

**UNIVERSITY OF MAINE SYSTEM  
HIPAA POLICY #15  
PERSONAL REPRESENTATIVES**

**I. General Rule**

Except as otherwise provided, the University's Covered Component must treat a personal representative as the individual for purposes of privacy of Protected Health Information (PHI).

**II. Adults and Emancipated Minors**

If under Maine law, a person has the authority to act on behalf of an adult or an emancipated minor in making decisions related to health care, the Covered Component must treat the person as a personal representative with respect to PHI relevant to such personal representation.

**III. Unemancipated Minors**

If under Maine law, a parent, guardian or other person has the authority to act on behalf of an unemancipated minor in making decisions related to health care, the Covered Component must treat the person as a personal representative with respect to PHI relevant to such personal representation, except that such person may not be a personal representative and the minor has the authority to act as an individual with respect to PHI if:

- A. The minor consents to such health care service, no other consent is required by law, and the minor has not requested such person be treated as the personal representative;
- B. The minor may lawfully obtain such health care service without the consent of a parent, guardian or other person and the minor, a court or another person authorized by law consents to such health care service; or
- C. A parent, guardian or other person agrees to confidentiality between a covered health care provider and the minor.

Notwithstanding the above provisions, if Maine or other applicable law permits or requires disclosure of PHI of an un-emancipated minor to a parent, guardian or other person, the Covered Component may disclose the PHI; if Maine or other applicable law prohibits disclosure of PHI of an un-emancipated minor to a parent, guardian or other person, the Covered Component may not disclose the PHI; and where the parent, guardian or other person is not the personal representative under the above provisions and there is no applicable access provision under Maine or other law, the Covered Component may provide or deny access to PHI to a parent, guardian or other person if such action is consistent with Maine or other applicable law and the decision is made by a licensed health care professional.

**IV. Maine Law Regarding Minor's Consent to Treatment**

Under Maine law, a minor can consent to treatment for abuse of alcohol or drugs, emotional or psychological problems, family planning services, and for a sexual assault forensic examination. A minor who is at least 17 can consent to give blood.

A minor can consent to all medical, mental, dental and other health counseling and services if the minor:

- A. Is or was legally married;
- B. Has been living separately from parents or legal guardians for a period of at least 60 days and is independent of parental support;
- C. Is or was a member of the Armed Forces of the United States; or
- D. Has been emancipated by the court.

Except as otherwise provided by law, a minor who may consent to treatment is entitled to the same confidentiality afforded to adults. A health care practitioner or provider may notify the parent or

guardian of a minor who has consented to treatment if, in the judgment of the practitioner or provider, failure to inform the parent or guardian would seriously jeopardize the health of the minor or would seriously limit the practitioner's or provider's ability to provide treatment.

#### **V. Deceased Individuals**

If under applicable law, an executor, administrator, or other person has the authority to act on behalf of a deceased individual or of the individual's estate, the Covered Component must treat the person as a personal representative with respect to PHI relevant to such personal representation.

#### **VI. Abuse, Neglect and Endangerment Situations**

Notwithstanding any Maine law or any HIPAA requirement to the contrary, the Covered Component may elect not to treat a person as the personal representative of an individual if the Covered Component has a reasonable belief that:

- A. The individual has been or may be subjected to domestic violence, abuse or neglect by such person; or
- B. Treating such person as the personal representative could endanger the individual; and

the Covered Component decides, in the exercise of professional judgment, that it is not in the individual's best interest to treat the person as the personal representative.

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