



# Release of Information

# Release of Information

- A document that allows the consumer to decide what information they want to release from their file, who they want it released to, how long you can release that information and under what statutes and guidelines it is released
- Allows for protections of both the consumer and the provider in releasing HIPAA information

(reference APSPM 45-2 Chapter 12)

# Release of Information

- Under all three confidentiality laws applicable to MH/IDD/SA services, service provider must obtain an individual's written authorization for disclosure of confidential information, unless use or disclosure required or otherwise permitted by the applicable law
  - These exceptions found in the LIP packet and within this training

(reference APSM 45-2 Chapter 12)

# Release of Information

- Each law requires specific elements to be contained in a consent form (also referred to as an authorization or release form)
- Requirements mostly the same for each law and one consent or authorization form may be constructed to meet the requirements of all three
  - Due to some minor differences in the required elements under each law, preparer of a form designed to meet any or all three laws should consult the applicable provisions of each

(reference APSM 45-2 Chapter 12)

# Release of Information

- For HIPAA reference 45 CFR 164.508(c)
- For State law reference 10A NCAC 26B.0202
- For substance abuse records law reference 42 CFR 2.31

(reference APSM 45-2 Chapter 12)

# Required Elements of a Valid ROI

- When consent for release of information is obtained by an area or state facility covered by the rules in this Subchapter, a Consent for Release form containing the information set out in this paragraph must be utilized

(reference 10A NCAC 26B .0202 Consent for Release Form)

# Required Elements of a Valid ROI

- Consent form must contain the following:
  - Client's name
  - Name of facility releasing the information
  - Name of individual or individuals, agency or agencies to whom information being released
  - Information to be released
  - Purpose for the release
  - Length of time consent is valid (no longer than 365 days for MH/SA/IDD purposes)

(reference 10A NCAC 26B .0202 Consent for Release Form)

# Required Elements of a Valid ROI

- Consent form must contain the following:
  - Statement that consent subject to revocation at any time except to the extent that action has been taken in reliance on the consent
  - Signature of the client or the client's legally responsible person
  - Date consent is signed
- If consumer a minor and receiving treatment for SA, minor required to sign release

(reference 10A NCAC 26B .0202 Consent for Release Form)



# Required Elements of a Valid ROI

- Also required per HIPAA:
  - Consumer's right to revoke the authorization in writing, or either:
    - Exceptions to the right to revoke and a description of how the individual may revoke the authorization
    - To extent that information included in the Notice of Privacy Practice required by § 164.520, a reference to the covered entities choice

(reference 164.508(c)(2) Consent for Release form required statements)

# Required Elements of a Valid ROI

- Also required per HIPAA:
  - Ability or inability to condition treatment, payment, enrollment or eligibility for benefits on the authorization (see 164.508 (b)(4)(i), (ii) and (iii))

(reference 164.508(c)(2) Consent for Release form required statements)

# Required Elements of a Valid ROI

- Potential for information disclosed pursuant to authorization to be subject to redisclosure by the recipient and no longer protected by this subpart
- Authorization must be written in plain language
- Copy to the individual
  - If covered entity seeks authorization from an individual for use or disclosure of protected health information, covered entity must provide the individual with a copy of the signed authorization

(reference 164.508(c)(2) Consent for Release form required statements)

Consumer Name: _____	Date of Birth: _____
Medicaid Number: _____	Medical Record #: _____

Practice Letterhead

### Consent to Request Personal and Medical Information

I, \_\_\_\_\_ hereby request and authorize \_\_\_\_\_  
*Consumer Name*  
to use or disclose my protected health information to \_\_\_\_\_.

Information released may be *verbal, electronic, or written* and allows for a reciprocal exchange of information. Released data may include records, treatment notes, and other information.

