provision of an authorization, except under very limited circumstances,

II POLICY

Overview

It is the policy of **"Covered Entity's Name"** to comply with all applicable federal and state laws governing PHI disclosures, including HIPAA (45 CFR Parts 160 and 164) and 42 CFR Part 2 where SUD treatment records are involved. Disclosures that require an individual's valid authorization will not be made without a properly executed authorization form that meets HIPAA and any applicable state or Part 2 requirements.

General rules

- **No conditioning of care:** Except as permitted by law (e.g., certain research-related clinical trials), **Covered Entity's Name** will not condition treatment, payment, enrollment, or eligibility for benefits on signing an authorization.
- **Minimum necessary:** When an authorization is used, only the minimum PHI necessary to accomplish the stated purpose will be requested and disclosed.

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- **Psychotherapy notes and SUD counseling notes:** Use and disclosure of **psychotherapy notes** (as defined by HIPAA) and **SUD counseling notes** (42 CFR Part 2) require special handling: psychotherapy notes require a separate HIPAA psychotherapy-notes authorization; Part 2 SUD records require Part 2 consent language and may impose stricter limits than HIPAA.
- **AI and automated tools:** Any use of AI or automated tools that would process PHI covered by an authorization must comply with Section VII (AI & Automated Tool Controls) below; external vendor processing of PHI for which an authorization is obtained requires explicit, documented patient authorization that describes the AI processing and contractual safeguards (BAA, model-training prohibitions unless expressly authorized, encryption, retention/deletion terms).

III AUTHORIZATION REQUIREMENTS

A. When an authorization is required

Authorizations are required for disclosures not otherwise permitted by HIPAA or other law. Examples include, but are not limited to:

- **Use or disclosure of psychotherapy notes** for any purpose other than those narrow exceptions in 45 CFR §164.508(a)(2).
- **Marketing** that involves direct or indirect remuneration to the covered entity (unless an exception applies).
- **Sale of PHI.**
- **Most research disclosures** where the individual's authorization is required by law or institutional policy.
- **Disclosures of SUD treatment records** where Part 2 consent is required (Part 2 consent language must be used and retained).

B. Required elements of a valid authorization

A valid authorization must contain all HIPAA core elements and any additional elements required by state law or Part 2, including:

1. **A specific description of the PHI** to be used or disclosed (sufficiently specific to permit a reasonable person to understand what is authorized).
2. **Name(s) of the person(s) or class of persons** authorized to make the disclosure.
3. **Name(s) of the person(s) or class of persons** to whom the disclosure may be made.
4. **A description of the purpose** of the disclosure (or a statement that the disclosure is at the individual's request).
5. **An expiration date or event** that relates to the individual or the purpose.
6. **Signature of the individual** (or personal representative) and date.
7. **A description of the personal representative's authority** to sign, if applicable.

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8. **A statement of the individual's right to revoke** the authorization and how to do so, and that revocation is not effective to the extent the covered entity has already acted in reliance on the authorization.
9. **A statement that information disclosed pursuant to the authorization may be subject to redisclosure** by the recipient and may no longer be protected by HIPAA.
10. **If the authorization is for marketing involving remuneration,** a clear statement that remuneration is involved.
11. **If the authorization involves psychotherapy notes or Part 2 SUD records,** the authorization must explicitly identify those records and include any additional consent language required by 42 CFR Part 2.

C. Defective authorizations

An authorization is invalid if it:

- Is not signed and dated;
- Lacks any required element;
- Has expired;
- Has been revoked prior to the disclosure;
- Is known by **Covered Entity's Name** to be false or fraudulent; or
- Was obtained through conditioning of treatment, payment, enrollment, or eligibility (except as permitted for research).

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III PROCEDURE

"Covered Entity's Name" must obtain a valid authorization for certain uses and disclosures and has adopted specific authorization forms for use when releasing or requesting PHI for purposes that require authorizations.

For disclosures made in response to a valid authorization, *"Covered Entity's Name"* will disclose the information to the extent specified in the authorization. When requesting PHI that requires an authorization to use/disclose, *"Covered Entity's Name"* will request the minimum amount of information needed to meet the purpose of the request.

