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| OREGON EXPLANATION FORM  |  |  |
|   | Explanation of the Notice of Psychologists' Policies and Practices to Protect the Privacy of Your Patient's Health Information |   |
|   | DEFINITIONSThere are technical definitions that are a part of the Privacy Rule that a psychologist will need to know to use this document. The definitions are as follows:1. Protected Health Information (PHI):
	* PHI is (with certain exceptions) individually-identifiable health information regarding the patient.
2. Psychotherapy Notes:
	* Psychotherapy notes means notes recorded (in any medium) by a psychologist documenting or analyzing the contents of a conversation with a patient or patients during a private counseling session or a group, joint, or family counseling session and are separated from the rest of the patient's medical or mental health records.
3. Use:
	* Use means the sharing, employment, application, utilization, examination, or analysis of individually-identifiable health information within an entity (e.g. the psychologist's office, clinic, practice group, etc.).
4. Disclosure:
	* Disclosure means the release, transfer, provision of access to, or divulging in any other manner, of information outside the entity holding the information.
5. Authorization:
	* Authorization is written permission above and beyond general consent that addresses only specific disclosures for a limited period.

[Back to Compliance Resources](http://cpd.apapractice.org/Privacy/course/courses/cusapa010001/resources/OR/index.html) I. USES AND DISCLOSURES FOR TREATMENT, PAYMENT, AND HEALTH CARE OPERATIONS1. Definitions
	1. Treatment, Payment and Health Care Operations:
		1. A psychologist's own Treatment, Payment or Health Care Operations;
		2. The Treatment activities of another health care provider;
		3. The Payment activities of another entity covered under HIPAA (e.g., an insurer);
		4. Certain Health Care Operations of another entity covered under HIPAA if: i) the psychologist and the other entity each has a relationship with the patient; ii) the PHI pertains to that relationship; and iii) the disclosure is for: quality assessment and improvement; certain performance evaluation, enhancement or training; or health care fraud and abuse detection or compliance.
	2. Treatment means the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another.
	3. Payment means when the psychologist obtains reimbursement for the provision of health care. An example of payment would include, but is not limited to, obtaining third-party reimbursement, the determinations of eligibility or coverage (including coordination of benefits or the determination of cost-sharing amounts), and adjudication or subrogation of health benefit claims.
	4. Health care operations means activities which relate to the performance or operation of the psychologist's practice. The following are several examples of health care operations: conducting quality assessment and improvement activities, including outcomes evaluations and development of clinical guidelines, (provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities); case management, and care coordination; and business planning.

[Back to Compliance Resources](http://cpd.apapractice.org/Privacy/course/courses/cusapa010001/resources/OR/index.html) 1. When Consent is Required

Generally, a psychologist must obtain patient consent before disclosing PHI for all treatment, payment and healthcare operations. Consent is not required, however, when the psychologist is rendering professional services as part of a team or interacting with other appropriate professionals concerning the welfare of the patient (provided that the psychologist takes reasonable steps to assure that all persons receiving the information are informed about the confidential nature of the information and abide by the rules of confidentiality). Although consent is not required by state law for this particular aspect of treatment, it is strongly recommended that the psychologist obtain patient consent for this aspect as well. This consent is part of the general consent contained in the psychotherapist-patient agreement provided with this product. [Back to Compliance Resources](http://cpd.apapractice.org/Privacy/course/courses/cusapa010001/resources/OR/index.html)II. USES AND DISCLOSURES REQUIRING A PRIVACY RULE AUTHORIZATION1. Uses and Disclosures Outside of Treatment, Payment, and Health Care Operations

For uses and disclosures other than treatment, payment, or health care operations, the psychologist must obtain patient authorization, unless otherwise permitted or required by law (as described below in Section III, "Uses and Disclosures with Neither Consent nor Authorization"). 1. Psychotherapy Notes

