

CHELAN-DOUGLAS RSN/PIHP POLICY AND PROCEDURE MANUAL		Chapter:	1.4.2.20
Title:	HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT	Page:	1 of 15
		Date Effective:	April 14, 2003
Subject:	Uses and Disclosures: Authorizations	Date Revised:	October 14, 2011
		Authorizing Signature:	

AUTHORITY: Authorizing Source: RCW 70.02 45 CFR 164 (HIPAA)

SCOPE: This policy applies to Chelan-Douglas Regional Support Network/Prepaid Inpatient Health Plan (CDRSN/PIHP) and its contractors (agencies/providers), and subcontractors (referred to as contractors or agencies or providers throughout this policy).

PURPOSE: The Chelan-Douglas Regional Support Network (CDRSN) in compliance with the Privacy Rules of HIPAA's Administrative Simplification provisions and Washington State law, sets out, in this policy, the conditions for obtaining authorization, from individuals for any use and/or disclosure of PHI that requires authorization and is not otherwise permitted or required under the Privacy Rule or applicable law.

DEFINITIONS: See 1.3.2.0

POLICY: The CDRSN will obtain a signed authorization that meets the standards of the Privacy Rules and Washington State law from individuals prior to using or disclosing PHI in those situations and for those uses that are not otherwise permitted or required under the Rule and Washington State law. A copy of the authorization form presently in use at the CDRSN is attached to this policy.

1. Valid authorizations are required for disclosure of all PHI except under limited circumstances.
2. Valid authorizations are required for any use or disclosure of psychotherapy notes for purposes other than treatment, internal training programs, to use or disclose by the CDRSN to defend itself in a legal action or other proceeding brought by the individual, and/or a use or disclosure permitted with respect to the oversight of the originator of the psychotherapy notes.

Valid authorizations are required 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 entity to an individual; or

- b. A promotional gift of nominal value provided by the CDRSN

If the marketing involves direct or indirect remuneration to the CDRSN from a third party, the authorization must state that such remuneration is involved.

Except for authorizations given to provide information to third party payers, an authorization may not permit the release of health care information relating to future health care that the patient may receive more than ninety days after the authorization was signed.

Uses and Disclosures permitted without Authorization

1. When the consumer is present, with their agreement and with an opportunity to object, or reasonably infers from the circumstances, based on the exercise of professional judgment, that the individual does not object to the disclosure
2. Between internal staff of the CDRSN
3. Professional person who has medical responsibility for the consumer's care
4. County Designated Mental Health Professionals
5. Professional person who is providing services under WA RCW chapter 71.24
6. Professional person who is employed by a state or local correctional facility where the person is confined for the provision of health care to the consumer, the health and safety of the consumer or other inmates, the health and safety of the officers or employees of the institution, law enforcement on the premises, or the administration and maintenance of the safety, security and "good order" of the institution.
7. Professional person who is providing evaluation, treatment, or follow up services under chapter 10.77 WA RCW
8. When the communications regards the special needs of the consumer and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing outpatient services to the operator of a care facility in which the consumer resides.
9. To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.
10. For program evaluation
11. For some research purposes if documentation is obtained that an IRB established under applicable federal regulations or a "privacy board" has approved a waiver or alteration of individual authorization if it is determined by the IRB or privacy board that the research project is of sufficient importance to outweigh the intrusion into the privacy of the patient and a written and legally binding

confidentiality agreement is signed by the researcher. Re-disclosure is prohibited unless in accordance with Washington state law RCW 42.48.040. The program may release PHI to researchers the program director determines are qualified. A qualified researcher must have adequate training and experience in the area of research to be conducted and must have a protocol that ensures that information will be securely stored and not re-disclosed in violation of law. The confidentiality safeguards in the protocol must be approved by an independent group of three or more individuals. The researcher may not re-disclose the information to anyone except to the program itself. The research report may not identify a patient, directly or indirectly. Finally, no patient-identifying information may be used to conduct any criminal investigation or prosecution of the consumer, even in response to a court order.

