

Disclaimer: This Document is Copyright © 2004 by the HIPAA Collaborative of Wisconsin ("HIPAA COW"). It may be freely redistributed in its entirety provided that this copyright notice is not removed. It may not be sold for profit or used in commercial documents without the written permission of the copyright holder. This Document is provided "as is" without any express or implied warranty. This Document is for educational purposes only and does not constitute legal advice. If you require legal advice, you should consult with an attorney.

## Authorization/Informed Consent for Use and Disclosure of Health Care Information Grid Wisconsin Statutes and the Federal Privacy Law

Wis. Stat. 146.81	Wis. Stat. 51.30 HFS 92 42 CFR 2.31	Wis. Stat. 252.15	Wis. Stat. 610.70	45 CFR 164.508 HIPAA Authorization
<p>All patient health care records shall remain confidential. Patient health care records may be released with patient consent or to the persons designated in the statutory exceptions. 146.82(2)</p>	<p>...all treatment records shall remain confidential...records may be released with the written consent of the subject individual or without written informed consent under specific statutory exceptions. 51.30(4)(b)</p>	<p>An individual who is the subject of a test for the presence of HIV ...may disclose the results of the test to anyone. Disclosure is otherwise prohibited except under specific statutory exceptions. 252.15(4)</p>	<p>Except as otherwise permitted or required by this subch., a CE may not use or disclose PHI without an authorization that is valid under this section.</p>	
<p><b>Required Elements</b></p> <ul style="list-style-type: none"> <li>• In writing: 146.81(2)</li> <li>• Name of the patient whose record is being disclosed: 146.81(2)(a)</li> <li>• Type of information to be disclosed: 146.81(2)(b)</li> <li>• The types of health care providers making the disclosure: 146.81(2)(c)</li> </ul>	<p><b>Required Elements</b></p> <ul style="list-style-type: none"> <li>• In writing: 51.30(2)</li> <li>• Name of the individual whose treatment record is being disclosed: 51.30(2) 2.31(a)(3)</li> <li>• <i>Specific</i> type of information to be disclosed: 51.30(2)</li> <li>• How much and what kind of information to be disclosed: 2.31(a)(5)</li> <li>• Specific name or designation of program or person permitted to make disclosure: 2.31(a)(1)</li> </ul>	<p><b>Required Elements</b></p> <ul style="list-style-type: none"> <li>• In writing: 252.15(1)(d)</li> <li>• Name of potential test subject giving consent and whose test results may be disclosed: 252.15(2)(b)1</li> <li>• Authorizing disclosure of HIV test results: 252.15(1)(e)</li> </ul>	<p><b>Required Elements</b></p> <ul style="list-style-type: none"> <li>• ----</li> <li>• ----</li> <li>• Specifies the nature of the information that is authorized to be disclosed: 610.70(2)4</li> <li>• Specifies the types of persons that are authorized to disclose information about the individual: 610.70(2)3</li> </ul>	<p><b>Required Elements</b></p> <ul style="list-style-type: none"> <li>• Written in plain language: 164.508(c)(3)</li> <li>• (Signature, see below)</li> <li>• A description of the information to be used/disclosed that identifies the information in a specific and meaningful fashion: 164.508(c)(1)(i)</li> <li>• The name or other specific identification of the person(s), or class of persons, authorized to make the requested use or disclosure: 164.508(c)(1)(ii)</li> <li>• The name or other specific identification of the person(s), or class of persons, to whom the CE may make the requested use</li> </ul>

Disclaimer: This Document is Copyright © 2004 by the HIPAA Collaborative of Wisconsin ("HIPAA COW"). It may be freely redistributed in its entirety provided that this copyright notice is not removed. It may not be sold for profit or used in commercial documents without the written permission of the copyright holder. This Document is provided "as is" without any express or implied warranty. This Document is for educational purposes only and does not constitute legal advice. If you require legal advice, you should consult with an attorney.

### Authorization/Informed Consent for Use and Disclosure of Health Care Information Grid Wisconsin Statutes and the Federal Privacy Law

