

**UNIVERSITY OF MAINE SYSTEM
HIPAA POLICY #5
AUTHORIZATIONS**

I. General

For any use or disclosure of PHI that requires an authorization by the individual, only an approved University Authorization Form may be used and no additions, deletions or modifications may be made without the approval of the University of Maine System legal counsel. If a University Covered Component (CC) seeks an authorization from an individual for use or disclosure of PHI, the CC must provide the individual with a copy of the signed authorization. If the Authorization is signed by a personal representative, then it must include a description of the representative's authority to act for the individual. An Authorization to disclose may not extend longer than 30 months.

II. Defective Authorizations

An authorization is not valid if it has any of the following defects:

- A. The expiration date has passed or the expiration event is known by the CC to have occurred;
- B. The authorization has not been filled out completely with respect to a required element, if applicable;
- C. The authorization is known by the CC to have been revoked;
- D. The authorization is a prohibited compound or conditioned authorization;
- E. Any material information in the authorization is known by the CC to be false.

III. Compound Authorizations

An authorization for use or disclosure of PHI may not be combined with any other document to create a compound authorization, except as follows:

- A. An authorization for the use or disclosure of PHI for a research study may be combined with any other type of written permission for the same or another research study. This exception includes combining an authorization for the use or disclosure of protected health information for a research study with another authorization for the same research study, with an authorization for the creation or maintenance of a research database or repository, or with a consent to participate in research. Where a covered health care provider has conditioned the provision of research-related treatment on the provision of one of the authorizations, any compound authorization created under this paragraph must clearly differentiate between the conditioned and unconditioned components and provide the individual with an opportunity to opt in to the research activities described in the unconditioned authorization.
- B. An authorization for the use or disclosure of psychotherapy notes may only be combined with another authorization for the use or disclosure of psychotherapy notes.
- C. An authorization, other than an authorization for the use or disclosure of psychotherapy notes, may be combined with any other such authorization, except where the CC has conditioned the provision of treatment, payment, enrollment in the health plan, or eligibility for benefits on the provision of one of the authorizations.

IV. Prohibition on Conditioning Authorizations

A CC may not condition the provision to an individual of treatment, payment, enrollment in the health plan, or eligibility for benefits on the provision of an authorization, except:

- A. A covered health care provider may condition the provision for research-related treatment on the provision of an authorization for the use or disclosure of PHI for such research.
- B. A health plan may condition enrollment in the health plan or eligibility for benefits on the provision of an authorization requested by the health plan prior to enrollment, if the authorization is sought for the health plan's eligibility or enrollment determinations relating to the individual or for its underwriting or risk rating determinations and the authorization is not for a use or disclosure of psychotherapy notes.
- C. A CC may condition the provision of health care that is solely for the purpose of creating

PHI for disclosure to a third party on the provision of an authorization for the disclosure of the PHI to such third party.

V. Revocation of Authorizations

An individual may revoke an authorization at any time, provided that the revocation is in writing, except to the extent that the CC has taken action in reliance thereon. A revocation of authorization must be retained with the authorization and the individual's health care information.

VI. Authorization Required

Notwithstanding any other provision of HIPAA, a covered component must obtain an authorization for any use or disclosure of protected health information for marketing, except if the communication is in the form of:

(A) A face-to-face communication made by a covered component to an individual; or

(B) A promotional gift of nominal value provided by the covered component.

If the marketing involves financial remuneration to the covered component from a third party, the authorization must state that such remuneration is involved.

Notwithstanding any other provision of HIPAA, a covered component must obtain an authorization for any disclosure of protected health information which is a sale of protected health information. Such authorization must state that the disclosure will result in remuneration to the covered component.

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