

## L – 09: Authorization to Use and Disclose Protected Health Information

**POLICY:** See L-09 Authorization Form Policy at [www.cosdcompliance.org](http://www.cosdcompliance.org).

**DEFINITIONS:** See HHS A Policy L-30.

**PROCEDURES:**

- A. County Initiated Requests for Authorization. If a Program asks the individual for written authorization to use or disclose Protected Health Information (PHI), the Program shall:
1. Use the HHSA approved form (23-09)
  2. Provide the individual a copy of the signed authorization.
  3. Obtain the authorization on or after the date of service.
- B. Authorizations received from other Agencies:
1. The Program shall ensure the request is valid. Valid Authorizations must contain at least the following elements, as the reasonable discretion of the Program:
    - a. Written in plain language and in 14-point font (or handwritten);
    - b. A description of the information to be shared;
    - c. Name of the program or staff that may share the information;
    - d. Name of the person who or entity that will receive the information;
    - e. Reason for the request (A statement such as “at the client’s request” will suffice, as clients do not have to provide a reason);
    - f. Expiration date or expiration event;
    - g. Statement that:
      - a. The individual has the right to revoke the authorization, how they may revoke, and the limitations to a revocation;
      - b. The entity requesting the information may not condition treatment on the authorization, unless the authorization pertains to participation in a research study;
      - c. The information may be re-disclosed by the recipient and may no longer be protected under federal or state law;
      - d. The individual signing the authorization has a right to a copy of the Authorization;
    - h. Signed and dated by the authorized individual (See Policy HHSA L-27).
  2. If the Program is unsure whether the authorization is valid, the Program shall engage the Agency Privacy Officer.
  3. Fees may be charged for retrieving records and making copies (see County’s fee schedule).
  4. If the authorization is missing one or more of the required elements, the individual will be asked to sign the Agency’s form HHSA 23-09).
- C. Additional requirements for particular conditions and procedures:
1. Psychotherapy notes: If the authorization seeks the disclosure of psychotherapy records, refer to Policy HHSA-L-25.

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2. HIV and AIDS related test results: A separate authorization is required for each separate disclosure of test results.
  3. Substance abuse records: When sending substance abuse records, Programs shall also send:
    - a. A copy of the authorization;
    - b. A statement that prohibits the receiving person or entity from further disclosing the records, unless the authorization or subsequent authorization expressly permits the further disclosure or that disclosure is specifically allowed under federal and state law.
  4. Compound Authorizations: An Authorization may not be combined with any other documents, except that an authorization related research may also authorize use of the information for treatment.
1. Invalid Authorizations: An authorization is not valid if the:
    1. Expiration date has passed or the expiration event is known by the County to have occurred;
    2. Authorization has not been filled out completely or is missing a required element (as above);
    3. Authorization is known by the County to have been revoked; or
    4. Any material information in the authorization is known by the County to be false.
  2. Record of Authorization and Disclosure: The signed authorization form shall be filed with the individual's record along with a notation of what specific information was disclosed, the date of the disclosure, and the printed name and signature of the staff who made the disclosure. This information shall be kept for a minimum of six (6) years.
  3. Revocation of Authorizations: An individual may revoke their authorization in writing at any time, except to the extent the County has already acted on the authorization. (For example, if the County has already shared information with an outside party based on the individual's prior authorization). An individual who wishes to revoke their authorization may complete the "Revocation of Authorization to Use or Disclose Protected Health Information" (HHS Form 23-08) or provide an alternate written request.

**QUESTIONS/INFORMATION:** HHS Privacy Officer at 619-338-2808