

	<b>Ethics &amp; Compliance Department</b>	
	<b>Policy No.: 13</b>	<b>Created:</b> 01/2018
		<b>Reviewed:</b> 06/2025
		<b>Revised:</b> 06/2025

# **HIPAA: DISCLOSING PHI TO PERSONAL REPRESENTATIVES AND/OR FAMILY AND FRIENDS**

**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 Disclosing PHI to Personal Representatives and/or Family and Friends 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:**

**Personal Representatives**

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.

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.

An individual will not be a personal representative of an unemancipated minor, when the minor has the authority to act as an individual, if:



## Ethics & Compliance Department

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- 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 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:

- 1) The patient, if not incompetent.
- 2) 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.
- 3) The patient's court-appointed guardian, conservator, or administrator.
- 4) The patient's spouse and relatives, if authorized under state law to make treatment

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decisions on the patient’s behalf.

- 5) The executor or administrator of a deceased patient’s estate.

### **Minor Patients**

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

- 1) The minor patient if, under state law, the minor is deemed “emancipated” or is otherwise entitled to make treatment decisions without parental involvement.
- 2) The minor patient’s court-appointed guardian, conservator, or administrator.
- 3) 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.
  - a. State law may allow non-custodial parents to review the medical records of their child, but they generally do not have the right to exercise the minor patient’s other privacy rights (such as requesting amendments, accountings, or restrictions on disclosure). Unless prohibited by state law or by a court order, a non-custodial parent may be provided with a copy of the child’s medical records upon written request and payment of copying fees. If the non-custodial parent is responsible for paying for the child’s treatment, the non-custodial parent may also have access to the child’s payment records. If the non-custodial parent is not known to the Company, obtain and document verification of his or her identity and relationship to the child. Contact the Privacy Official if there are doubts about the non-custodial parent’s right to see the child’s records.
  - b. A stepparent generally does not have the right to have access to the child’s PHI unless given such rights by a court. However, if the stepparent is known to be actively involved in a minor patient’s health care treatment, the stepparent may be given access to those parts of the record that are directly relevant to the care being provided by the stepparent.
- 4) Other persons authorized under state law to make treatment decisions on the patient’s behalf.
- 5) The executor or administrator of a deceased minor patient’s estate.

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## **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:

- 1) Driver’s license
- 2) Birth certificate
- 3) Passport
- 4) Social Security card
- 5) Photo ID (with another piece of verification if possible)
- 6) Any other verification deemed reasonable by the Privacy Official

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.

## **Disclosing PHI to Family / Friends / Caregivers**

Under the circumstances described below, relevant health information about the patient may be shared with the patient’s family members, other relatives, close personal friends, or other persons identified by the patient.

### **A. Disclosures When the Patient Can Agree or Object**

If the patient is accompanied by another person, do not discuss or disclose the patient’s PHI in front of the other person until the patient has been given the opportunity to agree or object. Ask the patient, “Would you prefer that we discuss these issues privately?” and if the patient says ‘yes,’ the other person should be asked to remain in another room or area of the facility. Document the patient’s response in the patient’s record and sign and date the entry.

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**B. Disclosures When the Patient Is Not Able to Agree or Object**

If the patient is not present, or cannot be given the opportunity to agree or object because of incapacity or an emergency situation, a professional determination should be made as to whether it is reasonable and in the patient’s best interests to disclose the information. For example, it is reasonable to allow the patient’s family member or friend to pick up the patient’s prescription, medical supplies, or x-rays, as long as the person’s identity is known to the Company. If the person is not known to the Company, verify and document the person’s identity and authority.

**C. Notification Purposes**

Relevant patient health information may be used or disclosed in order to notify, or assist in the location and notification of, a family member, personal representative, or other persons responsible for the care of the patient. The amount of information disclosed to such persons should be limited to the patient’s location, general condition, or death.

**Logging of Disclosure**

Disclosures made for notification purposes must be logged in accordance with the separate policy regarding accounting of disclosures. Disclosures made to family members who are assisting in the patient’s treatment do not have to be logged.

**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.