12. For disaster relief purposes
13. Otherwise required by law
14. For public health activities to a public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions; or, at the direction of a public health authority, to an official of a foreign government agency that is acting in collaboration with a public health authority
15. A person subject to the jurisdiction of the Food and Drug Administration (FDA) with respect to an FDA-regulated product or activity for which that person has responsibility, for the purpose of activities related to the quality, safety or effectiveness of such FDA-regulated product or activity in order to collect or report adverse events (or similar activities with respect to food or dietary supplements), product defects or problems (including problems with the use or labeling of a product), or biological product deviations; to track FDA-regulated products; to enable product recalls, repairs, or replacement, or look back (including locating and notifying individuals who have received products that have been recalled, withdrawn, or are the subject of look back); to conduct post marketing surveillance.
16. A person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition, if the covered entity or public health authority is authorized by law to notify such person as necessary in the conduct of a public health intervention or investigation
17. We may disclose protected health information to a health oversight agency for oversight activities authorized by law, including audits; civil, administrative, or criminal investigations; inspections;

licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight of the health care system, government benefit programs for which health information is relevant to beneficiary eligibility, entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; or entities subject to civil rights laws for which health information is necessary for determining compliance.

18. To the courts as required by Washington law or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under Washington law.
19. To law enforcement officers, public health officers, or personnel of the department of corrections or the indeterminate sentence review board for persons who are the subject of the records and who are committed to the custody of the department of corrections or indeterminate sentence review board which information or records are necessary to carry out the responsibilities of their office. Except for dissemination of information released pursuant to RCW 71.05.425 and 4.24.550, regarding persons committed under this chapter under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, the extent of information that may be released is limited as follows: (a) Only the fact, place, and date of involuntary commitment, the fact and date of discharge or release, and the last known address shall be disclosed upon request; and (b) The law enforcement and public health officers or personnel of the department of corrections or indeterminate sentence review board shall be obligated to keep such information confidential in accordance with this chapter; and (c) Additional information shall be disclosed only after giving notice to said person and his or her counsel and upon a showing of clear, cogent, and convincing evidence that such information is necessary and that appropriate safeguards for strict confidentiality are and will be maintained. However, in the event the said person has escaped from custody, said notice prior to disclosure is not necessary and that the facility from which the person escaped shall include an evaluation as to whether the person is of danger to persons or property and has a propensity toward violence.
20. To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2) and 71.05.340 (1)(b) and 71.05.335. The prosecutor shall be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information shall be disclosed only after giving notice to the

committed person and the person's counsel.

21. To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure shall be made by the professional person in charge of the public or private agency or his or her designee and shall include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only such other information that is pertinent to the threat or harassment. The decision to disclose or not shall not result in civil liability for the agency or its employees so long as the decision was reached in good faith and without gross negligence.
22. To appropriate law enforcement agencies, upon request, all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The decision to disclose or not shall not result in civil liability for the mental health service provider or its employees so long as the decision was reached in good faith and without gross negligence.
23. To the persons designated in RCW 71.05.425 for the purposes described in that section.
24. Civil liability and immunity for the release of information about a particular person who is committed to the department under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.
25. To a patient's next of kin, guardian, or conservator, if any, in the event of death, as provided in RCW 71.05.400.
26. To the department of health for the purposes of determining compliance with state or federal licensure, certification, or registration rules or laws. However, the information and records obtained under this subsection are exempt from public inspection and copying pursuant to chapter 42.17 RCW.
27. To qualified staff members of DSHS, to the directors of regional support networks, to resource management services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility. The information shall remain confidential.
28. Within the treatment facility where the patient is receiving treatment, confidential information may be disclosed to individuals employed, serving in bona fide training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties.

29. Within DSHS as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse of individuals who are under the supervision of the department.
30. To a licensed physician who has determined that the life or health of the individual is in danger and that treatment without the information contained in the treatment records could be injurious to the patient's health. Disclosure shall be limited to the portions of the records necessary to meet the medical emergency.
31. To a facility that is to receive an individual who is involuntarily committed under chapter 71.05 RCW or upon transfer of the individual from one treatment facility to another under the limitations required by Washington state law.

Core elements

The CDRSN valid authorization will contain at least the following elements:

1. A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion;
2. The name or other specific identification of the person(s), or class of persons, authorized to make the requested use or disclosure;
3. The name, address, and institutional affiliation of the person(s), or class of persons, to whom the covered entity may make the requested use or disclosure;
4. 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.
5. An expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure. Except for authorizations given to provide information to third party payers, an authorization may not permit the release of health care information relating to future health care that the patient may receive more than ninety days after the authorization was signed.
6. 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.

