

PERSONAL REPRESENTATIVES

- a) **POLICY—Personal Representative.** We must consider a personal representative to be the individual for all purposes under these Privacy Policies and Procedures and the Privacy Rules, unless we conclude that the personal representative may be abusive.

PROCEDURE—Verification. You must verify the identity and authority of a personal representative before you may disclose protected health information to the personal representative.

PROCEDURE—Minimum Necessary. You are not required to limit to the minimum necessary the protected health information disclosed to a personal representative.

- b) **POLICY—Abusive Personal Representative.** We will not consider a person to be a personal representative, and will not disclose any protected health information to that person, if we:

- Reasonably believe that the person has subjected or may subject the individual to abuse, neglect or domestic violence, and that acknowledging a representation could endanger the individual; and
- Conclude, in our professional judgment, that recognizing the person to be a personal representative is not in the individual's best interest.

PROCEDURE—Abusive Personal Representative. Consult our Privacy Officer before you disclose an individual's protected health information to a personal representative you suspect may be abusive.

- c) **Personal Representatives of Adults and Emancipated Minors.**

- i) **POLICY—Permitted Uses and Disclosures.** We may use with and disclose to a personal representative of an adult or emancipated minor that protected health information relevant to the scope of the representation.

PROCEDURE—Permitted Uses and Disclosures. Consult our Privacy Officer if there is any question regarding use with or disclosure to a personal representative of an adult or emancipated minor.

- ii) **POLICY—Required Disclosures.** We will furnish a personal representative the same access to and disclosure accounting for an individual's protected health information that must be accorded the individual, provided the access or disclosure accounting involves protected health information relevant to the scope of the representation.

PROCEDURE—Required Disclosures. Consult our Privacy Officer if there is any question regarding required disclosure to a personal representative of an adult or emancipated minor.

d) **Personal Representatives of Unemancipated Minors.**

- i) **POLICY—Access Permitted.** We will grant a parent, guardian or person acting in loco parentis access to and control over an unemancipated minor’s protected health information if, and to the extent, applicable State or other law (including case law) permits or requires us to give the parent, guardian, or person acting in loco parentis access or control.

PROCEDURE—Access Permitted. Consult our Privacy Officer if there is any question regarding access to and control over an unemancipated minor’s protected health information by a parent, guardian or person acting in loco parentis.

- ii) **POLICY—Access Prohibited.** We will not recognize a parent, guardian or person acting in loco parentis as a personal representative of an unemancipated minor if, and to the extent, applicable State or other law (including case law) prohibits us from giving the parent, guardian or person acting in loco parentis access or control.

PROCEDURE—Access Prohibited. Consult our Privacy Officer if there is any question regarding access to and control over an unemancipated minor’s protected health information by a parent, guardian or person acting in loco parentis.

- iii) **POLICY—Professional Judgment.** Where no applicable State or other law (including case law) addresses whether a parent, guardian or person acting in loco parentis may have access to and control over an unemancipated minor’s protected health information, we will grant or deny the parent, guardian or person acting in loco parentis access and control consistent with any applicable State or other law (including case law) based on the professional judgment of a licensed health care professional.

PROCEDURE—Professional Judgment. Consult our Privacy Officer if there is any question regarding access to and control over an unemancipated minor’s protected health information by a parent, guardian or person acting in loco parentis.

- iv) **POLICY—Minor’s Control.** Unless State or other law (including case law) permits or requires parental control of an unemancipated minor’s protected health information, the unemancipated minor has, to the extent consistent with applicable State or other law (including case law), the authority to control and have access to his or her own protected health information pertaining to a health care service as follows:

- (1) **Minor’s Assent to Health Care.** The unemancipated minor agrees to the health care, no other agreements are required by law (even if the agreement of others has been obtained), and the unemancipated minor has not requested a parent, guardian, person acting in loco parentis, or another person to be regarded as a personal representative.

PROCEDURE—Minor’s Assent to Health Care. Consult our Privacy Officer if there is any question regarding an unemancipated minor’s capacity to assent to health care.

- (2) **Minor’s Lawful Receipt of Health Care.** The unemancipated minor, a court, or a legally authorized person agrees to the health care, and applicable State or other law allows the unemancipated minor to obtain the health care without assent of a parent, guardian, or person acting in loco parentis.

PROCEDURE—Minor’s Lawful Receipt of Health Care. Consult our Privacy Officer if there is any question regarding an unemancipated minor’s lawful receipt of health care.

- (3) **Parental Assent to Confidentiality.** The parent, guardian, or person acting in loco parentis assents to a confidentiality agreement between the unemancipated minor and the health care provider regarding the health care.

