Checklist – HIPAA Compliant Authorization (45 CFR 164.508)

Michigan Department of Community Health Office of Legal Affairs and FOIA

If all of the following elements, as applicable, are included in the non-MDCH authorization form, then the authorization is HIPAA compliant.

$\sqrt{}$	#	Required Core Elements
	1.	A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion. Can be "entire medical record,"
		"complete patient file," "all paid claims from date of accident forward." "Any and all information" might not be sufficiently precise. 164.508(c)(1)(i).
	2.	The name of who is allowed to release the PHI . Can be a category or class or persons, e.g. "all medical sources." 164.508(c)(1)(ii).
	3.	The name of who will receive the information. Can be a category or class of persons, e.g. "employees of XYZ division of ABC Corp." 164.508(c)(1)(iii).
	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. 164.508(c)(1)(iv).
	5.	An expiration date or event that relates to the individual or purpose of the use or disclosure. The statement "at the end of the research study," "none," or similar language is sufficient if the authorization is for a use or disclosure of PHI for research, including the creating and maintenance of a research database or repository. Or "until I am no longer enrolled in Medicaid" would be sufficient. 164.508(c)(1)(v).
	6.	Individual's signature and date . If a personal representative of the individual signs the authorization, a description of such representative's authority to act for the individual must also be provided. 164.508(c)(1)(vi).
		Required Statements (to place individual on notice)
	7.	Contains information stating the individual's right to revoke the authorization in writing, and either: (1) The exceptions to the right to revoke and a description of how the individual may revoke the authorization; or (2) A reference to the covered entity's notice of privacy practices that explains the exceptions to the right to revoke and how to revoke an authorization.
	8.	164.508(c)(2)(i). Contains information that states the ability or inability to condition treatment, payment, enrollment or eligibility for benefits on the authorization, with an explanation of why or why not. 164.508(c)(2)(ii).

9.	Contains information that states the potential for information disclosed under the
	authorization to be subject to redisclosure by the recipient and may no longer be
	protected. 164.508(c)(2)(iii).
10.	If information is being released for marketing and the organization releasing the information is being paid, then the authorization must state that payment is involved. (Michigan law prohibits the sale of information for marketing purposes under MCL 750.410.) 164.508(a)(3).
11.	If PHI is being sold, the authorization must state that the disclosure will result in compensation for the covered entity. 164.508(a)(4). Compensation includes direct or indirect compensation from or on behalf of the recipient of the PHI in exchange for the covered entity disclosing the PHI to the recipient. 164.502(a)(5)(ii). Compensation does not include disclosures of PHI made: (i) for public health purposes; (ii) for research purposes where the only compensation received is a reasonable cost-based fee to cover the cost to prepare and transmit the PHI; (iii) for treatment and payment purposes; (iv) for the sale, transfer, merger, or consolidation of all or part of a covered entity and for related due diligence purposes; (v) to a business associate for activities the associate performs on behalf of the covered entity and the compensation provided is by the covered entity to the business associate; (vi) to an individual, when requested; (vii) when required by law; and (viii) for any purpose permitted by the Privacy Rule when the only compensation received is a reasonable cost-based fee to cover the cost to prepare and transmit the PHI. 164.502(a)(5)(ii).
12.	Authorization must be written in plain language . 164.508(c)(3).
	MDCH Requirement
13.	"I understand that this information may include, when applicable, information relating to sexually transmitted disease, Human Immunodeficiency Virus (HIV Infection, Acquired Immune Deficiency Syndrome or AIDS Related Complex) and any other communicable disease. It may also include information about behavioral or mental health services, and referral and/or treatment for alcohol and drug abuse (as permitted by MCL 330.1748, P.A. 258 of 1974 and 42 CFR Part 2." Note: the above statement does NOT allow for the release of psychotherapy notes. Disclosure of psychotherapy notes must specifically state that psychotherapy notes are to be disclosed and cannot be combined with any other disclosure of PHI, except for another authorization for the disclosure of psychotherapy notes. 164.508(a)(2); 164.508(b)(3)(ii).

A compound authorization (combined with any other document) is generally not allowed. However, there are exceptions so forward to the Privacy Office for review. 164.508(b)(3).

Request a photocopy of the individual's driver's license or other identification with the individual's signature when practicable. 164.514(h).