Required statements

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

1. The individual's right to revoke the authorization in writing, and either:
2. The exceptions to the right to revoke and a description of how the individual may revoke the authorization; or
3. To the extent that the information is included in the Privacy Notice provided to all enrolled consumers, a reference to the CDRSN's notice.
4. The ability or inability to condition treatment, payment, enrollment or eligibility for benefits on the authorization, by stating either:
 - a) The CDRSN may not condition treatment, payment, enrollment or eligibility for benefits on whether the individual signs the authorization when the prohibition on conditioning of authorizations applies; or
 - b) b. The consequences to the individual of a refusal to sign the authorization when the CDRSN can condition treatment, enrollment in the health plan, or eligibility for benefits on failure to obtain such authorization.
5. The potential for information disclosed pursuant to the authorization to be subject to re-disclosure by the recipient and no longer be protected by this rule.

The authorization will be written in plain language.

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

A valid authorization may contain elements or information in addition to the elements required by this section, provided that such additional elements or information are not inconsistent with the elements required by this section.

Defective authorizations

- An authorization is not valid, if the document submitted has any of the following defects:
- The expiration date has passed or the expiration event is known by the CDRSN to have occurred;
- The authorization has not been filled out completely.
- The authorization is known by the CDRSN to have been revoked.
- The authorization has been combined with any other document to create a compound authorization except that:
 1. An authorization for PHI for a research study may be combined with any other type of written permission for the same research study, including another authorization for the use or disclosure of protected health information for such research or consent to participate in such research.

2. An authorization for a use or disclosure of psychotherapy notes may only be combined with another authorization for a use or disclosure of psychotherapy notes.
3. An authorization other than an authorization for a use or disclosure of psychotherapy notes may be combined with any other such authorization except when the CDRSN has conditioned the treatment, payment, and enrollment in the health plan or eligibility for benefits as defined in this policy on the provision of the authorization.

Prohibition on conditioning of authorizations

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

1. The CDRSN may condition the provision of research-related treatment on provision of an authorization for the use or disclosure of protected health information for such research under this section; or
2. The CDRSN may condition enrollment in the health plan or eligibility for benefits on provision of an authorization requested by the health plan prior to an individual's enrollment in the health plan, if the authorization sought is 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.
3. The CDRSN may condition the provision of health care that is solely for the purpose of creating protected health information for disclosure to a third party with the condition that an authorization for the disclosure of the protected health information to such third party is completed.

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 CDRSN has taken action in reliance thereon; or

If the authorization was obtained as a condition of obtaining insurance coverage, other law provides the insurer with the right to contest a claim under the policy or the policy itself.

Documentation

The CDRSN must document and retain any signed authorization. All authorizations will be maintained in a central secure location by the Privacy Officer/designee and will be retained for six years.

PROCEDURE: COMPLETION OR PROCESSING AN AUTHORIZATION

- A. Requesting PHI Pursuant to an Authorization
1. Please see the attached authorization form, which includes certain instructions for completion, attached to this policy. This is the most current approved form and should be used by all staff members to request PHI disclosures either internally or externally.
 2. The need for the PHI being requested should be explained to the individual.
 3. Every individual should be informed that their continued treatment is not dependent on whether or not they sign the authorization, except for health plan enrollment, research related treatment and in situations where the purpose of the treatment is specifically for disclosure to a third party. This information is included in writing on the authorization form and should be reviewed with the client.
 4. The form should be reviewed and completed fully when the individual requesting the authorization is present. In cases where the client or other authorized individual is not present and has requested that a form be sent to them for signature, the staff person receiving the request should, if possible, review the form with the requestor and complete as much of it as possible before sending it out for completion and signature. In particular the following issues should be discussed, if possible:
 - a. To whom the request should be directed. This information should be completed as specifically as possible.
 - i. The purpose for which the disclosure is needed.
 - b. The PHI that you would like to be disclosed: Each request is governed by the agency's policy on Minimum Necessary - please see this policy for guidance on requesting and disclosing PHI. After determining the minimum amount of information needed for the disclosure, you should be specific in your request.
 - c. How long does the authorization need to be in effect?
 - i. If the disclosure is a one-time event, e.g. the copying and mailing of medical records, this event can be specified. The event listed in the disclosure must relate to the client or to the purpose of the use and disclosure. If you intend to follow up the review of the records with a discussion with the disclosing professional, you would want to ensure you have the time to be able to do this.
 - ii. Once you have determined how long you will need the authorization to be in effect, specify on the form either the date or the event that is most specific in detailing the boundaries of the authorization.
 - d. Have the individual and/or his/her legal representative sign the authorization.