Any use or disclosure of psychotherapy notes requires an authorization meeting both Privacy Rule and state law requirements. However, an authorization is not required for uses or disclosures when a) required by HHS to determine compliance with the Privacy Rule or b) for use by a psychologist who has created psychotherapy notes for his/her use, as long as he/she does not reveal the psychotherapy notes to another individual.The Privacy Rule also provides an exception for use or disclosure by the psychologist for his/her training programs (in which students, trainees, or practitioners in mental health learn under supervision to practice or improve their counseling skills). There appears to be no Oregon statute providing a similar exception. However, if you need to conduct such activities in connection with any patient, we recommend that you include this provision in the Psychotherapist/Patient Agreement for that patient in order to cover this exception. 1. Compound Authorizations
	1. An authorization for the use or disclosure of PHI may specify that such PHI may be disclosed to multiple individuals or entities provided that treatment, payment, enrollment in the health plan, or eligibility for benefits is not conditioned on such authorized use or disclosure.
	2. An authorization for a use or disclosure of Psychotherapy Notes may not be combined with an authorization for use or disclosure of PHI. However, an authorization for a use or disclosure of Psychotherapy Notes may be combined with another authorization for a use or disclosure of Psychotherapy Notes.
2. Revocation of AuthorizationA patient may revoke his/her authorization at any time, provided that the authorization is in writing. Exceptions: 1) The psychologist has taken action in reliance on the authorization; or 2) If the authorization was obtained as a condition to obtaining insurance coverage, and other law provides the insurer with the right to contest a claim under the policy.
3. Documentation of Authorization The Privacy Rule requires that psychologists must document and retain any signed authorization for at least six years from the date of its creation or the date when it was last in effect, whichever is later.

III. USES AND DISLOSURES WITH NEITHER CONSENT NOR AUTHORIZATION1. Child Abuse ReportingAny psychologist who has reasonable cause to believe that any child with whom he or she comes in contact, has suffered abuse, or that any person with whom he or she comes in contact has abused a child, shall immediately report or cause a report to be made in the manner described below. However, a psychologist is permitted but not required to report such information communicated by a person if the communication is privileged under the psychologist-patient privilege statute.

A psychologist making a report of child abuse, whether voluntarily or pursuant to the child abuse reporting statute, shall make an oral report by telephone or otherwise to the local office of the Department of Human Services, to the designee of the Department, or to a law enforcement agency within the county where the psychologist is located at the time of the contact. Such reports shall contain, if known, the names and addresses of the child and the persons responsible for care of the child, the nature and extent of the abuse, including any evidence of previous abuse, the explanation given for the abuse, and any other information which the psychologist believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator.If a psychologist's records are requested in relation to a child abuse investigation, there is no privilege for communications received in a professional context that, in the psychologist's professional opinion, reveal a clear and serious intent to commit a crime involving physical injury, a threat to physical safety, sexual abuse, or death, and the psychologist, in their professional opinion, believes the patient poses a danger of committing such a crime. If such records are requested, they must be released.1. Adult and Domestic Abuse ReportingAny psychologist who has reasonable cause to believe that any adult with whom the psychologist comes in contact, has suffered abuse, or that any person with whom the psychologist comes in contact, has abused an adult, shall report or cause a report to be made in the manner described below. However, a psychologist is permitted but not required to report such information communicated by a person if the communication is privileged under the psychologist-patient privilege statute. Additionally, a psychologist may only report such privileged communications when he/she has reasonable cause to suspect that a patient's injuries are the result of abuse and (a) the psychologist believes that the disclosure is necessary to prevent serious harm to the patient or other potential victims; or (b) the patient cannot agree to disclosure because of incapacity and this would impair immediate enforcement activity. For (b), the public official authorized to receive the report must represent that (i) the patient's health information will not be used against him or her, and (ii) immediate enforcement activity would be materially impaired by waiting until the patient has the capacity to agree to the disclosure.

A psychologist making a report of adult abuse, whether voluntarily or pursuant to the adult abuse reporting statute, shall make an oral report, by telephone or otherwise, to the local office of the Department of Human Services, to the designee of the Department or to a law enforcement agency within the county where the psychologist is located at the time of the contact.Such reports shall contain, if known, the name, age and the present location of the adult; the names and addresses of the persons responsible for care of the adult; the nature and extent of the alleged abuse, including any evidence of previous abuse; any information that led the psychologist to suspect that abuse has occurred; and any other information which the psychologist believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator.If a psychologist's records are requested in relation to an investigation of abuse of an adult, there is no privilege for communications received in a professional context that, in the psychologist's professional opinion, reveals a clear and serious intent to commit a crime involving physical injury, a threat to physical safety, sexual abuse, or death, and the psychologist, in their professional opinion, believes the patient poses a danger of committing such a crime. If such records are requested, they must be released.Informing the patientA psychologist who makes a disclosure regarding adult or domestic abuse must promptly inform the patient that such a report has been or will be made except if:* 1. the psychologist in the exercise of his or her professional judgment believes informing the patient would place the patient at risk of serious harm; or
	2. the psychologist would be informing a personal representative and the psychologist reasonably believes the personal representative is responsible for the abuse, neglect or other injury and that informing the personal representative would not be in the patient's best interest as determined by the psychologist in the exercise of professional judgment.

