

The University of Iowa
HIPAA Privacy Rule
Policies and Procedures

DISCLOSURE OF PROTECTED HEALTH INFORMATION TO PERSONAL
REPRESENTATIVES

Purpose: To define when and what protected health information (PHI) may be released to an individual's personal representative.

Policy: The university unit in possession of PHI will treat the personal representative as the individual when using and disclosing the individual's PHI EXCEPT

A "personal representative" is an individual who has authority by law (parent, legal guardian) or by authority from the individual receiving services to act in the place of that individual. This includes parents, legal guardians, persons with power of attorney and may also include the family or next of kin of a non-autonomous patient who has no legally appointed surrogate. The authority of the personal representative is limited: the representative must be treated as the individual only to the extent that PHI is relevant to the matters on which the personal representative is authorized to represent the individual.

Procedures: What follows are guidelines in determining a patient's personal representative. Questions about whether or not a person is a personal representative of a patient should be directed to the University's HIPAA Privacy Officer.

A. Adults and Emancipated Minors

If a person has authority by law to act on behalf of an individual who is an adult or an emancipated minor in making decisions related to use and disclosure of PHI, that person will be treated as a personal representative. Once a minor is emancipated, a guardian or a parent cannot be recognized as a personal representative.

B. Children (under 18 years)

In general, parents will be the personal representatives of their children. In some cases, there will be a legal guardian or another individual who has been designated to act on behalf of a child. These individuals will be recognized as personal representatives.

Note: A minor does not require the consent of an adult and may consent to treatment for: testing and counseling for sexually transmitted diseases, treatment and rehabilitation for substance abuse, and limited reproductive issues. The minor will be treated as an individual and may provide authorization for release of their PHI.

C. Deceased Individuals

The personal representative will be an executor, administrator or other person designated to act on behalf of a deceased individual or the estate.

D. Exception

The UI may elect not to recognize an individual as a personal representative if there is reason to believe that:

- **Deceased Individuals**

If an executor, administrator, or other person has authority to act on behalf of a deceased individual or of the individual's estate, UIHC will treat such person as a personal representative with respect to PHI relevant to such personal representative.

- **Abuse, Neglect, Endangerment Situations**

Elect not to recognize a person as the personal representative of an individual if UIHC has a reasonable belief that:

1. The individual has been or may be subjected to domestic violence, abuse, or neglect by a parent, guardian or personal representative; or
2. Treating such a person as the personal representative could endanger the individual; and
3. In the exercise of professional judgment it is not in the best interest of the individual to treat the person as the individual's personal representative.

Definitions:

Protected Health Information (PHI):

Individually identifiable health information transmitted or maintained in any form or medium, including oral, written and electronic. Individually identifiable health information relates to an individual's health status or condition, furnishing health services to an individual or paying or administering health care benefits to an individual. Information is considered PHI where there is a reasonable basis to believe the information can be used to identify an individual.

References: 45 C.F.R. §164.502