

**YUMA COUNTY
ADMINISTRATIVE MANUAL**

Adopted by Board of Supervisors: March 15, 2004 - Addendum No. 1

SUBJECT:	AUTHORIZATION FOR USE & DISCLOSURE OF PROTECTED HEALTH INFORMATION	ITEM NUMBER	99-09
		ID #:	0408
EFFECTIVE DATE:	APRIL 14, 2004	PAGE	1 OF 6

Purpose

To ensure that employees of the County of Yuma (hereinafter "the County") understand when written authorization from the individual (patient/resident/client) or his legal representative is required for use and disclosure of protected health information.

Background

County agencies designated as healthcare components must comply with privacy regulations promulgated under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). They must also comply with Arizona laws and regulations pertaining to the use and disclosure of individually identifiable health information, unless such state laws and regulations are preempted by HIPAA.

HIPAA's privacy regulations outline many detailed requirements protecting the confidentiality of health information and providing individuals significant rights with respect to their health information. Compliance with these regulations is addressed in a series of County policies and procedures.

Definitions

Note: The definitions below are in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Standards for Privacy of Individually Identifiable Health Information (Privacy Rule).

Health Care Operations: Any of the following activities:

- Internal performance improvement activities, excluding research;
- Reviewing the competence or qualifications of health care professionals;
- Underwriting, premium rating, and other activities related to health insurance contracting;
- Medical review, legal services, and auditing;
- Business planning and development; and
- Business management and general administrative activities.

Individually Identifiable Health Information: Information that identifies an individual (or could reasonably be used to identify an individual) that:

- Is created or received by the County; and
- Relates to the past, present, or future physical or mental health or condition of an individual;
- Relates to the provision of health care to an individual; or
- Relates to the past, present, or future payment for the provision of health care to an individual.

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This includes demographic information (such as name, address, date of birth, sex, and race) collected from an individual.

Payment: Activities undertaken to obtain or provide reimbursement for health care services, including:

- Billing, claims management, and collection activities;
- Review of health care services for medical necessity, coverage, appropriateness, or charge justification;
- Utilization review activities

Protected Health Information (PHI): Individually identifiable health information that is transmitted or maintained by electronic or any other medium.

Treatment: Provision, coordination, or management of health care and related services by one or more health care providers, including:

- Management of care by a provider with a third party;
- Consultation between health care providers relating to a individual;
- Referral of a individual from one provider to another

Policy

In compliance with state and federal laws and regulations, the County will obtain written authorization from the individual or his legal representative for uses and disclosures of protected health information (PHI) for:

- Purposes other than treatment, payment, and health care operations; disclosures required by law; and reasonable requests for investigations; and
- Research, unless the requirement for authorization is waived by an Institutional Review Board (IRB).

Requirements for disclosing PHI to other providers for their use in treatment, payment, and healthcare operations are outlined in Policy, "Use and Disclosure of Protected Health Information for Treatment, Payment, and Healthcare Operations."

Authorization is **not** required for uses and disclosures required by law (See Policy, "Disclosure of Protected Health Information to Government Officials," for more information.)

The County will not condition the provision of treatment to an individual on signing an authorization except for research-related treatment.

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Procedure

1. Authority to Grant Authorization

Authority to grant authorization for use or disclosure of health information resides with:

- The individual, if the individual is a competent adult or an emancipated minor;
- A parent or legal guardian on behalf of a minor child (a child under the age of 18 in Arizona) with the exceptions noted below;
- The executor of the estate or an individual appointed by the probate court, if the individual is deceased.

Exceptions for Minors: Authorization should be obtained from the minor rather than a parent or legal guardian when:

- The minor is married or previously married;
- The minor is self-sufficient (15 years or older, not living at home, manages own financial affairs)
- The minor is not married, but treatment is related to the minor's pregnancy, except sterilization;
- The minor is not married, but treatment is related to pregnancy termination;
- The minor is on active duty with the Armed Forces;
- The minor is 12 years or older and treatment is for a communicable reportable disease or condition;
- The minor is 12 years or older and treatment is for rape;
- Treatment is for sexual assault;
- The minor is 12 years or older and treatment is for alcohol or drug abuse;
- The minor is 12 years or older receiving outpatient mental health treatment.

When the Individual is Unable to Grant Authorization: When the individual is unable to grant authorization because of a lack of decision-making capacity, the County may honor an authorization from one of the following persons (listed in order of authority):

- A court-appointed guardian;
- A person with a "durable" power of attorney to authorize disclosure of health information on behalf of the individual;
- The individual's spouse unless separated or divorced;
- Nearest of kin in the following order: Adult child, either parent, adult sibling, other nearest of kin.

