

EXPIRATION DATE GUIDANCE FOR VA FORM 10-5345

Department of Veterans Affairs (VA) Form 10-5345 supplies three possible expiration date possibilities: 1) upon satisfaction of the need for the disclosure; 2) on a specified date provided by the patient; or 3) under specified conditions.

1) In the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, the expiration provision requires that each authorization contain “An expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure.” What is required for this option is the “event that relates to the individual or the purpose...” This option requires diligent review. It also requires reference to other sections of the form, most notably, Field 7 (Purpose). If the Veteran has completed this form and indicated to release information concerning treatment on a specific date to an insurance company (in Field 7 (Purpose) writes, “insurance claim” or “payment of claim”) and the records are provided to the required company, the “need for disclosure” has been “satisfied” for the purpose for which it is being requested has been completed. However, if the Veteran has written, “Personal,” there is no way of knowing if the release was related to the purpose or whether the need for disclosure is satisfied. This requires judgment on the part of the clerk processing the release of the Veteran’s information. The clerk must articulate why the information provided in the authorization form—taken as a whole—can be read as providing a clear expiration event. The facility Privacy Officer must assist the clerk determining the authorization regarding validity. If it is unclear whether or not Field 7 (Purpose) is sufficiently explained, it is likely that the authorization should be considered invalid.

2) The Veteran can provide a date after which he no longer wants his health information released. While specifying a particular date may appear straightforward, there are potential problems. For example: When a Veteran lists a same date in this block also used in the date section with the signature, the facility must complete that release of information **ON THAT DATE**. This may prove problematic for many facilities. If the Veteran is completing the form in person, staff should advise the Veteran how long it may take to complete the request and ask that he not provide an expiration date sooner than that date, unless a critical need to have the information released sooner has been identified. The Veteran’s needs must be taken into consideration in addition to your staff’s workload. If the information being requested includes 7332-protected

information a date of “5 years from the date of signature” should be used and written in the specific condition box. The one exception to providing a specified date is an authorization to permit VHA to release the Veteran’s information to a health insurance company for reimbursement of services provided by VHA.

3) The third option requires an explanation be provided on the form. This option, for example, is commonly used for research. Because research may be done over long periods of time, or may create databases or data repositories for future research use, the HIPAA Privacy Rule requires a valid authorization for research purposes. For this example only, an authorization may contain language indicating that authorization ends when the research study ends, or in the case of a research data repository, it does not end until revoked. A research authorization without an expiration date is necessary only when the research is designed to create a research database or repository. The third option is also useful for explanations regarding any authorization including billing and reimbursement of services. An example of acceptable language in such a case is, “5 years from the date of signature.”