PROCEDURE—Parental Assent to Confidentiality. Consult our Privacy Officer if there is any question regarding the assent of a parent, guardian, or person acting in loco parentis to a confidentiality agreement between an unemancipated minor and a health care provider regarding health care.

e) **Personal Representatives of Deceased Individuals.**

- i) **POLICY—Information Protected.** A personal representative of a deceased patient may exercise all of the deceased patient's rights under RCW 70.02.140. If there is no personal representative, or upon discharge of the personal representative, a deceased patient's rights under this chapter may be exercised by persons who would have been authorized to make health care decisions for the deceased patient when the patient was living under RCW 7.70.065.

PROCEDURE—Information Protected. You will apply the privacy protections of these Privacy Policies and Procedures and the Privacy Rules to the protected health information of deceased individuals.

- ii) **POLICY—Rights of Executors.** We will furnish an executor, administrator or other person authorized by applicable law to act for a deceased individual or the deceased individual’s estate, the same rights with respect to a deceased individual’s protected health information that must be accorded the individual, provided the protected health information is relevant to the scope of the representation.

PROCEDURE—Rights of Executors. Consult our Privacy Officer if there is any question regarding the right of an executor, administrator or other person authorized by applicable law to act for a deceased individual or the estate.

- f) **POLICY—Documentation.** We will retain, on paper or electronically, the documentation we create or receive in connection with uses or disclosures involving personal representatives until 6 years after the later of its creation or last effective date.

PROCEDURE—Documentation. You must include in the individual's records and furnish our Privacy Officer all documentation created or received in connection with uses or disclosures involving personal representatives. Our Privacy Officer will retain this documentation until 6 years after the later of its creation or last effective date.

g) POLICY—Informed Consent.

Informed consent for health care for a patient who is not competent, as defined in RCW [11.88.010\(1\)\(b\)](#), to consent may be obtained from a person authorized to consent on behalf of such patient. Persons authorized to provide informed consent to health care on behalf of a patient who is not competent to consent shall be a member of one of the following classes of persons in the following order of priority:

- (a) The appointed guardian of the patient, if any;
- (b) The individual, if any, to whom the patient has given a durable power of attorney that encompasses the authority to make health care decisions;
- (c) The patient's spouse;
- (d) Children of the patient who are at least eighteen years of age;
- (e) Parents of the patient; and
- (f) Adult brothers and sisters of the patient.

If the physician seeking informed consent for proposed health care of the patient who is not competent to consent makes reasonable efforts to locate and secure authorization from a competent person in the first or succeeding class and finds no such person available, authorization may be given by any person in the next class in the order of descending priority. However, no person under this section may provide informed consent to health care:

- (a) If a person of higher priority under this section has refused to give such authorization; or
- (b) If there are two or more individuals in the same class and the decision is not unanimous among all available members of that class.

Before any person authorized to provide informed consent on behalf of a patient not competent to consent exercises that authority, the person must first determine in good faith that that patient, if competent, would consent to the proposed health care. If such a determination cannot be made, the decision to consent to the proposed health care may be made only after determining that the proposed health care is in the patient's best interests.

RCW 70.02.140

Representative of deceased patient.

A personal representative of a deceased patient may exercise all of the deceased patient's rights under this chapter. If there is no personal representative, or upon discharge of the personal representative, a deceased patient's rights under this chapter may be exercised by persons who would have been authorized to make health care decisions for the deceased patient when the patient was living under RCW [7.70.065](#).

RCW 7.70.065

Informed consent -- Persons authorized to provide for patients who are not competent -- Priority.

(1) Informed consent for health care for a patient who is not competent, as defined in *RCW [11.88.010](#)(1)(b), to consent may be obtained from a person authorized to consent on behalf of such patient. Persons authorized to provide informed consent to health care on behalf of a patient who is not competent to consent shall be a member of one of the following classes of persons in the following order of priority:

(a) The appointed guardian of the patient, if any;

(b) The individual, if any, to whom the patient has given a durable power of attorney that encompasses the authority to make health care decisions;

(c) The patient's spouse;

(d) Children of the patient who are at least eighteen years of age;

(e) Parents of the patient; and

(f) Adult brothers and sisters of the patient.

(2) If the physician seeking informed consent for proposed health care of the patient who is not competent to consent makes reasonable efforts to locate and secure authorization from a competent person in the first or succeeding class and finds no such person available, authorization may be given by any person in the next class in the order of descending priority. However, no person under this section may provide informed consent to health care:

(a) If a person of higher priority under this section has refused to give such authorization; or

(b) If there are two or more individuals in the same class and the decision is not unanimous among all available members of that class.

(3) Before any person authorized to provide informed consent on behalf of a patient not competent to consent exercises that authority, the person must first determine in good faith that that patient, if competent, would consent to the proposed health care. If such a determination cannot be made, the decision to consent to the proposed health care may be made only after determining that the proposed health care is in the patient's best interests.