- e. Make two copies of the completed form.
 - i. One copy should be given to the individual for their records.
 - ii. The second copy should be given to the Privacy Officer for review and retention. A note should be made on this copy that the client was given a copy of the authorization. This entry should be dated and signed.
 - f. The original should be mailed or faxed to the person(s) or entity specified on the authorization.
 - g. All authorizations should be kept for 6 years from their last effective date.
- B. Disclosing PHI Pursuant To An Authorization Received From A Third Party
1. The person receiving the authorization should check to see who is listed on the form as the disclosing professional. The authorization may list an individual or the titles or role of the person to whom the authorization is directed.
 - a. If the person listed on the authorization is currently employed at the CDRSN, the authorization should be given directly to them to process.
 - b. If the person listed on the authorization is not currently employed at the CDRSN, the authorization should be given directly to the Privacy Officer.
 - c. The Privacy Officer will determine if they want to act on it directly or will delegate it to the appropriate individual in the organization to process.
 2. Upon receipt of an authorization for disclosure of PHI, the person to whom it is directed should, review the form to determine if it is complete and specific. In particular, the following items should be reviewed:
 - d. Is the form signed by the individual who is the subject of the disclosure?
 - e. Is there a date or specific even listed that defines the period during which the authorization is in effect? Is the authorization, based on this information, still in effect?
 - f. Is the information being requested specific enough so that it can be acted on? Is it clear what PHI is being requested?
 - g. Is the purpose of the disclosure explained?
 - h. Is the amount and type of PHI requested reasonable and necessary given the purpose of the request?

If yes to all the above, the disclosure can be approved. If no, the staff person to whom the disclosure is directed should determine whether or not they will refuse to make the disclosure at all or whether they will make a partial disclosure. If unsure, the staff person should consult with the Privacy Officer.
 3. If the staff person to whom the authorization is directed believes

that the authorization should be complied with in its entirety, they should write OK and their initials and date at the bottom of the authorization form.

- i. If the disclosure is an oral disclosure they should complete the consultation or discussion and document the date, time, list all those participating in the discussion, and the content of the conversation in the record of the individual if there is a current and open record or on the back of the authorization form or on a piece of paper attached to the form for filing in the closed record of the individual.
 - j. If the disclosure is to be in writing, a copy of the correspondence should be attached to the authorization form and placed in the record.
 - k. If the disclosure requires copies of documents from the designated record set, the authorization form should then be directed to the Privacy Officer/designee who will assign support staff to gather the information, copy it, and send it as directed in the authorization.
 - i. Once the information has been sent, the person completing this task should write sent, specify how it was sent (mail, email, fax), date and initial the bottom of the form.
 - ii. The form should then be filed in the administrative section of the record. Authorizations should be maintained in the current record for six years from their last effective date.
2. If the staff person to whom the authorization is directed does not believe that a disclosure should be made at all or believes that the authorization is not valid, they should write a note on the bottom of the authorization as to why it will not be complied with, initial and date the form.
- a. A letter should be mailed to the entity or person requesting the disclosure explaining why the disclosure was not complied with.
 - b. A copy of the letter should be stapled to the original authorization and kept in the record.
 - c. If the staff person to whom the authorization is directed has determined that it can be partially complied with, they should specify on the bottom of the authorization, the exact information to be released, date and initial the note. They should then follow one or more of the options listed in 3 above for disclosing the PHI requested.

Charges for copying pursuant to an authorization

The Privacy Rule and Washington statutes authorize that a reasonable fee may be charged for providing access to or copies of health care

information pursuant to a valid authorization from the consumer. Only the actual costs for copying, postage and preparing any summary explanation may be charged. The CDRSN charge for copying is to provide the first 100 pages at no charge, and charge 10 cents per page for each page thereafter.

