

REQUIREMENTS FOR RELEASE OF INFORMATION FORMS

If records are subject to any of the following laws, a release form must include all the elements described to be valid. Please consult legal counsel to determine which of these laws apply in your situation.

I. Requirements under FERPA: 34 CFR 99.30

To comply with FERPA, a written consent to release education records must:

- (1) Specify the records that may be disclosed;
- (2) State the purpose of the disclosure;
- (3) Identify the party or class of parties to whom the disclosure may be made; and
- (4) Be signed and dated.

“Signed and dated written consent” under this part may include a record and signature in electronic form that

- (1) Identifies and authenticates a particular person as the source of the electronic consent; and
- (2) Indicates such person’s approval of the information contained in the electronic consent.

II. Requirements under HIPAA: 45 C.F.R. 164.508(c)

1. A valid authorization under this section must contain at least the following elements:

- A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion.
- The name or other specific identification of the person(s), or class of persons, authorized to make the requested use or disclosure.
- The name or other specific identification of the person(s), or class of persons, to whom the covered entity may make the requested use or disclosure.
- A description of each purpose of the requested use or disclosure.

The statement “at the request of the individual” is a sufficient description of the purpose when an individual initiates the authorization and does not, or elects not to, provide a statement of the purpose.

- An expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure. The statement “end of the research study,” “none,” or similar language is sufficient if the authorization is for a use or disclosure of protected health information for research, including for the creation and maintenance of a research database or research repository.
- A signature of the individual and date. If the authorization is signed by a personal representative of the individual, a description of such representative’s authority to act for the individual must also be provided.

2. In addition to the core elements, the authorization must contain statements adequate to place the individual on notice of all of the following:

- The individual’s right to revoke the authorization in writing, and either:
 - The exceptions to the right to revoke and a description of how the individual may revoke the authorization; or
 - A reference to the covered entity’s notice, if the notice contains information about the exceptions to the right to revoke and a description of how the individual may revoke the authorization.
- The ability or inability to condition treatment, payment, enrollment, or eligibility for benefits on the authorization, by stating either:
 - The covered entity may not condition treatment, payment, enrollment, or eligibility for benefits on whether the individual signs the authorization when the prohibition on conditioning of authorizations in paragraph (b)(4) of this section applies; or
 - The consequences to the individual of a refusal to sign the authorization when, in accordance with paragraph (b)(4) of this section, the covered entity can condition treatment, enrollment in the health plan, or eligibility for benefits on failure to obtain such authorization.
- The potential for information disclosed pursuant to the authorization to be subject to redisclosure by the recipient and no longer be protected by this subpart.

3. The authorization must be written in plain language.

4. If a covered entity seeks an authorization from an individual for a use or disclosure of protected health information, the covered entity must provide the individual with a copy of the signed authorization.

III. Requirements under CMIA: Civil Code 56.11

An authorization for the release of medical information by a provider of health care, health care service plan, pharmaceutical company, or contractor shall be valid if it:

1. Is handwritten by the person who signs it or is in a typeface no smaller than 14-point type.
2. Is clearly separate from any other language present on the same page and is executed by a signature which serves no other purpose than to execute the authorization.
3. Is signed and dated by one of the following:
 - (1) The patient if the patient is either an adult or a minor who consented or lawfully could have consented for the services under minor consent law described in Additional Resources.
 - (2) The legal representative of the patient, if the patient is a minor or incompetent. However, a legal representative cannot give authorization to release information related to services a minor consented to or could have consented to under minor consent law described in Additional Resources.
4. States the specific uses and limitations on the types of medical information to be disclosed.
5. States the name or functions of the provider of health care, health care service plan, pharmaceutical company, or contractor that may disclose the medical information.
6. States the name or functions of the persons or entities authorized to receive the medical information.
7. States the specific uses and limitations on the use of the medical information by the persons or entities authorized to receive the medical information.
8. States a specific date after which the provider of health care, health care service plan, pharmaceutical company, or contractor is no longer authorized to disclose the medical information.
9. Advises the person signing the authorization of the right to receive a copy of the authorization.