

Northwest Las Vegas Location

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Suite 160
Las Vegas, NV 89128

1505
Suite 330
Henderson, NV



Henderson Location

Wigwam Parkway
89074

Medical-Legal PHI Requests

ALL REQUESTS FOR MEDICAL RECORDS AND/OR BILLING MUST BE IN WRITING AND REQUIRE A PROPERLY EXECUTED HIPAA RELEASE. Below are our policies and requirements regarding requests for Personal Health Information (“PHI”) more commonly referred to as medical records, billing and/or films.

HIPAA RELEASE REQUIREMENTS (Must contain ALL 10 elements to be considered valid)

We are required to match three items, on all requests, in comparison with exact data in our system:

1. Name
2. Date of Birth
3. Signature with Date of Authorization (**Notarization NOT required**)

In order for us to disclose records, ALL of the following elements must be included in ALL authorizations to release PHI:

4. What health information will be disclosed (must be clear and easily understood).

Medical records, x-rays, entire chart, billing, etc.

5. Who will disclose the information (our name must be listed on the release).

Listing a specific provider’s name will authorize us to release records for that provider only. Listing NEVADA ORTHOPEDIC & SPINE CENTER will authorize us to release all records, for all providers, of Nevada Orthopedic & Spine Center.

6. Who will receive the information (include any agents i.e.: copy service companies, free-lance paralegals, etc.).

The name of the law firm and address must match that of the letterhead. Any Business Associate agreement with a copy service must include a copy of the retention letter, and must have a signature.

A statement:

7. Informing the patient of: (a) his/her right to revoke the authorization in writing, (b) how to revoke the authorization, and (c) any exceptions to the right to revoke.

Please note: the revocation is not valid until the covered entity receives it. Stating that the attorney should receive it is not valid.

8. Of their right to refuse to sign the authorization and that treatment, payment, enrollment, or eligibility for benefits may not be conditioned on obtaining the authorization **OR** the consequences to the individual of a refusal to sign the authorization.

9. That the information disclosed pursuant to the authorization may be re-disclosed by the recipient and no longer protected by the federal privacy regulations.

10. That the authorization will expire on a specific date, after a specific amount of time, or upon the occurrence of some event related to the patient (*this must be in the patient’s handwriting or typed in*).

Any release that does not have an actual expiration date stated will be honored for only one year. An event must be verifiable and specific to the individual.

GUIDELINES

RELEASE MODIFICATIONS

If a patient marks out, changes or modifies the release, the patient must then place their initials next to the alteration. Records will not be produced if any obvious changes are made without the patient’s corresponding initials. The use of white-out or signature stamps will automatically void the release.

ADDITIONAL LANGUAGE NOT ACCEPTABLE

Attorneys should avoid adding language to the releases that could affect the duties and obligations of either party, including directions to opposing counsel, as such guidance is irrelevant and not pertinent to the communication between the provider and the patient. Instruction to another attorney, firm and/or the facility must be done separately and not as part of the release. If any language is added, to instruct the handling of the records by any other party including language related to claims or insurance processing, the release will not be accepted. If the release is not accepted, the

patient will be contacted and advised of the situation. *Please contact our Medical-Legal/Liens department for additional information regarding this matter.*

REASONS FOR ABOVE REQUIREMENTS

The purpose of a PHI release is to provide for communication between a patient and their provider. The patient completes the release, and advises the indicated provider (#5) of their request, for certain documents to be released (#3) and to whom they are to be released (#6). In addition, it is an acknowledgement not only of the patient's understanding their own rights, duties and obligations under the release (#7, #9), but also confirms the patient's understanding of the provider's and/ or facility's rights, duties and obligations under the HIPAA regulations as per the release (#8). Prior to releasing the information indicated, a provider is required to ensure and confirm the correct patient is identified, hence the need for the patient's name, date of birth, and dated signature (#1, #2, #3). HIPAA regulations do not require the document be notarized as the verification process ensures accurate identification.

SPECIAL CIRCUMSTANCES

PATIENTS SEEN IN THE HOSPITAL ONLY

If the patient was seen at the hospital only, we will not have any signature on file to compare it to. A notarized affidavit will not be sufficient as stated above. To resolve this matter, the patient must come in and sign a release (we will require a government issued picture identification for verification at that time) **OR** a government issued picture ID can be sent along with the request, to avoid any image issues.

