

<p style="text-align: center;"><b>USE AND DISCLOSURE OF HEALTH INFORMATION PURSUANT TO AN INDIVIDUAL AUTHORIZATION</b></p>
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**Purpose:** To set forth the policy and procedures of WVU Physicians of Charleston (WVUPC) regarding the use and disclosure of protected health information (PHI) pursuant to an individual's written authorization.

**Standard:** A signed authorization must be obtained from an individual or an individual's legal representative prior to using or disclosing the individual's PHI where such use or disclosure is for purposes other than treatment, payment or health care operations, unless otherwise permitted or required by law.

**Policy:** WVUPC is committed to protecting the privacy and confidentiality of an individual's PHI. Where an individual's PHI is to be used or disclosed for purposes other than treatment, payment or health care operations, WVUPC staff will obtain a signed written authorization from the individual or the individual's legal representative, unless such use or disclosure is permitted or required by law. Uses or disclosures permitted or required by law do not require a written authorization from the individual who is the subject of the request, but such disclosures require the advance review and approval of either the WVUPC Director of HIM or the WVUPC Privacy Officer.

Prior to using or disclosing PHI pursuant to a written authorization, WVUPC staff will verify the validity of the authorization by confirming that the authorization contains all required information, contains an expiration date, and is signed by the individual or the individual's legal representative.

**Procedure:**

- 1. Who may request an authorization**

An individual, the individual's legal representative, WVUPC or other person or entity may request the use or disclosure of PHI pursuant to an authorization.

**2. Form of authorization**

A. Regardless of who is making the request, federal law requires that authorizations for the use/disclosure of PHI contain the following elements:

- a. A specific and meaningful description of the information to be used and/or disclosed;
- b. The name or other specific identification of the person(s) or entity authorized to make the requested use or disclosure;
- c. The name or specific identification of the person(s) or entity to whom the use or disclosure will be made;
- d. An expiration date, or an event that will trigger expiration of the authorization;
- e. A statement of the individual's right to revoke the authorization in writing, including exceptions to such written revocation, and an explanation of how the individual can obtain revocation;
- f. A statement that the information may, in certain instances, be re-disclosed by the recipient of the information, in which case it is no longer subject to the HIPAA privacy standards;
- g. Signature of the individual or the individual's legal representative and the date of signature;
- h. If the signature belongs to the individual's legal representative, a description of that person's authority to act on behalf of the individual;
- i. A statement that WVUPC will not condition treatment, payment, health plan enrollment, or health benefits eligibility upon the receipt of the individual's authorization (with certain limited exceptions, as discussed below);
- j. A description of each purpose of the requested use or disclosure;
- k. The right of the individual to inspect and/or copy the PHI to be used or disclosed;
- l. The right of the individual to refuse to sign the authorization, if the authorization is requested by WVUPC; and
- m. Whether WVUPC will receive remuneration from a third party for the use or disclosure of PHI pursuant to the authorization.

B. Prior to using or disclosing PHI pursuant to an authorization, WVUPC personnel must review the authorization to ensure that it does not contain any of the following defects:

- a. The expiration date has passed or the expiration event is known to have occurred;
- b. The authorization has not been filled out fully or properly;
- c. WVUPC personnel have knowledge that the authorization has been revoked;
- d. WVUPC have knowledge that some material information in the authorization is false;
- e. The authorization was obtained by improperly conditioning treatment upon its receipt; or
- f. If the authorization is for psychotherapy notes, it is improperly combined with authorization for the release of other types of PHI.

**3. Psychotherapy notes**

WVUPC personnel must obtain an authorization for any use or disclosure of psychotherapy notes. See the WVUPC policy relating to uses/disclosures of psychotherapy notes for more information.

**4. Compound authorizations**

An authorization may not be combined with any other document to create a “compound authorization,” unless one of the following exceptions applies:

- a. Authorizations for use or disclosure of PHI created in a research context which also include treatment of the individual may be combined with a consent to use that PHI for treatment, payment or health care operations or may be combined with an informed consent for that treatment;
- b. Authorizations to use or disclose psychotherapy notes may only be combined with another authorization related to psychotherapy notes; or
- c. Authorizations for the use or disclosure of PHI (other than psychotherapy notes) may be combined, but only if WVUPC has not conditioned the provision of treatment, payment, enrollment, or eligibility upon receipt of the authorization.

**5. Conditioning care and treatment upon obtaining authorization**

WVUPC may not condition the provision of treatment to an individual upon obtaining of the individual's authorization, except in the following limited circumstances:

- a. The provision of research-related treatment may be conditioned upon obtaining an authorization.
- b. The provision of health care that is solely for the purpose of creating PHI for disclosure to a third party may be conditioned upon obtaining an authorization (e.g., performing an independent medical examination at the request of an insurer or other third party).

**6. Revocation of authorization**

In the event that an individual desires to revoke his/her consent, the individual must do so in writing. Such written revocation must be provided to: Office of Health Information/WVU Physicians of Charleston, 3110 MacCorkle Ave., S.E., Charleston, West Virginia and documented in the individual's health care record. Upon receipt of a written revocation, WVUPC may no longer use or disclose an individual's PHI pursuant to the prior authorization, unless WVUPC has already taken action in reliance upon the authorization.

**7. Documentation and retention of authorization**

Each authorization shall be maintained in the individual's health care record for a period of not less than six (6) years from the date of signature, or from the date in which the authorization was last in effect, whichever is later.

**8. Copy to Individual**

If WVUPC seeks an authorization from an individual for use/disclosure of PHI, the individual is entitled to receive a copy of the signed authorization.

**REFERENCES:**

HIPAA Privacy Regulations, 65 Fed. Reg. 82650-82662 (12/28/00) and 67 Fed. Reg. 53219-53226  
45 C.F.R. §164.508

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