A. Authorizations
   a. *"Covered Entity's Name"* may use and disclose PHI when a valid authorization is obtained.
   b. For requests for authorization initiated by *"Covered Entity's Name"*, all units must use *"Covered Entity's Name"'s* standardized authorization form, Authorization for Release of Information, which can be accessed at the following website: [insert] All sections must be complete. Changes or variations to the authorization forms must be approved by *"Covered Entity's Name"* 's Privacy Officer. Treatment may not be conditioned on obtaining the authorization (unless related to approved research clinical trial).
   c. If the authorization was received from the individual or third party, determine the validity of the authorization. The following elements must be present:
      i. A description of the specific information to be used or disclosed.
      ii. Name of the specific person or entity authorized to disclose the information.
      iii. Name of the specific person or entity to whom *"Covered Entity's Name"* may make the requested use or disclosure and, if information is to be mailed, the address of the person or entity.
      iv. The date, event or condition upon which the authorization will expire.
      v. The individual's signature and date.
      vi. A description of the personal legal representative's authority to sign, if applicable.
      vii. A description of the purpose of the disclosure. (Not required if the individual requests disclosure for own use).
      viii. A statement in which the individual acknowledges that he or she has the right to revoke the authorization, instructions on how to exercise such

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right, or to the extent the information is included in the covered entity's notice, a reference to the notice.

ix. A statement that treatment may not be conditioned on obtaining the authorization, unless it is research related and disclosure of the information is for the particular research study. If for purposes of research, where treatment may be conditioned on obtaining the authorization, a statement about the consequences of refusing to sign the authorization.

x. A statement in which the individual acknowledges that information used or disclosed to any entity other than a health plan or health care provider may no longer be protected by federal privacy law.

xi. If the authorization is for marketing purposes and the marketing is expected to result in direct or indirect remuneration to *"Covered Entity's Name"* from a third party, a statement of this fact.

xii. If the disclosure requested involves mental health, substance abuse, HIV/AIDs, or reproductive health information, the authorization must also include (*incorporate other federal and state law provisions here*):

d. Legal Representatives

If the authorization is signed by a legal representative or other person authorized to act for the individual, the request must be accompanied by documentation of the representative's legal authority to act on behalf of the individual.

e. Revocation of Authorization

A patient who has executed an authorization for disclosure or use of individual health information may revoke the authorization at any time by sending a written notice to *"Covered Entity's Name"* as described in *"Covered Entity's Name"* 's Notice of Privacy Practices.

i. The written notice must refer to the specific authorization being revoked (e.g., "my authorization of January 27, 2002") and be signed and dated by the individual or his or her legal representative.

ii. The revocation becomes effective upon receipt by *"Covered Entity's Name"*, with the exception of uses or disclosures made by *"Covered Entity's Name"* prior to receipt.

f. For Research-Related Health Information

i. The core elements of an authorization as described below may be combined with the informed consent to participate in the research.

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ii. An authorization for a research study may be combined with another authorization or other written permission for the same or another research study.

iii. *"Covered Entity's Name"* may condition the provision of research related treatment (related to the clinical trial) on obtaining authorization.

iv. *"Covered Entity's Name"* may use and disclose for a specific research study, PHI that is created or received before and after HIPAA's compliance date (April 14, 2003), and/or prior to the new authorizations being implemented, as long as some other express legal permission to use and disclose the information for the research study was obtained.

v. Archived information may continue to be used and disclosed for the research study if an individual had originally signed an informed consent to participate in the research study, or IRB waived informed consent, in accordance with the Common Rule or FDA's human subject protection regulations.

vi. An accounting of all disclosures made under an authorization must be documented and maintained. See *"Covered Entity's Name"* policy, 00-01-15-20:00, Accounting of Disclosures of Health Information.

A. Authorization for Release to Third Party:

If *"Covered Entity's Name"* receives a request from a third party for release of PHI for other than treatment, payment, healthcare operations or as otherwise authorized by law or for public interest purposes exempted from authorization, the request will be routed to (specify position or department). The [specific *"Covered Entity's Name"* authority] will review the request and determine if a specific authorization is needed.

1. The (specify position or department) will review the request and determine if specific authorization is required.
2. If specific authorization is required, the specify position or department) will contact the patient, plan member or authorized representative in a written letter explaining the nature of the request for release and send the appropriate authorization form with the letter.
3. The letter will state that if authorization is granted by an authorized personal representative, the returned authorization form needs to be accompanied by

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appropriate documentation validating the personal representative has the authority to represent the patient or the member.