Nature of records to be released: *(Please initial beside each applicable document)*

_____ Medications	_____ Treatment Plans	_____ Admission Assessments
_____ Psychiatric Evaluations	_____ Psychological Evaluations	_____ Treatment Recommendations
_____ Discharge Summaries	_____ Aftercare Plans/Orders	_____ Progress/Psychotherapy Notes
_____ Alcohol/Drug Treatment	_____ AIDS/HIV	_____ Lab Results
_____ Other: _____		

I understand the purpose of the disclosure/redisclosure will be used for: \_\_\_\_\_

My signature below indicates that I understand what information will be released and the need for the information. I further understand that the information to be released may include information regarding drug and alcohol abuse or HIV infection, AIDS, or AIDS related conditions. This information shall be released only in accordance with NCGS §130A-143. In addition, information related to drug and alcohol abuse in my records is protected under federal regulations and cannot be released without my written consent unless otherwise provided in 42 CFR Part 2. Once information is disclosed pursuant to the signed authorization, I understand that the federal privacy law (45 CFR Part 164) protecting health information may not apply to recipient of the information and, therefore, may not prohibit the recipient from redisclosing it. Other laws, however, may prohibit redisclosure. When we disclose mental health, intellectual and developmental disabilities information protected by state law (G.S. 122C) or substance abuse treatment information protected by federal law (42 CFR Part 2), we must inform the recipient that redisclosure is prohibited except as permitted or required by these two laws. Our Notice of Privacy Practices describes the circumstances where disclosure is permitted or required by these laws. This consent will expire \_\_\_\_\_ *(specific date or condition)* not more than 365 days from the date of signature.

When this authorization is requested from the consumer, a copy of this signed release form shall be provided to the consumer or legally responsible person. The consumer authorizing the release of this information also may inspect or copy the health information disclosed as permitted by NCGS § 122C-53(c).

I understand that I may revoke this consent, in writing, at any time, except to the extent that action has been taken in reliance on the consent. If you choose to revoke this consent, [Practice's process here].

I understand that I may refuse to sign this release of information form. I understand that [name of Practice] may not condition treatment, payment, enrollment or eligibility for benefits if you refuse to sign the consent form.

I understand that [name of Practice] may charge a reasonable fee for copies of my medical records.

_____	_____	_____
<i>Minor Signature (required for SA)</i>		<i>Date</i>
_____	_____	_____
<i>Signature of consumer /legally responsible person</i>	<i>Relationship</i>	<i>Date</i>

# More Elements and Guidelines

- Specific information to be released must be contained on the release of information
  - Release of “all” information does not allow it to be specific to the individual and situation in which the information is being released
- “Minimum necessary” must be released (HIPAA 45 CFR 164.502(b), 164.514(d))

# More Elements and Guidelines

- Information to be released may be verbal, electronic, or written and allows for a reciprocal exchange of information
  - Released data may include records, treatment notes, and other information
  - Consider adding an “other box” if provider decides to utilize check boxes for specific information to be released

# More Elements and Guidelines

- Individual must specifically authorize the release/disclosure of information which contains HIV/AIDS information
  - For example, boxes to be checked indicating authorization; statement of authorization, etc. (these examples not all inclusive)
  - NC General Statute 130A -143) and Substance Abuse information (42 CFR Part 2



# Tips for a Complete ROI

- Make sure all items on the form have been completed
  - Incomplete items invalidate the ROI
- Ensure informed consent by reviewing form with consumer so they have an understanding of what is being released and why
- Have consumer sign off and date the form
- ROI must be updated annually to be valid



# Resources

- 45 CFR 164.502(b), 164.514(d) Minimum Necessary
  - <http://www.hhs.gov/hipaa/for-professionals/privacy/guidance/minimum-necessary-requirement/index.html>
- 45 CFR 164.508 Uses and Disclosures for which authorization is required
  - <https://www.gpo.gov/fdsys/pkg/CFR-2011-title45-vol1/pdf/CFR-2011-title45-vol1-sec164-508.pdf>

# Resources

- HIPAA for Professionals
  - <http://www.hhs.gov/hipaa/for-professionals/index.html>
- General Statute 130A-143 Regarding release of HIV/AIDS information
  - [http://www.ncga.state.nc.us/enactedlegislation/statutes/html/bysection/chapter\\_130a/gs\\_130a-143.html](http://www.ncga.state.nc.us/enactedlegislation/statutes/html/bysection/chapter_130a/gs_130a-143.html)

# Resources

- 42 CFR Part 2 Regarding the release of substance abuse information
  - <http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5;node=42%3A1.0.1.1.2>
- 10A NCAC 26B .0202 Consent for Release
  - <http://reports.oah.state.nc.us/ncac/title%2010a%20-%20health%20and%20human%20services/chapter%2026%20-%20mental%20health,%20general/subchapter%20b/10a%20ncac%2026b%20.0202.pdf>