<b>Wis. Stat. 146.81</b>	<b>Wis. Stat. 51.30</b> HFS 92 42 CFR 2.31	<b>Wis. Stat. 252.15</b>	<b>Wis. Stat. 610.70</b>	<b>45 CFR 164.508</b> <b>HIPAA Authorization</b>
			be disclosed: 610.70(2)5	or disclosure: 164.508(c)(1)(iii)
<b>Elements (continued)</b>	<b>Elements (continued)</b>	<b>Elements (continued)</b>	<b>Elements (continued)</b>	<b>Elements (continued)</b>
<ul style="list-style-type: none"> <li>The purpose of the disclosure: 146.81(2)(d)</li> </ul>	<ul style="list-style-type: none"> <li>The purpose or need for the disclosure: 51.30(2); 2.31(a)(4)</li> </ul>	<ul style="list-style-type: none"> <li>----</li> </ul>	<ul style="list-style-type: none"> <li>The purposes for which the information is being obtained/disclosed: 610.70(2)6</li> </ul>	<ul style="list-style-type: none"> <li>A description of each purpose of the requested use or disclosure. The statement "at the request of the individual is sufficient..."; 164.508(c)(1)(iv)</li> </ul>
<ul style="list-style-type: none"> <li>The signature of the patient or the person authorized by the patient, and relationship to patient or legal authority: 146.81(2)(f)</li> </ul>	<ul style="list-style-type: none"> <li>The signature of the individual or person legally authorized to give consent for the individual: 51.30(2); 2.31(a)(6)</li> </ul>	<ul style="list-style-type: none"> <li>Signature of potential test subject or...of the health care agent...: 252.15(2)(b)3.a.</li> </ul>	<ul style="list-style-type: none"> <li>Signed/Authorized by individual, or by a person who is authorized to consent on behalf of an individual .....: 610.70(5)(a)</li> </ul>	<ul style="list-style-type: none"> <li>Signature of the individual and date. If the authorization is signed by a personal representative of the individual...: 164.508(c)(1)(vi)</li> </ul>
<ul style="list-style-type: none"> <li>If the authorization is signed by a person authorized by the patient, the relationship of that person to the patient or the authority of the person: 146.81(2)(f)</li> </ul>	<ul style="list-style-type: none"> <li>----</li> </ul>	<ul style="list-style-type: none"> <li>----</li> </ul>	<ul style="list-style-type: none"> <li>----</li> </ul>	<ul style="list-style-type: none"> <li>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: 164.508(c)(1)(vi)</li> </ul>
<ul style="list-style-type: none"> <li>The date on which the consent is signed: 146.81(2)(g)</li> </ul>	<ul style="list-style-type: none"> <li>The date on which the consent is signed: 51.30(2); 2.31(a)(7)</li> </ul>	<ul style="list-style-type: none"> <li>The date on which the consent to disclosure is signed: 252.15(2)(b)3.b.</li> </ul>	<ul style="list-style-type: none"> <li>The form is dated: 610.70(2)1</li> </ul>	<ul style="list-style-type: none"> <li>Signature of the individual and date: 164.508(c)(1)(vi)</li> </ul>
<ul style="list-style-type: none"> <li>The time period during which the consent is effective: 146.81(2)(h)</li> </ul>	<ul style="list-style-type: none"> <li>The time period during which the consent is effective: 51.30(2); 2.31(a)(9)</li> <li>Informed consent is effective only for the period of time specified by the</li> </ul>	<ul style="list-style-type: none"> <li>The time period during which the consent to disclosure is effective: 252.15(2)(b)3.b.</li> </ul>	<ul style="list-style-type: none"> <li>Specifies the length of time for which the authorization remains valid: 610.70(2)7</li> </ul>	<ul style="list-style-type: none"> <li>An expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure: 164.508(c)(1)(v)</li> </ul>

Disclaimer: This Document is Copyright © 2004 by the HIPAA Collaborative of Wisconsin ("HIPAA COW"). It may be freely redistributed in its entirety provided that this copyright notice is not removed. It may not be sold for profit or used in commercial documents without the written permission of the copyright holder. This Document is provided "as is" without any express or implied warranty. This Document is for educational purposes only and does not constitute legal advice. If you require legal advice, you should consult with an attorney.

**Authorization/Informed Consent for Use and Disclosure of Health Care Information Grid  
Wisconsin Statutes and the Federal Privacy Law**

<b>Wis. Stat. 146.81</b>	<b>Wis. Stat. 51.30 HFS 92 42 CFR 2.31</b>	<b>Wis. Stat. 252.15</b>	<b>Wis. Stat. 610.70</b>	<b>45 CFR 164.508 HIPAA Authorization</b>
<ul style="list-style-type: none"> <li>• -----</li> </ul>	<p>patient in the informed consent document : HFS 92.03(3)(b)</p> <ul style="list-style-type: none"> <li>• Each informed consent document shall include a statement that the patient has a right to inspect and receive a copy of the material to be disclosed: HFS 92.03(3)(d)</li> </ul>	<ul style="list-style-type: none"> <li>• -----</li> </ul>	<ul style="list-style-type: none"> <li>• -----</li> </ul>	<ul style="list-style-type: none"> <li>• -----</li> </ul>
<ul style="list-style-type: none"> <li>• -----</li> </ul>	<ul style="list-style-type: none"> <li>• Any patient or patient representative may withdraw authorization for disclosure of any information at any time: HFS 92.03(3)(e); 2.31(a)(8)</li> <li>• If this occurs, an agency not included under s. 51.30(4)(b) Stats., that requests release of information requiring informed consent shall be told only that s. 51.30, Stats., prohibit release of the information requested.</li> </ul>	<ul style="list-style-type: none"> <li>• A statement of explanation that test results may be released without consent and whether a listing of those circumstances or that a list is available upon request: 252.15(2)(b)2.</li> </ul>	<ul style="list-style-type: none"> <li>• -----</li> </ul>	<ul style="list-style-type: none"> <li>• A statement placing the individual on notice of the individual's right to revoke the authorization in writing, and either                             <ul style="list-style-type: none"> <li>• The exceptions to the right to revoke and how to revoke [164.508(b)(5)], or</li> <li>• If the right to revoke is in the notice, a reference to the notice. 164.508(c)(2)(i)</li> </ul> </li> </ul> <p>Note: An individual may revoke an authorization by providing a revocation in writing to the CE, except to the</p>