NAME CHANGES

If the patient has had a name change since the last time he/she was seen, we will need proof in the form of government issued picture identification with the patient's new name.

MINORS AT THE TIME OF VISIT, ADULT AT THE TIME OF THE REQUEST

If the patient was a minor the last time he/she was seen, we will need proof of current age in the form of government issued photo identification.

POWER OF ATTORNEY, LEGAL OR PERSONAL REPRESENTATIVE

All requests signed by anyone other than the patient, must include a copy of a power of attorney document which will be forwarded to the medical-legal department for processing. The power of attorney must specifically indicate the individual making the request has authority over medical processes. If the language does not comport or address that power specifically it will be considered invalid and the request will not be honored.

DECEASED PATIENTS

If the patient is deceased, we need documented proof that the person signing the release has legal authority (ie: Power of Attorney, Handwritten will, Standard will indicating individual has been appointed as executor and is authorized to serve as patient's legal representative, a file stamped copy of the Letter of Administration or Special Letter of Administration). Government issued identification must be supplied with all of the above referenced materials.

WORKMAN'S COMPENSATION

A C-4 provides for us to release records to the insurance company and the administrative process officers (i.e. Judges and Hearing officers). It does not allow for us to release the records to any other party, including the patient's attorney.

SUBPOENAS

Pursuant to 45 C.F.R. 164.512(e)(1)(i) in order for a subpoena to be considered a judicial order, it must be signed by a Judge or Court Clerk and must be file stamped. An Attorney’s signature on the subpoena does not comply with this requirement.

In order for a Subpoena to be valid and HIPAA compliant, we are required to obtain one of the three following documents attached to the subpoena as per 45 C.F.R. 164.512(e)(1)(ii)(A) and 45 C.F.R. 164.512(e)(1)(iii):

A. A certificate of service

It must demonstrate that all parties to the action have been served. We cannot proceed until 14 days from the date of service has lapsed to allow for the patient to file an objection. Please note that our 10-14 business day does not begin to toll until the 14 required days have expired. If the patient’s attorney is requesting records via subpoena, the patient **must** be served the subpoena as well in order for us to ensure that the patient has no issues with the records being released. **OR**

B. A protective order

Filed with the court indicating, and providing assurances that, the records will not be disclosed; if this is the route taken, you must take note that we will release the records only to the Clerk of the Court for keeping under the protective order. **OR**

C. A HIPAA compliant release that contains the aforementioned required elements.

DEFICIENCY NOTICE WILL BE PROVIDED

We require 10-14 business days to process requests, as we have to review each request individually to determine if it is HIPAA compliant. If we receive a deficient request, we will notify you of the deficiency. We will not produce records until the deficiency is completely and correctly resolved. Each time a request is submitted, the 10-14 business days begin anew, even if you are submitting a corrected request. Nevada Orthopedic & Spine Center staff appreciates your understanding and cooperation in the above matter.

Please note: the *following departments* are the *only personnel assigned to assist you* with your requests. DO NOT send your request to any other personnel, as they will not respond to any such requests.

Staff	Department	Regarding	Phone	Fax
Celina Tiscareño	Workers' Compensation	Workers Compensation Adjuster Requests and Appointments	702.258.374 4	702.258.378 5
Yolanda Williams	Medical Records	Government, Company and Facility Requests M-Z	702.258.371 2	702.258.553 0
Alyssa Hale	Medical Records	Government, Company and Facility Requests A-L	702.258.371 3	702.258.377 9
Arelie Moreno	Medical Records	Patient Requests	702.258.371 7	702.258.377 9
Maribel Cabada	Medical-Legal Services	Billing/Reduction Requests and Lien Appointments	702.258.374 8	702.258.553 0

Resources:

<http://www.aha.org/content/00-10/authorizationchecklist.pdf>

A checklist of elements required for HIPAA compliance

http://library.ahima.org/xpedio/groups/public/documents/ahima/bok1_049362.hcsp?dDocName=bok1_049362

AHIMA’s Authorization Checklist – Required Elements

<http://www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/courtorders.html> -

Assistance in understanding HIPAA from the U.S. Department of Health & Human Services.

<http://www.hhhealthlawblog.com/2013/10/hipaa-responding-to-subpoenas-orders-and-administrative-demands.html>

An article from the Law Firm of Holland & Hart regarding subpoenas

https://www.americanbar.org/newsletter/publications/law_trends_news_practice_area_e_newsletter_home/hipaa.html

An Article from the American Bar Association news letter.