



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

**POLICY:** See HHS-A-L-09 Authorization to Use and Disclose Protected Health Information, at [www.cosdcompliance.org](http://www.cosdcompliance.org).

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

**PROCEDURES:**

1. County Initiated Requests for Authorization
  - a. If a program asks the individual for written authorization to use or disclose protected health information (PHI), then the program shall use HHS-A Form 23-09; unless the program is requesting permission to use a photograph or picture of the individual. For photograph and other media requests, the program shall use HHS-A approved form, HHS-A Form 23-09.P.
  - b. The program shall ensure all applicable fields on the form are completed and that the individual understands the form's contents.
  - c. Expiration date or event must be limited to no more than one year unless an individual specifically requests a longer period.
2. Authorizations Received from other Agencies
  - a. The program shall use reasonable discretion to ensure the request is valid. Valid authorizations must contain at least the following elements:
    - i. Written in plain language and in 14-point font (or handwritten)
    - ii. Description of the information to be shared
    - iii. Name of the program or staff that may share the information
    - iv. Name of the person who or entity that will receive the information
    - v. Reason for the request
      1. A statement such as "at the individual's request" will suffice as individuals do not have to provide a reason.
    - vi. Expiration date or expiration event
    - vii. Statement that:
      1. The individual has the right to revoke the authorization, how they may revoke, and the limitations to a revocation
      2. The entity requesting the information may not condition treatment on the authorization, unless the authorization pertains to participation in a research study
      3. The information may be re-disclosed by the recipient and may no longer be protected under federal or state law
      4. The individual signing the authorization has a right to a copy of the authorization
    - viii. Signed and dated by the authorized individual (see Policy HHS-A L-27)
  - b. Compound Authorizations – an authorization may not be combined with the individual's consent for other items or with any other documents.
  - c. Psychotherapy Notes – if the authorization seeks the disclosure of psychotherapy records,

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refer to Policy HHSA L-25.

- d. HIV and AIDS-related Test Results – a separate authorization is required for each separate disclosure of test results.
- e. If the program is unsure whether the authorization is valid, the program shall consult with Business Assurance and Compliance (BAC).
- f. Fees may be charged for retrieving records and making copies (see County’s fee schedule).
- g. If the authorization is missing one or more of the required elements, the individual will be asked to sign HHSA Form 23-09.

### 3. Authorizations to Disclose Reproductive Medical Information

- a. If a program is requested to disclose reproductive medical information—including abortion and abortion related services—that identifies an individual seeking, obtaining, providing, supporting, or aiding reproductive medical procedures, to any individual or entity from another state, the program shall use the HHSA Disclosure of Reproductive Medical Information Decision Tree. The Decision Tree will help determine whether the program must comply with one of the required conditions outlined in California Civil Code 56.110.

- i. In accordance with California Civil Code 56.110, programs shall not disclose, transmit, transfer, grant access, or share reproductive medical information through an electronic health records system or health information exchange to an out-of-state individual or entity, that would identify an individual seeking, obtaining, providing, supporting, or aiding in reproductive medical procedures, unless at least one of the following conditions is met:

1. There is a valid, written authorization that clearly states that the reproductive medical information may be disclosed.
2. The disclosure is only to the extent necessary to allow for a payment to be determined and/or paid.
3. The disclosure is for the purpose of accreditation, reviewing the competence or qualifications of healthcare professionals, or for reviewing the quality of care, medical necessity or justification of charges for healthcare services.
4. The disclosure is for bona fide research conducted out of state, and the potential harm to the patient and the patient’s privacy is considered when the research uses reproductive medical information.
5. The disclosure is in response to an order of a California or federal court, only to the extent clearly stated in the order, consistent with Section 1543 of the Penal Code, if applicable, and the patient’s identity and records are protected from public scrutiny through measures such as a sealed proceeding.
6. The disclosure is necessary to cooperate or comply with the investigation of activity that took place in California and is punishable as a crime under California laws.

### 4. Invalid Authorizations

- a. An authorization is not valid if:
  - i. The expiration date has passed, or the expiration event is known by the County to

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- have occurred.
  - ii. The authorization has not been filled out completely or is missing a required element (as above).
  - iii. The authorization is known by the County to have been revoked.
  - iv. Any material information in the authorization is known by the County to be false.
5. Record of Authorization and Disclosure
- a. 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.
6. Revocation of Authorizations
- a. 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 provide an alternate written request.

QUESTIONS/INFORMATION: Please contact HHS Business Assurance and Compliance (BAC) by email at [Compliance.HHSA@SDCounty.ca.gov](mailto:Compliance.HHSA@SDCounty.ca.gov) or by phone (619) 237-8571.