Disclaimer: This Document is Copyright © 2004 by the HIPAA Collaborative of Wisconsin (“HIPAA COW”). It may be freely redistributed in its entirety provided that this copyright notice is not removed. It may not be sold for profit or used in commercial documents without the written permission of the copyright holder. This Document is provided “as is” without any express or implied warranty. This Document is for educational purposes only and does not constitute legal advice. If you require legal advice, you should consult with an attorney.

**Authorization/Informed Consent for Use and Disclosure of Health Care Information Grid  
Wisconsin Statutes and the Federal Privacy Law**

Wis. Stat. 146.81	Wis. Stat. 51.30 HFS 92 42 CFR 2.31	Wis. Stat. 252.15	Wis. Stat. 610.70	45 CFR 164.508 HIPAA Authorization
<ul style="list-style-type: none"> <li>• ----</li> </ul>	<ul style="list-style-type: none"> <li>• ----</li> </ul>	<ul style="list-style-type: none"> <li>• ----</li> </ul>	<ul style="list-style-type: none"> <li>• ----</li> </ul>	<p>extent: 1) the CE has taken action in reliance on the authorization or 2) 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.</p> <ul style="list-style-type: none"> <li>• A statement placing the individual on notice of the ability or inability to condition treatment, payment, enrollment or eligibility for benefits on the authorization by stating either                             <ul style="list-style-type: none"> <li>• CE may not condition above based on whether individual signs authorization when the prohibition on conditioning of authorizations applies, or</li> <li>• The consequences of refusal to sign.</li> </ul> </li> </ul> <p>Note: A consequence of refusal to sign an authorization for disclosure of WI law 252.15 or 51.30 records may be non-payment; therefore, a CE may want to include this</p>

Disclaimer: This Document is Copyright © 2004 by the HIPAA Collaborative of Wisconsin (“HIPAA COW”). It may be freely redistributed in its entirety provided that this copyright notice is not removed. It may not be sold for profit or used in commercial documents without the written permission of the copyright holder. This Document is provided “as is” without any express or implied warranty. This Document is for educational purposes only and does not constitute legal advice. If you require legal advice, you should consult with an attorney.

**Authorization/Informed Consent for Use and Disclosure of Health Care Information Grid  
Wisconsin Statutes and the Federal Privacy Law**

<b>Wis. Stat. 146.81</b>	<b>Wis. Stat. 51.30</b> HFS 92 42 CFR 2.31	<b>Wis. Stat. 252.15</b>	<b>Wis. Stat. 610.70</b>	<b>45 CFR 164.508</b> <b>HIPAA Authorization</b>
<ul style="list-style-type: none"> <li>• ----</li> </ul>	<ul style="list-style-type: none"> <li>• ----</li> </ul>	<ul style="list-style-type: none"> <li>• ----</li> </ul>	<ul style="list-style-type: none"> <li>• ----</li> </ul>	<p>consequence in the authorization.</p> <ul style="list-style-type: none"> <li>• A statement placing the individual on notice of the potential for information disclosed pursuant to the authorization to be subject to redisclosure by the recipient and no longer be protected by the federal privacy rule: 164.508(c)(2)(iii)</li> </ul>
<ul style="list-style-type: none"> <li>• ----</li> </ul>	<ul style="list-style-type: none"> <li>• ----</li> </ul>	<ul style="list-style-type: none"> <li>• ----</li> </ul>	<ul style="list-style-type: none"> <li>• ----</li> </ul>	<ul style="list-style-type: none"> <li>• Marketing authorization—a statement notifying individual that remuneration is involved if CE receives direct or indirect remuneration from a third party. 164.508(a)(3)(ii)</li> </ul>
<ul style="list-style-type: none"> <li>• ----</li> </ul>	<ul style="list-style-type: none"> <li>• ----</li> </ul>	<ul style="list-style-type: none"> <li>• ----</li> </ul>	<ul style="list-style-type: none"> <li>• ----</li> </ul>	<ul style="list-style-type: none"> <li>• Miscellaneous</li> <li>• A valid authorization may contain elements in addition to the required elements, which are not inconsistent with this section. May have additional requirements based on reason for obtaining authorization. 164.508(b)(1)(ii)</li> </ul>
<b>Maintenance of Authorization</b>	<b>Maintenance of Authorization</b>	<b>Maintenance of Authorization</b>	<b>Maintenance of Authorization</b>	<b>Maintenance of Authorization</b>
<ul style="list-style-type: none"> <li>• ----</li> </ul>	<ul style="list-style-type: none"> <li>• A copy of the informed consent document shall be maintained in the treatment</li> </ul>	<ul style="list-style-type: none"> <li>• HCP must maintain consent for testing or disclosure: 252.15(4)(b)</li> </ul>	<ul style="list-style-type: none"> <li>• ----</li> </ul>	<ul style="list-style-type: none"> <li>• CE must document and retain any signed authorization.</li> </ul>