The basic definitions relevant to this section are:"Abuse" means one or more of the following: * 1. Any death caused by other than accidental or natural means;
	2. Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury;
	3. Willful infliction of physical pain or injury;
	4. Sexual harassment or exploitation, including but not limited to any sexual contact between an employee of a facility or community program and an adult;
	5. Neglect that leads to physical harm through withholding of services necessary to maintain health and well-being but excluding a failure or the state or a community program to provide services due to lack of available funding to provide the services.

"Adult" means a person who is mentally ill or developmentally disabled, who is 18 years of age or older, and receives services from a community program or facility.1. Health Oversight Activities (State Psychology Boards)The Oregon State Board of Psychologist Examiners has the power to issue subpoenas for the attendance of witnesses, take testimony, administer oaths or affirmations to witnesses, conduct hearings, require the production of relevant documents in all proceedings pertaining to the duties and powers of the Board.
2. Judicial and Administrative ProceedingsIf a patient is involved in court proceeding and a request is made for information about the patient's evaluation, diagnosis and treatment and the records thereof, such information is privileged under state law, and the psychologist must not release information without the written authorization of the patient or the patient's personal or legally-appointed representative, or a court order. The privilege does not apply when the patient is being evaluated for a third party or where the evaluation is court-ordered. The psychologist must inform the patient in advance if this is the case.
3. Serious Threat to Health or SafetyThe psychologist may disclose confidential information without the informed written consent of the client when the psychologist judges that disclosure is necessary to protect against a clear and substantial risk of imminent serious harm being inflicted by the client on the client or another person. In such case, the psychologist shall limit disclosure of the otherwise confidential information to only those persons and only that content which would be consistent with the standards of the profession in addressing such problems.

Although state law does not specifically require that the psychologist report serious threats that a patient makes to the health or safety of another or himself/herself, it is strongly recommended that the psychologist obtain the patient's consent for such disclosure. This consent is part of the general consent contained in the psychotherapist-patient agreement provided with this product.If a psychologist's records are requested in relation to an investigation, there is no privilege for communications received in a professional context that, in the psychologist's professional opinion, reveals a clear and serious intent to commit a crime involving physical injury, a threat to physical safety, sexual abuse, or death, and the psychologist, in their professional opinion, believes the patient poses a danger of committing such a crime. If such records are requested, they must be released.1. Worker's Compensation The act of the worker in applying for workers' compensation benefits constitutes authorization for any psychologist to release information relevant to a claim. This may include a past history of complaints or treatment of a condition similar to that presented in the claim. The authorization is valid for the duration of the work related injury or illness and is not subject to revocation by the worker or the worker's representative.

[Back to Compliance Resources](http://cpd.apapractice.org/Privacy/course/courses/cusapa010001/resources/OR/index.html) IV. PATIENTS' RIGHTS AND PSYCHOLOGIST'S DUTIES1. Patient's Rights
	1. Right to Request RestrictionsA patient has the right to request restrictions on the uses or disclosures of PHI about the patient to carry out treatment, payment, and health care operations; however, the psychologist is not required to accept the requested restrictions.

A psychologist who agrees to a restriction may not use or disclose PHI in violation of such restriction, except that, if the patient who requested the restriction is in need of emergency treatment and the restricted PHI is needed to provide the emergency treatment, the psychologist may use the restricted PHI, or may disclose such information to a health care provider, to provide such treatment to the patient. If restricted PHI is disclosed to a health care provider for emergency treatment, the psychologist must request that such health care provider not further use or disclose the information. A restriction agreed to by a psychologist must not prevent uses or disclosures permitted or required by the Privacy Rule.A psychologist may terminate his/her agreement to a restriction, if (1) the patient agrees to or requests the termination in writing; (2) the patient orally agrees to the termination and the oral agreement is documented; or (3) the psychologist informs the patient that he/she is terminating his/her agreement to a restriction, except that such termination is only effective with respect to PHI created or received after the psychologist has so informed the patient.Psychologists must maintain a written or electronic record of any such restriction, denial or termination. Psychologists must retain this record for six years from the date of its creation or the date when it last was in effect, whichever is later. * 1. Right to Receive Confidential Communications by Alternative Means and at Alternative LocationsA psychologist must permit patients to request and receive communications of PHI from the psychologist by alternative means or at alternative locations. A psychologist must accommodate reasonable requests by patients (e.g. a patient may request that bills not be sent to his home).
	2. Right to Inspect and Copy
		1. General rightA psychologist must permit a patient to request access to inspect and to obtain a copy of PHI about the patient in a designated record set, for as long as the PHI is maintained in the record. Patients do not have a right to inspect and copy: 1) psychotherapy notes; or 2) information compiled in reasonable anticipation of or for use in legal or administrative proceedings; 3) information obtained from someone other than a health care provider under a promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information. The patient has no right of review on these issues.