4. If authorization is granted, the (specify position or department) will notify the third party requesting the information that authorization has been granted and will include requested information with the letter.
5. If the patient, plan member or authorized personal representative denies release, the (specify position or department) will notify the third party requesting the information that authorization has been denied by the patient, plan member or authorized personal representative. Notification will be in writing.
6. All letters and signed acknowledgement forms shall become part of the patient or plan member's permanent record.

B. *"Covered Entity's Name"* Request for Third Party Release of Information:

If *"Covered Entity's Name"* requires access to third party PHI for purposes other than treatment, payment, healthcare operations, as allowed by law or for public interest purposes exempted from authorization, the workforce member will first document the need and purpose for release.

1. The appropriate authorization form will be mailed or transmitted to the third party specifying in as much detail as possible the PHI requested accompanied by a letter specifying the reason for the release of PHI.
2. The *"Covered Entity's Name"* authorized workforce member will follow up by phone with the third party if no response has been received within two weeks from the date of the request. The phone call will be documented and become a part of the patient or plan member's permanent record.
3. If the authorization is granted and the PHI forwarded to *"Covered Entity's Name"* the released PHI shall only be used for the purposes documented. The authorization form received from the third party shall become part of the patient of plan member's permanent record.
4. If the authorization is denied, the request will be forwarded to (specify position or department) for review and to make a determination if *"Covered Entity's Name"* intends to contact the specific patient or plan member to directly request authorization.
5. If it is determined the PHI requested is critical, (specify position or department) will contact the patient or plan member in writing detailing the information requested and the reason for the release of PHI. The letter will be accompanied with the appropriate authorization form.

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6. If authorization is granted, (specify position or department), the third party will be contacted in writing. The letter to the third party shall be accompanied by a copy of the completed authorization request.
7. If the authorization is denied, all documentation will become part of the patient or member's permanent record and *"Covered Entity's Name"* will be required to take appropriate action depending on the situation. This could include doing nothing, proceeding with the activity the information is to be released for without the requested PHI or, if the purpose of release is directly related to legal action, pursue obtaining a subpoena demanding release of specified information.

A. *"Covered Entity's Name"* Request for Individual Authorization to Release Information:

If *"Covered Entity's Name"* requires access to an individual's PHI for purposes other than treatment, payment, healthcare operations, as allowed by law or for public interest purposes exempted from authorization, the workforce member will first document the need and purpose for release.

1. The appropriate authorization form will be mailed or transmitted to the individual specifying in as much detail as possible the PHI requested accompanied by a letter specifying the reason for the release of PHI.
2. The *"Covered Entity's Name"* authorized workforce member will follow up by phone with the individual if no response has been received within two weeks from the date of the request. The phone call will be documented and become a part of the patient or plan member's permanent record.
3. If the authorization is granted, *"Covered Entity's Name"* shall only use the PHI requested for the purposes documented. The authorization form received from the individual shall become part of the patient or plan member's permanent record.
4. If the authorization is denied, the response will be forwarded to the original requester and this response will be recorded in the patient or plan member's permanent record. No further action to obtain or use the information will be made by *"Covered Entity's Name".*

C. Individual Authorization to Release Information:

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An individual can request "*Covered Entity's Name"* to release his/her own PHI to a third party for any purpose at any time. The individual must complete an authorization for this release, and "*Covered Entity's Name"* must, in almost all cases, honor the request.

- ***Any denial of this requested release will require written justification and evidence the requestor was notified of this decision.***

1. The individual must complete the appropriate authorization form specifying in as much detail as possible the PHI requested. No reason for the release is required.
2. Any PHI release authorized by the individual must be granted. "*Covered Entity's Name"* (specify position or department) will send the PHI directly to the third party upon individual request. A letter to the third party shall be accompanied by the PHI and a copy of the completed authorization request. The authorization and response letter will be documented and become a part of the patient or plan member's permanent record.

V SPECIAL CATEGORIES AND SENSITIVE INFORMATION

A. Psychotherapy notes

- Psychotherapy notes, as defined by HIPAA, require a separate, specific authorization for disclosure except for narrow exceptions in 45 CFR §164.508(a)(2). Psychotherapy notes must be stored and labeled separately and handled per the organization's Psychotherapy Notes policy.

