

HIPAA POLICY

POLICY: USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION REQUIRING PATIENT AUTHORIZATION

POLICY NUMBER: 2000

APPLICABLE FACILITIES: MCH, MCS, PCC

EFFECTIVE DATE: APRIL 14, 2003

DATE REVIEWED AND/OR REVISED:

PURPOSE

To identify the circumstances in which Mayo and its staff must obtain valid patient authorization for a use and disclosure of the patient's Protected Health Information (PHI). This policy also sets forth the requirements for a valid authorization.

DEFINITIONS

Archived Medical Record: The Archived Medical Record is the documentation of health care services provided to an individual. The Archived Medical Record is composed of a pre-defined set of documents that are used to respond to requests for the release of information. (See Medical Record Services Policy #2010 - The Electronic Medical Record and the Archived Medical Record) The Archived Medical Record does not include billing records, quality assurance or other peer review information or documents.

Patient Representative: An individual who is authorized, either by the patient or by Arizona law, to make health care treatment decisions for the patient when the patient is unable to do so (e.g., parent, legal guardian, conservator, health care power of attorney, surrogate).

Protected Health Information (PHI): Any health information or demographic information that identifies a patient. See HIPAA Policy #2024 - Identifying Protected Health Information for more details.

POLICY

1. Staff will obtain patient authorization to use or disclose the patient's PHI in the following circumstances:
 - a. A Mayo policy does not expressly allow use or disclosure of the PHI without patient authorization.
 - b. The use or disclosure is of certain mental health records. (See HIPAA Policy #2002 - Use and Disclosure of Certain Mental Health Information)

- c. The disclosure is of communicable disease-related information, including HIV or AIDS-related information. (See HIPAA Policy #2003 - Disclosures of Protected Health Information Relating to Communicable Diseases)
 - d. The use or disclosure is of information related to genetic testing. (See HIPAA Policy #2004 - Use and Disclosure of Protected Health Information Relating to Genetic Testing)
 - e. The disclosure is for marketing purposes.
2. If patient authorization is required for disclosure of patient PHI, staff must obtain patient authorization on a form (see Authorization to Disclose Protected Health Information by Mayo Clinic form [MCS 7602]) that contains the following items:
- a. A specific and meaningful description of the PHI to be used or disclosed;
 - b. Mayo's name (or the name of the person, class of persons, or organization that will be making the disclosure of PHI);
 - c. The name or other identification of the person, class of persons, or organization to whom Mayo is making the disclosure (or Mayo's name, if it is for an internal purpose);
 - d. A description of the purpose of the use or disclosure of PHI. If the patient has requested the disclosure but does not indicate the purpose, staff will write "at the request of the patient" on the form;
 - e. An expiration date or an expiration event of the authorization that relates to the purpose of the use or disclosure;
 - f. A statement that the patient has a right to revoke the authorization;
 - g. The potential that the patient's PHI may be redisclosed by the recipient and no longer be protected by the federal privacy regulations;
 - h. The patient's or Patient Representative's signature and the date of signature;
 - i. If the authorization is executed by a Patient Representative, a description of that person's authority to act for the individual;
 - j. If the authorization is for the purpose of using PHI for marketing and Mayo will receive either direct or indirect payment, tell the patient in the authorization form; and,
 - k. A statement that Mayo cannot condition treatment on whether the patient signs the authorization. However, if Mayo is allowed to condition treatment on obtaining authorization, as explained in Section 6 below, the authorization form must include a statement of the consequences to the individual for refusing to sign the authorization.

3. If Mayo receives an authorization form from a source outside Mayo, staff will ensure that the outside authorization form meets the requirements set forth in Section 2 (a)–(j) above, unless an authorization is not required for the disclosure under Mayo’s policies (e.g., see HIPAA Policy #2001-Use and Disclosure of Protected Health Information for Treatment, Payment and Health Care Operations).
4. If the patient signed an authorization, release, or other permission form before April 14, 2003 that does not comply with the authorization requirements set forth in Section 2 above, staff may continue to use or disclose the patient’s PHI collected or received before April 14, 2003. Staff will follow the terms of that previous authorization, release or other permission. However, to use or disclose PHI collected or received after April 14, 2003 from the same patient, staff will obtain a new patient authorization that complies with the requirements in Section 2.
5. Staff may not combine authorizations for different purposes. The only exception is that, if the authorization is for use and disclosure of PHI for treatment involved in a research study, staff may combine the informed consent to participate in the study with the authorization to use and disclose the PHI for that study. (See Mayo Research Policy Manual)
6. Staff will not require a patient to provide an authorization, and will not condition treatment on obtaining authorization, except in the following circumstances:
 - a. The patient is participating in research, and the authorization is sought in connection with that research. (See Mayo Research Policy Manual)
 - b. The patient has requested Mayo staff to do an examination or provide other treatment, in order to disclose that information to a third party. For instance, if a patient asks Mayo to conduct an employment physical for the purpose of giving that information to the patient’s employer, Mayo staff may refuse to do the examination unless the patient signs an appropriate authorization form.
7. Staff will not use or disclose PHI if the patient’s authorization is invalid. An authorization is invalid if:
 - a. The authorization has expired, because the expiration date has passed or the expiration event has passed;
 - b. The authorization form lacks a required element or has not been filled out completely;
 - c. Mayo is aware that the patient has revoked the authorization;
 - d. Mayo knows that the form contains material false information; or
 - e. The authorization is combined with another authorization (except for research purposes).

8. If they become aware of information that would render a patient's authorization invalid, staff will report that information to the Mayo Privacy Officer. This includes information that a patient has revoked his or her authorization, has expressed the desire to revoke his or her authorization, or that an authorization form contains false information.
9. A patient may revoke his or her authorization at any time by submitting a written request to Mayo. Staff that receive a patient's verbal request to revoke an authorization will refer the patient to the Medical Records Department. Staff that receive a patient's written revocation of authorization will send a copy of the revocation to the Medical Records Department.
10. Upon revocation of patient authorization, staff will set the ROI flag in IDX and will stop using or disclosing the patient's PHI for the purposes covered by that authorization. However, if there is an important reason to continue to use or disclose that PHI, staff should contact the Mayo Privacy Officer for further guidance.
11. Upon the patient's request or if Mayo seeks the authorization from the patient for Mayo purposes, staff will give the patient a copy of the authorization signed by the patient, unless the patient sent the authorization to Mayo.
12. Mayo will retain copies of all patient authorizations for 6 years. All patient authorizations will be kept in the Archived Medical Record.