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SUBJECT: Obtaining Patient Authorization for Uses and Disclosures Other Than Treatment, Payment and Health Care Operations

HIPAA CITES: 45 CFR § 164.508

DEPARTMENT(S): All Departments of Kewaunee County

POLICY NUMBER: 106

I. POLICY:

Kewaunee County obtains the authorization of the patient or the patient's Personal Representative on the applicable Authorization Form whenever it desires to use or disclose Protected Health Information for a purpose other than providing Treatment, obtaining Payment or carrying out its Health Care Operations pursuant to Policy #102 or making a disclosure based on public policy pursuant to Policy # 103, or except as otherwise provided in Kewaunee County's policies.

Kewaunee County may use or disclose Protected Health Information that it created or received prior to April 14, 2003 pursuant to an authorization or other express legal permission obtained from a patient prior to April 14, 2003 *if* (a) the authorization or other express legal permission specifically permits such use or disclosure, and (b) there is no agreed upon restriction in accordance with Policy # 112.

Further, it is the policy of Kewaunee County to obtain the authorization of the patient or the patient's Personal Representative on the applicable Authorization Form whenever it desires to use or disclose Highly Confidential Information other than as permitted under federal and state laws protecting such information. For uses and disclosures of Psychotherapy Notes, shall follow the procedures set forth in Policy # 120.

A patient's request to access his or her own Protected Health Information is accommodated by following Policy # 111.

II. PROCEDURES:

A. General Procedure

1. Except as permitted by Policy # 102 regarding uses and disclosures for Treatment, Payment and Health Care Operations, and Kewaunee County's other policies regarding uses and disclosures of Protected Health

Information, a patient's Protected Health Information may only be used and disclosed if the patient or the patient's Personal Representative completes and signs an Authorization Form.

2. Kewaunee County may accept an authorization form signed by the patient (which is not the specific Authorization Form) as long as the authorization form contains each of the elements set forth in Section II.B below.
3. Kewaunee County staff may not disclose information pursuant to an Authorization Form without ensuring the validity of the Authorization Form by following the procedures set forth in Section II.C below.

B. Elements of Patient Authorization. Kewaunee County shall provide a patient with an Authorization Form, written in plain language, allowing Kewaunee County to use or disclose Protected Health Information containing the following elements:

1. Description of Health Information. The Authorization must contain a description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion. If Kewaunee County intends to use or disclose Highly Confidential Information, then the patient must specifically authorize each type of Highly Confidential Information by signing the appropriate lines on the Authorization Form.
2. Identification of Authorized Person. The Authorization must contain the name or other specific identification of the person(s), or class of persons, authorized to make the requested use or disclosure.
3. Identification of Recipient. The Authorization must contain the name or other specific identification of the person(s), or class of persons, to whom Kewaunee County may make the requested use or disclosure.
4. Description of Purpose(s). The Authorization must contain a description of each purpose for which Protected Health Information is to be used or disclosed.
 - a. This description must be specific enough to provide a patient with the facts that he/she needs to make an informed decision whether to allow release of the Protected Health Information.
 - b. The statement "at the request of the patient" is a sufficient description of the purpose only when the patient initiates the authorization and does not (or elects not to) provide a statement of the purpose.
5. Expiration. The Authorization must contain an expiration date or an expiration event that relates to the patient or the purpose of the use or disclosure.

6. Statement of Right to Revoke. The Authorization must contain a statement of the patient's right to revoke the authorization in writing and either:
 - a. a statement of the exceptions to the patient's right to revoke an authorization and a description of how the patient may revoke the authorization; or
 - b. a reference to Kewaunee County's Notice of Privacy Practices, if the Notice of Privacy Practices describes the exceptions to the patient's right to revoke an authorization and the authorization revocation process.
 7. (In)Ability to Condition Treatment on the Authorization. The Authorization must contain a statement that Kewaunee County may *not* condition its provision of health care to the patient on whether the patient signs the Authorization, *unless* the health care to be provided is solely for the purpose of creating Protected Health Information to be disclosed to a third party and the patient's Authorization permits Kewaunee County to release the patient's Protected Health Information to such third party.
 8. Statement Regarding Re-disclosure. The Authorization must contain a statement that Protected Health Information used or disclosed pursuant to the Authorization Form may be subject to redisclosure by the recipient and no longer be protected by Kewaunee County's Privacy Rule.
 9. Dated Patient Signature. The Authorization must contain a signature of the patient or the patient's authorized Personal Representative and the date of the signature.
 10. Personal Representative. If the Authorization Form is signed by a Personal Representative of the patient, a description of such Personal Representative's authority to act for the patient must be included.
- C. Verification of Validity. Kewaunee County may not disclose Protected Health Information pursuant to an Authorization Form without verifying the validity of the Authorization Form. Kewaunee County staff shall verify the validity of the Authorization Form by confirming the following:
1. Completion. An Authorization Form must contain all the elements identified in Section II.B above.
 2. Not Expired. An Authorization Form must not be expired.
 3. Not Revoked. An Authorization Form must not be revoked.

4. No Material False Information. An Authorization Form must not contain any material information that Kewaunee County knows to be false.
5. No Compound Authorizations. An Authorization Form is not combined with any other document to create a compound authorization.
6. No Conditioning Treatment on the Authorization. The provision of Treatment is not conditioned on whether the patient signs the Authorization except if the sole purpose of the patient's treatment is to provide health information to a third party.

D. Revocation of Authorization

1. A patient may revoke an authorization at any time. To revoke an authorization the patient must submit the revocation in a writing that specifies the authorization to be revoked. A revocation will be prospective only and effective immediately unless a future date is specified.

E. Documentation Requirements

1. Authorization Stored in Medical Record. Kewaunee County must retain the original Authorization Form and place it in the patient's medical record.
2. Patient Shall Receive Copy of Authorization. If Kewaunee County seeks an Authorization from a patient for a use or disclosure of Protected Health Information, Kewaunee County must provide a copy of the patient's signed Authorization Form to the patient.