B. Substance Use Disorder (SUD) records — 42 CFR Part 2

- SUD treatment records maintained by Part 2 programs are subject to 42 CFR Part 2. When a disclosure involves Part 2 records:
  - Use **Part 2 consent** forms and notice language.
  - Confirm whether the program is a Part 2 program and whether the records are Part 2 records before disclosing.
  - Part 2 consent may be required even when HIPAA would permit disclosure; when Part 2 is more protective, Part 2 controls prevail.
  - Part 2 consents must be retained and tracked; revocations must be honored consistent with Part 2 rules.

C. HIV, genetic, reproductive, and other state-sensitive categories

- Follow applicable state law and organizational procedures for additional consent elements or restrictions.

VI AI, AUTOMATED TOOLS, AND VENDOR PROCESSING

A. General AI principles

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- Any use of AI or automated tools that processes PHI must protect privacy, ensure security, and comply with HIPAA and applicable law. AI use that would process PHI covered by an authorization must be explicitly described in the authorization when required by law or organizational policy.

B. Internal AI processing

- Internal, access-controlled AI processing of PHI may be permitted only after:
  - **Privacy Officer** and **Security Officer** approval;
  - A documented risk assessment;
  - Role-based access controls, encryption in transit and at rest, and audit logging;
  - Clinician oversight and human review of AI outputs before inclusion in the medical record.

C. External vendors and Business Associate Agreements

- Any vendor processing PHI must sign a **Business Associate Agreement (BAA)** that includes:
  - Security requirements (encryption, access controls, logging);
  - Incident reporting obligations;
  - Data retention and deletion terms;
  - Prohibitions on using PHI to train models unless the individual has provided explicit, documented authorization that describes model training and the BAA includes strict safeguards and limitations.
- Vendors must not use psychotherapy notes or Part 2 SUD counseling notes to train models unless the individual has provided explicit, documented authorization and the BAA and technical controls enforce the individual's restrictions.

D. Documentation and auditability

- All AI processing activities involving PHI must be auditable. Clinicians must attest to AI-assisted content before it is entered into the medical record. Logs of AI inputs, outputs, reviewers, and decisions must be retained per retention policy.

VII DOCUMENTATION, RETENTION & AUDITING

- **Retention:** Authorizations, revocations, and Part 2 consents will be retained per the organization's retention schedule (minimum **six (6) years** unless state law requires longer retention).
- **Audit:** Periodic audits of authorization processing, disclosures, and AI use will be conducted. Discrepancies or unauthorized disclosures will be investigated and reported per incident response procedures.
- **Accounting:** Maintain an accounting of disclosures for authorizations as required by HIPAA and organizational policy.

VIII TRAINING & SANCTIONS

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- Workforce members who handle authorizations must receive training on authorization requirements, Part 2 protections, psychotherapy notes, minimum necessary, and AI/automated tool restrictions prior to access and annually thereafter.
- Violations of this policy may result in disciplinary action up to termination and reporting to appropriate authorities.

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DEFINITIONS

"Covered Entity's Name" Security Officer: the individual appointed by "Covered Entity's Name" to be the HIPAA Security Officer under s. 164.308(a)(2)of the HIPAA Security Rule.

"Covered Entity's Name" Privacy Officer: the individual appointed by "Covered Entity's Name" to be the HIPAA Privacy Officer under s. 164.530(a)(1) of the HIPAA Privacy Rule.

HIPAA: Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191)

Electronic Protected Health Information (ePHI): Electronic health information or health care payment information, including demographic information collected from an individual, which identifies the individual or can be used to identify the individual. ePHI does not include student's records held by educational institutions or employment records held by employers, or records for persons deceased for over 10 years.

Psychotherapy notes (HIPAA): Notes documenting or analyzing counseling session content, maintained separately from the medical record.

SUD counseling notes (Part 2): Notes created by Part 2 programs that identify an individual as having or having had an SUD; subject to 42 CFR Part 2 protections.

Authorization: A written permission meeting HIPAA core elements that permits a covered entity to use or disclose PHI for purposes not otherwise permitted by law.

Individually Identifiable Health Information (IIHI): Information that is a subset of health information, including genetic information and demographic information collected from an individual, and:

- ☑ It is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
- ☑ Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and
- ☑ That identifies the individual; or
- ☑ With respect to which there is a reasonable basis to believe the information can be used to identify the individual.

Protected Health Information (PHI): Individually identifiable health information or health care payment information maintained or transmitted in any medium, including demographic

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information collected from an individual, which identifies the individual or can be used to identify the individual. PHI does not include students records held by educational institutions or employment records held by employers, or records for persons deceased for over 50 years.