Documents prepared for litigation at the request of an attorney should be assumed to be covered by the state attorney-client privilege and should not be included in the patient's record or released to anyone without consulting with the attorney who requested it. Other documents prepared for litigation may be released to the patient if the provider chooses to do so. A psychologist may be able to withhold these documents from a patient if state law permits it. Before withholding these documents, psychologists are advised to check with local counsel. A psychologist may require that the request for access be in writing, but must inform the patient of this requirement. * + 1. Timely response by the psychologistGenerally, the psychologist must act on a request for access no later than 30 days after receipt of the request as follows: 1) If the psychologist grants the request, in whole or in part, he/she must inform the patient of the acceptance of the request and provide the access requested; 2) If the psychologist denies the request, in whole or in part, he/she must provide the patient with a written denial (see Section "i." below).If, however, the request for access is for PHI that is not maintained or accessible to the psychologist on-site, the psychologist must either grant or deny the request (as per the preceding paragraph) no later than 60 days from the receipt of such request.

If the psychologist is unable to take one of these actions within the specified time, the psychologist may extend the time only once by no more than 30 days. If the psychologist does extend the time, he/she must still (within the original time limits) provide the patient with a written statement of the reasons for the delay and the date by which the psychologist will complete his/her action on the request.* + 1. Allowing inspection and/or copying The psychologist must provide the access requested by patients, including inspection or obtaining a copy, or both, of the PHI regarding them in designated record sets. If the same PHI that is the subject of a request for access is maintained in more than one designated record set or at more than one location, the psychologist need only produce the PHI once in response to a request for access.
		2. Providing access in the form or format the patient requests