Disclaimer: This Document is Copyright © 2004 by the HIPAA Collaborative of Wisconsin ("HIPAA COW"). It may be freely redistributed in its entirety provided that this copyright notice is not removed. It may not be sold for profit or used in commercial documents without the written permission of the copyright holder. This Document is provided "as is" without any express or implied warranty. This Document is for educational purposes only and does not constitute legal advice. If you require legal advice, you should consult with an attorney.

### Authorization/Informed Consent for Use and Disclosure of Health Care Information Grid Wisconsin Statutes and the Federal Privacy Law

<b>Wis. Stat. 146.81</b>	<b>Wis. Stat. 51.30</b> HFS 92 42 CFR 2.31	<b>Wis. Stat. 252.15</b>	<b>Wis. Stat. 610.70</b>	<b>45 CFR 164.508</b> <b>HIPAA Authorization</b>
	record. HFS 92.03 (3)(c)			164.508(b)(6)
<b>Providing Copy of Authorization</b>	<b>Providing Copy of Authorization</b>	<b>Providing Copy of Authorization</b>	<b>Providing Copy of Authorization</b>	<b>Providing Copy of Authorization</b>
	<ul style="list-style-type: none"> <li>A copy of each informed consent shall be offered to the patient or guardian and a copy shall be maintained in the treatment record: HFS 92.03(3)(c)</li> </ul>	<ul style="list-style-type: none"> <li>----</li> </ul>	<ul style="list-style-type: none"> <li>Advises that the individual, or an authorized representative of the individual, is entitled to receive a copy of the completed authorization form: 610.70(a)(2)8</li> </ul>	<ul style="list-style-type: none"> <li>If a CE seeks an authorization from an individual for a used/disclosed of PHI, the CE must provide the individual with a copy of the signed authorization. 164.508(c)(4)</li> </ul>
<b>Fees</b>	<b>Fees</b>	<b>Fees</b>	<b>Fees</b>	<b>Fees</b>
Any patient or other person may, upon submitting a statement of informed consent, receive a copy of the patient's health care records upon payment of fees as established by rule by the department which shall be based on an approximation of actual costs: 146.83(1)(b)	<ul style="list-style-type: none"> <li>A reasonable and uniform charge for reproduction may be assessed to the subject individual requesting individual access: 51.30(4)(d)3.</li> </ul>	<ul style="list-style-type: none"> <li>----</li> </ul>	<ul style="list-style-type: none"> <li>An insurer may charge the individual a reasonable fee to cover the costs incurred in providing a copy of recorded personal medical information: 610.70(3)(f)</li> </ul>	<ul style="list-style-type: none"> <li>If an individual requests a copy of their PHI, the CE may impose a reasonable, cost-based fee... 164.524(c)(4)</li> </ul>

The Wisconsin statutes regulate release or disclosure of patient information. HIPAA regulates uses and disclosures of patient information. Understanding that the law "most protective" of patient rights will control, an authorization may now be required for a use and/or disclosure. Therefore, the HIPAA-COW interface authorization form is titled "Authorization for Use and Disclosure of Health Information."

Prepared by: Susan C. Manning, JD  
Chrisann Lemery, RHIA

**Disclaimer:** This Document is Copyright © 2004 by the HIPAA Collaborative of Wisconsin (“HIPAA COW”). It may be freely redistributed in its entirety provided that this copyright notice is not removed. It may not be sold for profit or used in commercial documents without the written permission of the copyright holder. This Document is provided “as is” without any express or implied warranty. This Document is for educational purposes only and does not constitute legal advice. If you require legal advice, you should consult with an attorney.

## **Authorization/Informed Consent for Use and Disclosure of Health Care Information Grid Wisconsin Statutes and the Federal Privacy Law**