SEE ALSO: Privacy notice
Verbal Agreement
Administrative requirements – documentation retention

AUTHORIZATION TO USE AND DISCLOSE HEALTH INFORMATION
Chelan-Douglas Regional Support Network
636 Valley Mall Parkway, Suite 200
East Wenatchee, WA 98802
509-886-6318

SECTION A: USE OR DISCLOSURE OF HEALTH INFORMATION

By signing this Authorization, I authorize the use or disclosure of my individually identifiable health information maintained by:

Print Name

Print Address

My health information may be disclosed under this Authorization to:

Print Name

Print Address

Print Institutional Affiliation

Health information includes information collected from me or created by the CDRSN, or information received by the CDRSN from a health care provider, a health plan, my employer or a health care clearinghouse. Health information may relate to my past, present or future physical or mental health or condition, the provision of my health care, or payment for my health care services.

I understand that the CDRSN is prohibited from disclosing information about treatment for psychiatric disorders/mental health, HIV/AIDS virus or sexually transmitted diseases and/or alcohol or drug abuse without my specific written authorization unless a disclosure is otherwise authorized. I understand that my records are protected by Washington state laws, and Federal Privacy and Confidentiality Rules (42 CFR Part 2, 45 CFR).

SECTION B: SCOPE OF USE OR DISCLOSURE

Check One: Health information that may be used or disclosed through this Authorization is as follows:

All health information about me, including my clinical records, created or received by the Provider. This information may include, if applicable: Information pertaining to the identity, diagnosis, prognosis or treatment for psychiatric disorders/mental health, HIV/AIDS virus or sexually transmitted diseases and/or alcohol or drug abuse maintained by a federally-assisted alcohol or drug abuse program; or;

All health information about me as described in the preceding checkbox, excluding the following:

- Specific health information including only:
-
-

Note: Describe the health information to be excluded or included in a specific and meaningful fashion.

SECTION C: PURPOSE OF THE USE OR DISCLOSURE

The purpose(s) of this Authorization is (are):

Check one:

- Specifically, the following purpose(s) –
-
-

_____ ; or

- The request for information to be used or disclosed has been initiated by the Client and the Client does not elect to disclose its purpose.

Note: This box may NOT be checked if the information to be used or disclosed pertains to alcohol or drug abuse identity, diagnosis, prognosis or treatment.

SECTION D: EXPIRATION

This Authorization expires: _____

(Insert applicable event or date – mm/dd/yy) Maximum length of Authorization is ninety days from date of signature

SECTION E: OTHER IMPORTANT INFORMATION

1. I understand that the Provider cannot guarantee that the Recipient will not re-disclose my health information to a third party. The Recipient may not be subject to federal laws governing privacy of health information. However, if the disclosure consists of treatment information about a consumer in a federally-assisted alcohol or drug abuse program, the Recipient is prohibited under federal law from making any further disclosure of such information unless further disclosure is expressly permitted by written consent of the consumer or as otherwise permitted under federal law governing Confidentiality of Alcohol and Drug Abuse Patient Records (42 CFR, Part 2).

2. I understand that, except when I am (i) receiving research-related treatment, (ii) receiving health care solely for the purpose of creating information for disclosure to a third party, (iii) enrolling in the health plan or seeking eligibility for benefits I may refuse to sign this Authorization and that my refusal to sign will not affect my ability to obtain treatment (or payment, if applicable) from the Chelan-Douglas Regional Support Network.

3. I have read and understand the terms of this Authorization. I have had an opportunity to ask questions about the use or disclosure of my health information.

4. I understand that I may revoke this Authorization in writing at any time, except that the revocation will not have any effect on any action taken by the Provider in reliance on this Authorization before written notice of revocation is received by the Provider. I further understand that that I must provide any notice of revocation in writing to the Privacy Office at the Chelan-Douglas Regional Support Network, 636 Valley Mall Parkway, Suite 200, East Wenatchee, WA 98802

Client's signature: _____ Date: _____

Print Client's full name: _____

Client's Home Address: _____

Client's Home Telephone: _____ Date of Birth: _____

When client is not competent to give consent, the signature of a parent, guardian, or other authorized legal representative is required.

Signature of legal representative: _____ Date: _____

Print name: _____

Relationship of representative to client: _____

Witness: _____

PROHIBITION ON REDISCLOSURE OF CONFIDENTIAL INFORMATION

This notice accompanies a disclosure of information concerning a consumer in an alcohol or drug abuse treatment program, made to you with the consent of such consumer.

This information has been disclosed to you from records protected by federal confidentiality rules governing federally assisted drug or alcohol abuse programs (42 C.F.R., Part 2). The federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 C.F.R., Part 2. A general authorization for the release of medical or other information is not sufficient for this purpose.

The federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse consumer.