

	Ethics & Compliance Department	
	Policy No.: 13	Created: 01/2018
		Reviewed: 09/2024
	Revised: 05/2023	

HIPAA: PERSONAL REPRESENTATIVES

SCOPE:

All Envision Healthcare teammates. For purposes of this policy, all references to “teammate” or “teammates” include temporary, part-time and full-time employees, independent contractors, clinicians, officers and directors.

PURPOSE:

Envision Healthcare Operating, Inc. and its subsidiaries and affiliates (“Envision” or “the Company”) has adopted this Personal Representatives policy to define a legitimate patient representative who is authorized to receive a patient’s medical information. Additionally, this policy will clearly identify the Privacy Rights afforded to a personal representative on a patient’s behalf, identify those persons who may be designated as a personal representative on a patient’s behalf, and establish a process for identity verification of personal representatives.

POLICY:

Definition

- A) For the purposes of these policies, the Company will treat a person as a personal representative of a patient, if under applicable law, a person has authority to act on behalf of an individual who is an adult or an emancipated minor in making decisions related to health care.
- B) The Company will also treat a person as a personal representative of a patient, if under applicable law, a parent, guardian, or other person acting *in loco parentis* has authority to act on behalf of an individual who is an unemancipated minor in making decisions related to health care.
- C) An individual will not be a personal representative of an unemancipated minor, when the minor has the authority to act as an individual, if:
 - (1) The minor consents to health care service; no other consent to such health care service is required by law, regardless of whether the consent of another person has also been obtained; and the minor has not requested that such person be treated as the personal representative;
 - (2) The minor may lawfully obtain such health care service without the consent of a parent, guardian, or other person acting *in loco parentis*, and the minor, a

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court, or another person authorized by law consents to such health care service;
or

- (3) A parent, guardian, or other person acting *in loco parentis* assents to an agreement of confidentiality between a covered health care provider and the minor with respect to such health care service.

Who Has Authority

A competent adult patient has authority to exercise his or her rights regarding the use or disclosure of PHI. In addition, other persons described in this policy may serve as the patient’s personal representative with authority to exercise, on the patient’s behalf, the patient’s rights regarding the use or disclosure of PHI.

Privacy Rights

The privacy rights subject to this policy are the right to (a) receive a notice of the Company’s privacy policies; (b) inspect and obtain copies of the Company’s records containing the patient’s PHI; (c) amend the information; (d) obtain an accounting of disclosures of the information; (e) request restrictions on the use or disclosure of the information; and (f) receive confidential communications from the Company.

Adult Patients

For adult patients (age 18 or older), only the following persons have authority to exercise the patient’s privacy rights:

- A) The patient, if not incompetent.
- B) A person who has been appointed by the patient under a valid durable power of attorney for health care decisions or under any other valid power of attorney to the extent that the document describes such rights.
- C) The patient’s court-appointed guardian, conservator, or administrator.
- D) The patient’s spouse and relatives, if authorized under state law to make treatment decisions on the patient’s behalf.
- E) The executor or administrator of a deceased patient’s estate.

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Minor Patients

For minor patients (under 18 years of age), only the following persons have authority to exercise the patient’s privacy rights:

- A) The minor patient if, under state law, the minor is deemed “emancipated” or is otherwise entitled to make treatment decisions without parental involvement.
- B) The minor patient’s court-appointed guardian, conservator, or administrator.
- C) The minor patient’s parents, unless state law authorizes the minor to obtain the treatment without parental involvement, and the minor sought and consented to the treatment independently. (NOTE: Even if the parents do not have authority to exercise the minor’s privacy rights, they may have the right to review the minor’s records. *See* Policy 14 – Disclosing Protected Health Information for Minors to Parent or Legal Guardian regarding disclosures of a minor patient’s PHI to his or her parents.)
- D) Other persons authorized under state law to make treatment decisions on the patient’s behalf.
- E) The executor or administrator of a deceased minor patient’s estate.

Verification of Identity and Authority

If the person is not known to the Company, the person’s identity and authority must be verified and documented before the person may exercise any of the patient’s privacy rights. The patient’s confirmation of a personal representative’s identity and authority is adequate. If given verbally, rather than in writing, the confirmation must be documented in the record. Other acceptable verification of identity includes:

- A) Driver’s license
- B) Birth certificate
- C) Passport
- D) Social Security card
- E) Photo ID (with another piece of verification if possible)
- F) Any other verification deemed reasonable by the Privacy Official

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Acceptable verification of relationship or legal authority includes, but is not limited to, relevant official documents, including birth certificates, marriage certificates, passports, guardianship papers, and attorney-in-fact documents.

If any doubts exist regarding the person’s identity or authority, or about the appropriateness of the verification presented, contact the Privacy Official.

POLICY REVIEW

The Ethics & Compliance Department will review and update this Policy, when necessary, in the normal course of its review of the Company’s Ethics & Compliance Program.