

MR #:

**** An Attestation is ONLY required for requests without patient/legal guardian authorization for the purpose of Health Oversight Activities, Judicial/Administrative Proceedings, Law Enforcement, or to Coroners/Medical Examiners ****

Attestation Regarding a Requested Use or Disclosure of Protected Health Information
POTENTIALLY Related to Reproductive Health Care

The entire form must be completed for the attestation to be valid.

PATIENT NAME:	DATE OF BIRTH:
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TO: Name of individual and/or agency requesting PHI: _____
Address (Street, City, State, Zip Code): _____
Contact Phone Number: _____
Email Address: _____ Fax Number: _____

THE REQUEST IS FOR THE FOLLOWING PURPOSE (an attestation is not required for other requests):

- Health oversight activities Judicial or administrative proceedings
 Law enforcement Regarding decedents, disclosures to coroners and medical examiners

Description of specific PHI requested, including name(s) of individual(s), if practicable, or a description of the class of individuals, whose protected health information you are requesting (e.g., visit summary with specific date range, list of individuals who obtained medication between specific date range, etc.)

I attest that the use or disclosure of PHI that I am requesting is not for a purpose prohibited by the HIPAA Privacy Rule at 45 CFR 164.502(a)(5)(iii) because of one of the following (check one box):

- The purpose of the use or disclosure of protected health information is **NOT** to investigate or impose liability on any person ***for the mere act of*** seeking, obtaining, providing, or facilitating reproductive health care or to identify any person for such purposes.
- The purpose of the use or disclosure of protected health information **is** to investigate or impose liability on any person ***for the mere act of*** seeking, obtaining, providing, or facilitating reproductive health care, or to identify any person for such purposes, but the reproductive health care at issue was **NOT LAWFUL** under the circumstances in which it was provided.

I understand that I may be subject to criminal penalties pursuant to 42 U.S.C. 1320d-6 if I knowingly and in violation of HIPAA obtain individually identifiable health information relating to an individual or disclose individually identifiable health information to another person.

Signature of Person Requesting PHI: _____ **Date:** _____

Print Name of Person Requesting PHI: _____

If you have signed as a representative of the person requesting PHI, provide a description of your authority to act for that person: _____

Instructions and Frequently Asked Questions

Attestation Regarding a Requested Use or Disclosure of Protected Health Information POTENTIALLY Related to Reproductive Health Care

Effective December 23, 2024, when a HIPAA covered entity or business associate receives a request for protected health information (PHI) potentially related to reproductive health care, it must obtain a signed attestation that clearly states the requested use or disclosure is not for the prohibited purposes described below, where the request is for PHI for any of the following purposes:

- **Health oversight activities** – See 45 CFR 164.512(d)
- **Judicial or administrative proceedings** – See 45 CFR 164.512(e)
- **Law enforcement** – See 45 CFR 164.512(f)
- **Regarding decedents, disclosures to coroners and medical examiners** – See 45 CFR 164.512(g)

CHKDHS and its business associates may **not** use or disclose PHI for the following purposes:

- (1) To conduct a criminal, civil, or administrative investigation into any person for the mere act of seeking, obtaining, providing, or facilitating lawful reproductive health care.
- (2) To impose criminal, civil, or administrative liability on any person for the mere act of seeking, obtaining, providing, or facilitating lawful reproductive health care.
- (3) To identify any person for any purpose described in (1) or (2).

Instructions for Completing Attestation:

- This attestation is only required if a requested use or disclosure of PHI is being made without the authorization of the patient/legal guardian pursuant to the four (4) HIPAA permitted uses above.
 - An attestation is not required for information requested directly by a patient/legal guardian or pursuant to a valid authorization to use or disclose PHI.
- Please fill out the attestation completely as indicated. CHKDHS may not rely on the attestation if it is missing any required element or statement, contains content not required, or is combined with other documents. See 45 CFR 164.509.
- If you request an additional disclosure or information for another use, you must complete a new attestation. See 89 FR 32976, 33031.

Frequently Asked Questions:

- Why have I never had to complete this attestation previously?
 - This attestation is a new regulatory requirement that went into effect December 23, 2024. See <https://www.hhs.gov/hipaa/for-professionals/special-topics/reproductive-health/final-rule-fact-sheet/index.html>.
- What PHI is considered potentially related to reproductive health care?
 - For purposes of the regulation, the Department of Health and Human Services (HHS) defined reproductive health care broadly as anything that “affects the health of the individual in all matters relating to the reproductive system and to its functions and processes.” However, HHS declined to define a complete listing.
- I am requesting information about a patient that should not relate to reproductive health care (e.g., it is for an infant, a male patient, etc.), why do I still need to complete an attestation?
 - As explained above, the regulation defines reproductive health care so broadly that CHKDHS cannot make categorical determinations about whether records for certain types of patients may or may not contain any PHI that is potentially related to reproductive health care.

- Will CHKDHS review the records I am requesting to determine if they are potentially related to reproductive health care?
 - No, CHKDHS does not have the resources to review all requested records to attempt to determine whether anything included contains any PHI potentially related to reproductive health care. Additionally, such a determination would require making clinical judgments. As a result, an attestation will be required if there is any possibility that the records may contain PHI that is potentially related to reproductive health care.
- I am certain that the records I am requesting are unrelated to reproductive health care, why do I still need to complete an attestation?
 - CHKDHS cannot rely on the requester's representation to satisfy its legal obligation under the regulation.
- My request has nothing to do with reproductive health care, why do I need to provide an attestation?
 - CHKDHS has a regulatory requirement to obtain an attestation in the circumstances described above. CHKDHS anticipates that the overwhelming majority of requests CHKDHS receives for the four (4) purposes identified are not for the purpose of investigating or imposing liability on any individual for seeking, obtaining, providing, or facilitating reproductive health care. For requests unrelated to reproductive health care, it should not pose any problem to complete the attestation affirming the purpose of the request is not to investigate or impose liability on any individual for seeking, obtaining, providing, or facilitating reproductive health care.
- I am not a law enforcement officer, do I still need to provide the attestation?
 - It does not matter who makes the request, but rather whether the request is for health oversight activities, judicial or administrative proceedings, law enforcement, or regarding decedents, disclosures to coroners and medical examiners under HIPAA.
- I have a subpoena directing disclosure of this information, can you still require an attestation?
 - A subpoena is a disclosure for judicial and administrative proceedings under HIPAA, therefore an attestation is required to disclose PHI potentially related to reproductive health care.
- What happens if I do not sign the attestation?
 - CHKDHS is not legally permitted to disclose PHI potentially related to reproductive health care for the purpose of health oversight activities, judicial or administrative proceedings, law enforcement, or regarding decedents, disclosures to coroners and medical examiners without obtaining an attestation. So an attestation is required to release covered records.