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2. Valid Authorizations

Under the Privacy Rule, a valid authorization 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 way;
- 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 facility 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 sufficient when the individual initiates the authorization and chooses not to describe the purpose of the request.);
- An expiration date or 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 acceptable if the authorization is for research);
- A statement of the individual's right to revoke the authorization in writing and the exceptions to the right to revoke, along with a description of how the individual may revoke the authorization;
- A statement that the County may not condition treatment on whether the individual signs the authorization, unless the authorization involves participation in a research study;
- A statement that the information used or disclosed pursuant to the authorization may be subject to re-disclosure by the recipient and no longer protected by the federal privacy regulations;
- Signature of the individual and date; and
- If the authorization is signed by a legal representative of the individual, a description of the representative's authority to act for the individual.

The authorization must be written in plain language.

Arizona law requires that authorizations:

- Be handwritten by the same person who signs it or be in typeface of at least 8 point;
- Be clearly separate from any other language on the same page and clearly executed (by the signature) for the purposes of authorization only;
- Identify those who are authorization to use or disclose the information (by name or function);
- Identify those who are authorized to receive the information (by name or function), as well as the specific permitted uses of such information and limitations on their use; and
- Advise the individual signing of the right to receive a copy of the authorization.

If the County asks the individual for written authorization for use or disclosure of PHI, the

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individual must be given a copy of the completed executed authorization form.

The County will document and retain any signed authorization for at least six (6) years, in compliance with state and federal law and regulation.

Please see Exhibit A for the County's form for "Authorization to Use or Disclose Protected Health Information."

3. Outside Authorizations

A written authorization provided by the individual or an outside requester is acceptable if it contains all of the elements described in the "Valid Authorizations" section above. If the authorization is missing one or more the required elements, the individual or his legal representative will be asked to sign the County's form for "Authorization to Use or Disclose Protected Health Information."

4. Combined Authorizations

An authorization for use or disclosure of protected health information (PHI) may **not** be combined with any other document to create a compound authorization unless it is an authorization for the use or disclosure of PHI created for research that includes treatment of the individual.

5. Invalid Authorizations

An authorization is not valid if the document has "**any**" of the following defects:

- The expiration date has passed or the expiration event is known by the County to have occurred;
- The authorization has not been filled out completely;
- The authorization is known by the County to have been revoked;
- The authorization lacks a required element, as described in the "Valid Authorizations" section above; or
- Any material information in the authorization is known by the County to be false.

6. Timeframes for Authorizations

The individual's authorization to use or disclose protected health information must be obtained **at or after** the date of service.

Unless the individual specifies an earlier expiration date or event, the County will honor an authorization for up to six (6) months after the date it was signed by the individual or his legal representative. If the authorization is for research, the expiration date may state "end of the

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research study," "none," or similar language.

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7. Retrieval/Copy Fees

Fees will be charged for retrieving records and making copies in accordance with the County's fee schedule. Please see Policy, "Clerical and Copy Fees for Protected Health Information."

8. Record of Authorization and Disclosure

Following disclosure of information, the signed authorization form should be filed with the individual's record along with a notation of what specific information was disclosed, the date of the disclosure, and the signature of the employee who made the disclosure. This information will be kept for at least six (6) years.

9. Revocation of Authorizations

An individual may revoke his authorization in writing at any time, **except** to the extent the County has already taken action in reliance on the authorization. (For example, if the County has already used or disclosed information to an outside party based on the individual's prior authorization, this use or disclosure is covered because the authorization was valid at the time of the use or disclosure. Once the authorization is revoked, it cannot be used for any future uses or disclosures of PHI.)

An individual or legal representative who wishes to revoke his/her authorization will be asked to submit in writing their request to the Yuma County Privacy Officer.

References

Brandt, Mary D. "Maintenance, Disclosure, and Redisclosure of Health Information," published by the American Health Information Management Association, 1993.

"Consent Requirements for Medical Treatment of Minors," published by the Arizona Healthcare Association, 2001.

Federal Privacy Regulations, 45 CFR Subtitle A, Subchapter C, Parts 160 and 164, Vol. 65, No. 250, December 28, 2000, pp. 82798 – 82829.

Federal Privacy Regulations, 45 CFR Subtitle A, Subchapter C, Parts 160 and 164, Vol. 67, No. 157, August 14, 2002, pp.53219 - 53226.

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