The psychologist must provide the patient with access to the PHI in the form or format requested by the patient, if it is readily producible in such form or format. If the PHI is not readily producible in such form or format, it may be produced in a readable hard copy form or such other form or format as agreed to by the psychologist and the patient. The psychologist may provide the patient with a summary of the PHI requested (in lieu of access to the PHI) or may provide an explanation of the PHI only if the patient agrees in advance to the summary or explanation and the fees imposed, if any, by the psychologist. A patient may also request a summary or explanation of PHI.* + 1. Convenient time and manner of accessThe psychologist must provide the access as requested by the patient in a timely manner (see Section "b." above), including arranging with the patient for a convenient time and place to inspect or obtain a copy of the PHI, or mailing the copy of the PHI at the patient's request. The psychologist may discuss the scope, format and other aspects of the request for access with the patient as necessary to facilitate the timely provision of access.
		2. FeesIf the patient requests a copy of the PHI, or agrees to a summary or explanation of the PHI, the psychologist may charge no more than $25.00 for copying 10 or fewer pages of written material and no more than 25 cents per page for each additional page, as well as postage. In addition, the psychologist may charge for the actual and reasonable cost of preparing an explanation or summary of the PHI if agreed to or requested by the patient. (see Section "d." above)
		3. Reviewable grounds for denial of patient access A psychologist may deny a patient access to his/her PHI in the following circumstances: 1) a psychologist has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the patient or another person; 2) the PHI makes reference to another person (unless such other person is a health care provider) and a psychologist has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person; or 3) the request for access is made by the patient's personal representative and a psychologist has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the patient or another person.
		4. Right to review a denial of access If access is denied, the patient has the right to have the denial reviewed by a licensed health care professional who is designated by the psychologist to act as a reviewing official and who did not participate in the original decision to deny. The psychologist must provide or deny access in accordance with the determination of the reviewing official, as follows.
		5. Process for review of denialIf the patient has requested a review of a denial, the psychologist must designate a licensed health care professional who was not directly involved in the denial to review the decision to deny access. The psychologist must promptly refer a request for review to such designated reviewing official. The designated reviewing official must determine, within a reasonable period of time, whether to deny the access requested based on the standards in Section "g.", above. The psychologist must promptly provide written notice to the patient of the determination of the designated reviewing official and take other action as required to carry out the designated reviewing official's determination.
		6. Psychologist's duties after denying access If the psychologist denies access, in whole or in part to PHI, the psychologist must comply with the following requirements:
			1. to the extent possible, the psychologist must give the patient access to any other PHI requested (after excluding the PHI for which the psychologist has a ground to deny access).
			2. the psychologist must provide a timely written denial to the patient within the time frame specified in Section "b.", above. The denial must be in plain language and contain the following:
				- the basis for the denial;
				- a statement of the patient's review rights (if applicable), including a description of how the patient may exercise their review rights or complain;
				- a description of how the patient may complain to the psychologist or to the Secretary of Health and Human Services (a psychologist must document all complaints received and their disposition, if any). The description must include the name, or title, and telephone number of the contact person or office designated to received such complaints.
			3. if the psychologist does not maintain the requested PHI, and knows where it is maintained, the psychologist must inform the patient where to direct the request for access.
		7. DocumentationA psychologist must document the titles of the persons or offices responsible for receiving and processing requests for access by patients and the designated record sets that are subject to access by patients. Designated Record Set means a group of records maintained by or for a psychologist that is the following: A. The medical records and billing records about patients maintained by or for the psychologist; or B. Used, in whole or in part by or for the patient to make decisions about patients. Psychologists must maintain a written or electronic record of any such documentation. Psychologists must retain this record for six years from the date of its creation or the date when it last was in effect, whichever is later.
	1. Right to Amend Records
		1. Patient's general right to amendA patient has the right to have a psychologist amend PHI or a record about the patient in a designated record set for as long as the PHI is maintained in the designated record set. The psychologist may require patients to make requests for amendments in writing and to provide a reason to support a requested amendment, provided that he/she informs patients in advance of such requirements. Timely Action by the Psychologist
			1. The psychologist must act on the patient's request for an amendment no later than 60 days after receipt of such a request as follows:
				+ If the psychologist grants the requested amendment, in whole or in part, he/she must take the actions required by section "b.", below;
				+ If the psychologist denies the requested amendment, in whole or in part, he/she must provide the patient with a written denial, in accordance with section "e.", below.
			2. If the psychologist is unable to act on the request for amendment within that time, he/she can take a one-time only extension of no more than 30 days. Within the 60-day time frame, the psychologist must provide the requester with a written statement of the reasons for the delay and the date for completing action on the request.
		2. Accepting the amendmentIf the psychologist accepts the requested amendment in whole or in part, he/she must comply with the following requirements:
			1. make the appropriate amendment to the PHI or record that is the subject of the request for amendment by, at minimum, identifying the records in the designated record set that are affected by the amendment and appending or otherwise providing a link to the amendment;
			2. timely inform the patient, (see Section "a.", above,) that the amendment is accepted and have the patient identify the relevant persons with whom the psychologist may share the amendment, (see next section) and agree to have the psychologist notify such persons; and
			3. make reasonable efforts to inform and provide the amendment within a reasonable time to:
				+ those persons identified by the patient as having received PHI about the patient and needing the amendment; and
				+ persons, including business associates, that the psychologist knows have the PHI that is the subject of the amendment and that may have relied, or could foreseeably rely on such information to the patient's detriment.
		3. Acting on notices of the amendmentA psychologist who is informed by another Covered Entity of an amendment to a patient's PHI, (see Section "b.", above) must amend the PHI in designated record sets as provided by Section "a.", above.
		4. DocumentationA psychologist must document the titles of the persons or offices responsible for receiving and processing requests for amendments by patients. Psychologists must maintain a written or electronic record of any such documentation for six years from the date of its creation or the date when it was last in effect, whichever is later.
		5. Denial of amendment
			1. The Psychologist may deny the request if he/she determines that the PHI or record that is the subject of the request:
				+ was not created by the psychologist (unless the patient provides a reasonable basis to believe that the originator of the PHI is no longer available to act on the requested amendment); or
				+ is not part of the designated record set; or
				+ would not be available for inspection under the Right to Inspect and Copy provision; or
				+ is accurate and complete.
			2. If the psychologist denies the requested amendment in whole or in part, the psychologist must comply with the following requirements:
				+ Written Denial - the psychologist must provide the patient with a timely (see Section "a.", above) written denial; the denial must be in plain language and contain:

the basis for the denial; a statement of the patient's right to submit a written statement disagreeing with the denial and how the patient may file such a statement; a statement that, if the patient does not submit a statement of disagreement, the patient may request that the psychologist provide the patient's request for amendment and the denial with any future disclosures of the PHI that is the subject of the amendment; anda description of how the patient may complain to the psychologist pursuant to the complaint procedures or to the Secretary of Health and Human Services. The description must include the name or title and telephone number of the contact person or office designated to receive such complaints.* + - * + Statement of Disagreement - The psychologist must permit the patient to submit to the psychologist a written statement disagreeing with the denial all or part of a requested amendment and the basis of such disagreement. The psychologist may reasonably limit the length of that statement.
				+ Rebuttal Statement - The psychologist may prepare a written rebuttal to the patient's statement of disagreement and must provide a copy the rebuttal to the patient.
				+ Recordkeeping - The psychologist must, as appropriate, identify the record or PHI in the designated record set that is the subject of the disputed amendment and append or otherwise link to the patient's request for amendment, the psychologist's denial of the request, the patient's statement of disagreement, if any, and the psychologist's rebuttal, if any, to the designated record set.
				+ Future Disclosures -

If a statement of disagreement has been submitted by the patient, the psychologist must include the material appended in accordance with the preceding section ((D) "Recordkeeping"), or, at the election of the psychologist, an accurate summary of any such information, with any subsequent disclosure of the PHI to which the disagreement related.If the patient has not submitted a written statement of disagreement, the psychologist must include the patient's request for amendment and his/her denial, or an accurate summary of such information, with any subsequent disclosure of the PHI only if the patient has requested such action in accordance with Section (B).When a subsequent disclosure described in the above two points is 1) made using a "standard transaction" under the HIPAA Transaction Rule (an electronic transmission of any health information to carry out a financial or administrative activity, such as submitting a claim for reimbursement) and 2) that transaction does not permit the additional material to be included with the disclosure, then the psychologist may separately transmit the material required by these above two points as applicable, to the recipient of the standard transaction.* 1. Right to an Accounting of Disclosures
		1. General right
			1. A patient has a right to receive an accounting of disclosures of PHI made by a psychologist in the six years prior to the date on which the accounting is requested, except for disclosures:
				+ To carry out treatment, payment and health care operations
				+ To the patients of PHI about them;
				+ For national security or intelligence purposes;
				+ To correctional institutions or law enforcement officials; or
				+ That occurred prior to the compliance date for the psychologist (the date on which the psychologist takes an action that would require him/her to be compliant with the Privacy Rule; e.g., an electronic submission of a claim.)
			2. If a health oversight agency or law enforcement official provides the psychologist with a written statement that an accounting to the patient would be reasonably likely to impede the agency's activities (and specifying the time for which such a suspension is required), then the psychologist must temporarily suspend an individual's right to receive an accounting of disclosures to a health oversight agency or law enforcement official (for the time specified by such agency or official).
				+ If the statement of the health oversight agency or law enforcement official is made orally, the psychologist must:

Document the statement, including the identity of the agency or official making the statement;Temporarily suspend the individual's right to an accounting of disclosures subject to the statement; andLimit the temporary suspension to no longer than 30 days from the date of the oral statement, unless the health oversight agency or law enforcement official submits a written statement during that time. * + - 1. A patient may request an accounting of disclosures for a period of time less than six years from the date of the request.
		1. Content of the accounting The psychologist must provide the patient with a written accounting that meets the following requirements:
			1. Except as otherwise provided by section "a." above, the accounting must include disclosures of PHI that occurred during the six years (or such shorter time period at the request of the individual as provided in section "a.iii." above) prior to the date of the request for an accounting, including disclosures to or by business associates of the psychologist.
			2. The accounting must include for each disclosure:
				- The date of the disclosure;
				- The name of the entity or person who received the PHI and, if known, the address of such entity or person;
				- A brief description of the PHI disclosed; and
				- A brief statement of the purpose of the disclosure that reasonably informs the patient of the basis for the disclosure; or, in lieu of such statement:

A copy of the patient's written authorization; orA copy of a written request for a disclosure, if any.* + - 1. If, during the period covered by the accounting, the psychologist has made multiple disclosures of PHI to the same person or entity for a single purpose, or pursuant to a single authorization, the accounting may, with respect to such multiple disclosures, provide:
				* The information required by section "b.ii" above, for the first disclosure during the accounting period;
				* The frequency, periodicity, or number of the disclosures made during the accounting period; and
				* The date of the last such disclosure during the accounting period.
		1. Providing the accounting
			1. The psychologist must act on the patient's request for an accounting, no later than 60 days after receipt of such a request, as follows.
				- The psychologist must provide the patient with the accounting requested; or
				- If the covered entity is unable to provide the accounting within 60 days, the covered entity may extend the time to provide the accounting by no more than 30 days, provided that:

