

Getting Patient Consent for MLP Legal Services

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Medical-legal partnerships (MLPs) engage in a variety of activities that involve the sharing of information about individuals receiving services at our healthcare facilities. Verbal or written consent may be required from patients to allow their information to be shared between healthcare staff and MLP legal partners. This job aid will help you understand what type of consent you need to obtain in different situations and where to document it.

Types of Consent



VERBAL CONSENT

Verbal consent is gained when a healthcare or legal staff person explains the purpose for sharing information and the patient agrees to have limited information shared, typically for the purpose of making a referral to the legal team and closing the loop on that referral.

Verbal consent should be documented in the third-party referral platform (if applicable) and electronic health record.



WRITTEN CONSENT

Written consent requires a written signature from the patient. The term written consent as used here broadly includes items that healthcare staff may refer to as a “release of information”, “HIPAA release”, or “authorization form”.

A verbal conversation with the patient explaining the content and purpose of the consent document should precede the patient signing it.



REVOKED CONSENT

A patient always has the right to change their mind and revoke consent. But the revocation only applies to information that has not already been shared when the consent was valid.

Personally Identifiable Information versus Personal Health Information



PERSONALLY IDENTIFIABLE INFORMATION (PII)

Data that confirms an individual's identity.

- In the MLP context, PII typically includes:
- A patient's name
 - Info about how to contact that person, including phone number or email address
 - Date of birth, address, and other similar data points



PERSONAL HEALTH INFORMATION (PHI)

Identifiable health information created, received, or maintained by or on behalf of the healthcare organization in the electronic health record or its other databases in relation to the past, present, or future provision of health care to a patient, or payment for such care.

- In the MLP context, PHI typically includes:
- Medical record number (MRN)
 - Diagnoses and treatment
 - Prescribed medications
 - Test results
 - Assessments, and
 - Health insurance information

When the Healthcare Team Needs to Obtain Consent



SCENARIO	TYPE OF CONSENT REQUIRED	OKAY TO SHARE PII?	OKAY TO SHARE PHI?	INFO THAT CAN BE SHARED	WHERE TO DOCUMENT CONSENT	WHAT HAPPENS IF PATIENT DOESN'T CONSENT
<p>CURBSIDE CONSULT (ALMOST ALL)</p> <p>You want to discuss a general legal question with MLP legal staff or determine whether a referral is appropriate.</p>	NONE	NO	NO	General info about a type of legal or social situation	n/a	n/a
<p>CURBSIDE CONSULT (WHERE PHI IS RELEVANT)</p> <p>HIV, mental health, and/or substance use info is part of the legal issue and must be disclosed to MLP legal staff.</p>	WRITTEN	NO	YES	<ul style="list-style-type: none"> General info about a type of legal or social situation PHI only as necessary for the Curbside Consult 	Electronic health record	No HIV, mental health or substance use info should be discussed
<p>PATIENT REFERRAL TO THE LEGAL TEAM</p> <p>Even if the patient has already consented in the third-party referral platform to referrals generally</p> <p><i>Refer to the sample verbal consent script on page 3</i></p>	VERBAL	YES	NO	<ul style="list-style-type: none"> Patient name Safe contact info Preferred language Basic info regarding referral 	Electronic health record as well as third-party referral platform	No referral to the legal team can be made
<p>DISCUSSION OF PATIENT'S OPEN LEGAL CASE (NO DISCUSSION OF PHI)</p>	VERBAL	YES	NO	Basic info about the patient that is shared with healthcare staff as part of the referral to the legal team or follow-up that relates to the referral	Electronic health record and/or third-party referral platform	No info can be shared about the patient
<p>DISCUSSION OF PATIENT'S OPEN LEGAL CASE (DISCUSSION OF PHI)</p> <p>You need disclose patient's health-related info contained within the electronic health record.</p>	WRITTEN	YES	YES	PHI as allowed by HIPAA release. Additional documentation is required to release treatment info related to HIV, mental health or substance use.	Electronic health record	No PHI can be shared by the healthcare team

Sample Consent Script

How Healthcare Staff Can Ask Patients
If They Want a Referral to the MLP Legal Team



SCRIPT PART 1: INTRODUCE MLP LEGAL SERVICES

“Because we know that health and well-being are affected by a lot of things outside our clinic building, [name of healthcare organization] partners with a number of different community organizations here in [name of town / community].

[Name of Legal Partner Organization] is a community organization that helps people with some kinds of legal problems, including problems such as housing and public benefits like food stamps (SNAP) and disability.

[Legal Partner] lawyers are not able to work with everyone who needs help, but when they accept someone as a client, their help is free – there is no cost to the client. We have been working with [Legal Partner] for several months, and they have been able to help some of our patients.

Because you told us that [X]*, I’d like to see if [Legal Partner] might be able to help you with that issue and maybe some other issues, too. I have a few questions I’d like to ask you to get some more details about what is going on.

Is it okay with you if I ask you some additional questions? It’s your choice, and if you would rather I did not ask you the questions, that is okay.”



**PATIENT
DECLINES
STOP!**

Legal screening is
recommended, but
not required.

PATIENT AGREES

Screen patient for legal issues+

PATIENT SCREENS POSITIVE

Offer patient an MLP referral



PATIENT SCREENS NEGATIVE

STOP! If you still think the patient might be appropriate for an MLP referral, present the question as a Curbside Consult. Refer to the MLP Curbside Consult job aid for more guidance.



SCRIPT PART 2: OFFER REFERRAL TO MLP LEGAL TEAM

“It looks like there are a few things that [Legal Partner] might be able to help you with. Like I said before, [Legal Partner] is not able to help everyone who has a legal problem, but I would like them to take a look at your legal issue. To do that, I need to send them a referral.

When I send a referral, I send [Legal Partner] your name, contact information, and a little bit of information about the problem you are having.

Would you like me to send a referral to [Legal Partner]? It’s your choice, and if you would rather I did not send a referral, that is okay and I will not send any of your information to [Legal Partner]. You can also think about it, and let us know another day that you would like a referral.”



**PATIENT DECLINES
PERMISSION
STOP!** Do not make a referral.

PATIENT GIVES PERMISSION



SCRIPT PART 3: EXPLAIN FOLLOW-UP PROCEDURE

“After they get the referral, [Legal Partner] will let us know if they were able to speak with you. If they do speak with you, they will get your permission before sharing more details about your case with us.”

MAKE & DOCUMENT REFERRAL

Document consent in the electronic health record and third-party referral platform (if applicable). Make the referral.

*The patient might have mentioned a legal issue to a clinician or other staff member, or they might have answered a social health-related question in a way that suggests that following-up with the legal screening is a good idea.