



LEGAL AID ONTARIO
AIDE JURIDIQUE ONTARIO

QUALITY ASSURANCE PROGRAM

AUTHORIZATION FORMS

1. Signed, but Undated

Some clinics keep on hand authorization forms that have been signed by clients but not dated, to be used periodically to request medical or other reports. Often doctors, hospitals or others who are being asked to release confidential information will require a current date on the authorization, and so the clinic does not fill in the date on the form until the request is made. In order to avoid inconveniencing clients by asking them to come into the clinic solely for the purpose of signing and dating the form, the clinic asks the client to sign the authorization form during the initial interview, but leaves the date blank. This practice may also be felt to be useful if the client does not have a phone, or a fixed address, or lives far from the clinic.

There are several problems with this approach, which include: a.) the document, on its face, is not authentic - it was not signed on the date it purports to have been; b.) the client's privacy rights may be at risk, in that the client may no longer consent to the release of the information, or may have changed lawyers.

The best practice is to have clients sign and date the consent at the time it is required.

If the best practice cannot be followed, an alternative approach is to ask clients to sign and date an authorization form that specifies the time period for which it is valid. For example, the form could state, "*This authorization is valid from November 15, 1999, until January 31, 2000*". The time frame during which the authorization is valid should be as short as possible in the circumstances. As well, a form letter should be sent or given to clients, enclosing a copy of the signed authorization form, and advising clients that the authorization is valid for the time period specified, but that the client can withdraw the consent at any time (clinics may want to provide clients with a revocation form, cancelling the authorization). This practice, in our view, strikes a reasonable balance between protecting the client's privacy interest, and recognizing that it is sometimes difficult to have a

client attend at the clinic to sign documents, while ensuring that we are presenting documents which are authentic.

The following is an example of the information to be included on the client authorization form:

Client Authorization to Release Information

contents as required for matter in question

This authorization is valid from November 15, 2001, until January 31, 2002

Dated this 15th day of November 2001, at the _____ of _____

_____ client's signature

2. Authorizations Signed in Blank

At the time clients sign authorization forms, neither the clinic nor the client may know the name of all individuals from whom the clinic will be seeking information on the client's behalf. The client may, for example, be receiving a continuing course of medical treatment, with on-going referrals to a variety of health professionals; or the client may not know the name of the emergency physician at the hospital. In such circumstances, it may seem preferable to leave blank the "To" line on the authorization form, and fill it in later as the names are learned. This practice may be seen as more convenient for both the clinic and the client. In reality, however, the clinic is at risk of being perceived as breaching the client's confidentiality rights if a form is sent to an individual not specifically authorized by the client at the time of signing.

The best practice is to fill in all blanks on the form, including the "To" line, when meeting with the client to sign the authorization forms.

An acceptable alternative is to discuss with clients the uncertainties regarding future authorizations; ask clients whether they would prefer to meet with a caseworker every time a new authorization is required; and document in writing, with a copy to the client, the instructions received. If the client directs the clinic to complete the authorization based on verbal instructions, a careful note should be made in the file of the time, date and content of those instructions, followed by a confirming letter to the client, enclosing a copy of the authorization.

3. Signed, Undated and Unwitnessed Authorization Forms

In the interest of expediency, clients may be asked during an interview to sign a group of authorization forms, which are then dated and witnessed by a clinic employee at a later time. This issue is easier to address, because the ethical concern it raises has been resolved by the Law Society in discipline proceedings. A witness, by signing the witness line, signifies that the signature was witnessed by that individual, and on the date indicated. The witness must therefore be present, sign and date the document at the same time that it is signed by the client.

Clinics which mail documents to clients for execution and return find, on occasion, that although the client has signed it, the document is neither witnessed nor dated. The best practice in such cases is avoidance. When the document is mailed to the client, in addition to a covering letter explaining in clear terms what is required of the client, also attach post-it notes or flags to the document itself, identifying the specific entries required: "your signature", "witness signs here", "date". Even this effort may be unsuccessful, in which case your only recourse is to return the document, and try again. Where possible, a telephone call to the client can assist in explaining what is required.

4. A Final Alternative

It may not be necessary for all authorization forms to be dated and witnessed. A clinic may therefore want to determine whether, for a particular document, a client signature alone is sufficient. In such cases, all of the difficulties outlined above can be avoided - and prevention, rather than cure, is always the preferable choice!

5. Summary of Best Practices Discussed Above

1. Have clients sign and date authorization forms at the time they are required.
2. Fill in all blanks on the form, including the "To" line, when meeting with the client to sign the authorization forms.
3. Have the witness present to sign and date the document at the same time that it is signed by the client.