The psychologist, within 60 days, provides the patient with a written statement of the reasons for the delay and the date by which the psychologist will provide the accounting; and The psychologist may have only one such extension of time for action on a request for an accounting.* + - 1. The psychologist must provide the first accounting to a patient in any 12 month period without charge. The psychologist may impose a reasonable, cost-based fee for each subsequent request for an accounting by the same patient within the 12 month period, provided that the psychologist informs the patient in advance of the fee and provides the patient with an opportunity to withdraw or modify the request for a subsequent accounting in order to avoid or reduce the fee.
		1. Documentation
			1. The psychologist must document the following:
				- The titles of the persons or offices responsible for receiving and processing requests for an accounting by patients.
				- The written accounting that is provided to the patient; and
				- The information required to be included in an accounting under section "b." above, for disclosures of PHI that are subject to an accounting under section "a.", above.
			2. Psychologists must maintain a written or electronic record of any such documentation. Psychologists must retain this record for six years from the date of its creation or the date when it last was in effect, whichever is later.
	1. Right to a Paper Copy of Privacy Notice A patient has a right to obtain a paper copy of the notice of the psychologist's privacy practices upon request, even if the patient has agreed to receive the notice electronically.
1. Psychologist's Duties
	1. The psychologist is required to maintain the privacy of PHI and to provide the patient with a notice of his/her legal duties and privacy practices with respect to PHI.
	2. The psychologist may change the privacy policies and practices described in the notice, if he/she reserves the right to do so. Unless the psychologist notifies the patient of such changes, however, the psychologist is required to abide by the terms currently in effect.
	3. If the psychologist intends to revise his/her policies and procedures, he/she must describe in the notice to patients how the psychologist will provide patients with a revised notice of privacy policies and procedures (e.g., by mail, e-mail).

[Back to Compliance Resources](http://cpd.apapractice.org/Privacy/course/courses/cusapa010001/resources/OR/index.html) V. COMPLAINTSComplaints to the Psychologist - A psychologist must provide a process for patients to make complaints concerning the psychologist's policies and procedures or his/her compliance with such policies and procedures.Documentation of Complaints - A psychologist must document all complaints received, and their disposition, if any. Psychologists must maintain a written or electronic record of any such complaints. Psychologists must retain this record for six years from the date of its creation or the date when it last was in effect, whichever is later.VI. PRIVACY SAFEGUARDSA psychologist must have in place appropriate administrative, technical, and physical safeguards to protect the privacy of PHI. A psychologist must reasonably safeguard PHI from any intentional or unintentional use or disclosure that is in violation of the standards, implementation specifications or other requirements of the Privacy Rule. VII. USES AND DISCLOSURES INVOLVING PERSONAL REPRESENTATIVES1. Personal Representatives of Adults and Emancipated Minors Where an incapacitated patient has a guardian or legal representative with authority to make health care decisions for the patient, the psychologist must treat the guardian or legal representative as the patient with respect to PHI that is relevant to and consistent with that individual's representation as authorized by state law (e.g., letting the guardian or legal representative exercise the privacy rights that a patient would normally exercise, such as receiving notice, consenting to disclosure, having access to their records, and the right to amend).

A psychologist may elect not to treat the guardian or legal representative as the patient if: * 1. The psychologist has a reasonable belief that:
		1. The guardian or legal representative has subjected or may subject the patient to abuse or neglect; or
		2. Treating the guardian or legal representative as the patient could endanger the individual; and
	2. The psychologist decides in the exercise of professional judgment that it is not in the patient's best interest to let the guardian or legal representative exercise the patient's privacy rights.
1. Personal Representatives of Unemancipated Minors