Addressable: When a standard adopted under 45 CFR Part 164.312 includes addressable implementation specifications, the **ORGANIZATION** must

(i) assess whether each implementation specification is a reasonable and appropriate safeguard in its environment, when analyzed with reference to the likely contribution to protecting the unit's electronic ePHI and

(ii) as applicable to the unit:

a. implement the implementation specification if reasonable and appropriate; or

b. if implementing the implementation specification is not reasonable and appropriate:

i. document why it would not be reasonable and appropriate to implement the implementation specification; and

ii. implement an equivalent alternative measure if reasonable and appropriate.

(iii) **Treatment**: the provision, coordination, or management of health care and related services among health care providers or by a health care provider with a third party, consultation between health care providers regarding a patient, or the referral of a patient from one health care provider to another.

Payment: the various activities of health care providers to obtain payment or be reimbursed for their services and of a health plan to obtain premiums, to fulfill their coverage responsibilities and provide benefits under the plan, and to obtain or provide reimbursement for the provision of health care. In addition to the general definition, the Privacy Rule provides examples of common payment activities which include, but are not limited to:

- Determining eligibility or coverage under a plan and adjudicating claims;
- Risk adjustments;
- Billing and collection activities;
- Reviewing health care services for medical necessity, coverage, justification of charges, and the like;

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- Utilization review activities; and
- Disclosures to consumer reporting agencies (limited to specified identifying information about the individual, his or her payment history, and identifying information about the covered entity).

Operations: certain administrative, financial, legal, and quality improvement activities of a covered entity that are necessary to run its business and to support the core functions of treatment and payment. These activities, which are limited to the activities listed in the definition of "health care operations" at 45 CFR 164.501, include:

- Conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; patient safety activities (as defined in 42 CFR 3.20);
  - population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination; contacting of health care providers and patients with information about treatment alternatives; and
  - related functions that do not include treatment; reviewing the competence or qualifications of health care professionals, evaluating provider and health plan performance, training health care and non-health care professionals, accreditation, certification, licensing, or credentialing activities;
- Underwriting enrollment, premium rating and other activities relating to the creation, renewal, or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care (including stop-loss insurance and excess of loss insurance)
- Conducting or arranging for medical review, legal, and auditing services, including fraud and abuse detection and compliance programs;
- Business planning and development, such as conducting cost-management and planning analyses related to managing and operating the entity; and
- Business management and general administrative activities, including those related to implementing and complying with the Privacy Rule and other Administrative Simplification Rules, customer service, resolution of internal grievances, sale or transfer of assets, creating de-identified health information or a limited data set, and fundraising for the benefit of the covered entity. General Provisions at 45 CFR 164.506

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Related Policies: ALWAYS VERIFY YOU ARE USING THE MOST CURRENT VERSION.

References and Resources:

- ORGANIZATION Confidentiality Agreement
- HIPAA Final Privacy Rule, 45 CFR Parts 160 and 164, Department of Health and Human Services, http://www.hhs.gov/ocr/privacy/hipaa/administrative/privacyrule/privruletxt.txt, August 14, 2002.
- HIPAA Final Security Rule, 45 CFR Parts 160, 162, and 164, Department of Health and Human Services, http://www.cms.hhs.gov/hipaa/hipaa2/regulations/security/default.asp, February 20, 2003.
- HIPAA Omnibus Rule, revisions to 45 CFR Parts 160, and 164, Department of Health and Human Services, http://www.gpo.gov/fdsys/pkg/FR-2013-01-25/pdf/2013-01073.pdf,
- 42 CFR Part 2, Confidentiality of Substance Use Disorder Patient Records.CMS, "CMS Information Systems Security Policy, Standards and Guidelines Handbook", https://security.cms.gov/search?ispg%5BrefinementList%5D%5Bresource_type%5D%5B0%5D=Handbooks
- International Standards Organization: ISO/IEC 27799:2016
- National Institute of Standards and Technology (NIST) Special Publication 800-66, Implementing the Health Insurance Portability and Accountability Act (HIPAA) Security Rule: A Cybersecurity Resource Guide https://csrc.nist.gov/pubs/sp/800/66/r2/final
- National Institute of Standards and Technology (NIST) Special Publication 800-12 (2017), The NIST Handbook: An Introduction to Computer Security, https://csrc.nist.gov/pubs/sp/800/12/r1/final

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