If a psychologist is treating a child or ward, the psychologist must treat the parent or legal guardian (of the child or ward) as the patient with respect to PHI relevant to that representation (letting the parent or guardian exercise the privacy rights that a patient would normally exercise, e.g., receiving notice, consenting to disclosure, having access to their records and the right to amend).A minor 14 years of age or older may obtain, without parental knowledge or consent, outpatient diagnosis or treatment of a mental or emotional disorder or a chemical dependency, excluding methadone maintenance. However, the person providing treatment shall have the parents of the minor involved before the end of treatment unless the parents refuse or unless there are clear clinical indications to the contrary, which shall be documented in the treatment record[2](http://cpd.apapractice.org/Privacy/course/courses/cusapa010001/resources/OR/explanation.html%22%20%5Cl%20%222) . However, a psychologist may advise the parent or parents or legal guardian of any minor described above of the diagnosis or treatment whenever the disclosure is clinically appropriate and will serve the best interests of the minor's treatment because the minor's condition has deteriorated or the risk of a suicide attempt has become such that inpatient treatment is necessary, or the minor's condition requires detoxification in a residential or acute care facility.There may be other similar laws in your state that would also allow minors to consent to treatment. Should your records in treating a minor be requested in relation to such a law, legal consultation is suggested. The psychologist should not treat the parent or guardian as the patient when the parent or guardian has specifically agreed to a confidentiality agreement between the minor and the psychologist. Regardless of what is stated above, if there are any state laws that specifically grant or deny the parent or guardian access to the minor's PHI, such laws must be followed.A psychologist may elect not to treat a parent or legal guardian as the patient if: * 1. The psychologist has a reasonable belief that:
		1. The parent or legal guardian has subjected or may subject the patient to abuse or neglect; or
		2. Treating the parent or legal guardian as the patient could endanger the patient; and
	2. The psychologist decides in the exercise of professional judgment that it is not in the patient's best interest to let the parent or legal guardian exercise the patient's privacy rights.
1. Personal Representatives of Deceased Patients

The psychologist must treat the personal representative of a deceased patient as the patient with respect to PHI that is relevant to the representative's representation (letting the personal representative exercise the privacy rights that a patient would normally exercise, e.g., receiving notice, consenting to disclosure, having access to records and the right to amend).A psychologist may elect not to treat the personal representative of a deceased patient as the patient if: * 1. the psychologist has a reasonable belief that the personal representative has subjected the patient to abuse or neglect and
	2. the psychologist decides in the exercise of professional judgment that it is not in the patient's best interest to let the personal representative exercise the patient's privacy rights.
1. Verification of Authority of Personal Representatives

In sections "A," "B," and "C." above, psychologists must verify that the person claiming to be the patient's legal representative has the legal authority to represent the patient and verify the scope of his/her authority. When in doubt, the psychologist should insist on documentation. The legal representative is only entitled to receive PHI that is relevant to his/her representation (e.g., if a legal representative is only authorized to make decisions regarding a patient's cancer treatment, they may only receive PHI relevant to the cancer treatment. They would not need to know about extramarital affairs). If you are uncertain as to the person's authority as a legal representative in general, or are uncertain that the requested PHI is relevant to the person's representation of the patient, you may wish to consult with legal counsel or insist that the legal representative obtain a court order. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_[1](http://cpd.apapractice.org/Privacy/course/courses/cusapa010001/resources/OR/explanation.html%22%20%5Cl%20%224) Under Oregon law, an authorization must be written, dated and signed by the patient or by a person authorized by law to give authorization and must be substantially in the following form: I authorize ---------------- (name of hospital/health care provider) to release a copy of the medical information for ------------ (name of patient) to ------------ (name and address of recipient). The information will be used on my behalf for the following purpose(s): By initialing the spaces below, I specifically authorize the release of the following medical records, if such records exist: ------ Medical records needed for continuity of care ------ Most recent five-year history ------ Clinician office chart notes ------ Billing statements ------ Other Please send the entire medical record (all information) to the above named recipient. The recipient understands this record may be voluminous and agrees to pay all reasonable charges associated with providing this record. -- \*Mental health information \*Must be initialed to be included in other documents. --\*\*Drug/alcohol diagnosis, treatment or referral information: \*\*Federal Regulation, 42 CFR Part 2, requires a description of how much and what kind of information is to be disclosed. This authorization is limited to the following treatment: This authorization is limited to the following time period: This authorization is limited to a workers' compensation claim for injuries of -------------- (date). This authorization may be revoked at any time. The only exception is when action has been taken in reliance on the authorization. Unless revoked earlier, this consent will expire 180 days from the date of signing, or shall remain in effect for the period reasonably needed to complete the request. ------------------------------------------------------------ ------------------------------(Signature of patient) (Date) ------------------------------------------------------------ ------------------------------(Signature of person authorized by law) (Date)[2](http://cpd.apapractice.org/Privacy/course/courses/cusapa010001/resources/OR/explanation.html%22%20%5Cl%20%223) This provision of involving the parents does not apply to a minor who has been sexually abused by a parent.  |  |