



Oklahoma State University

Title: Unemancipated Minors	Policy #: PRV-01.13
Category: HIPAA Compliance	Authority: 45 CFR HIPAA SECTION: § 164.502(g)(3)(i)
Standard: Personal Representatives	Responsibility: Health Care Components
Effective Date: 4/14/2003	Page 1 of 2
Approved By: OSU Legal Counsel	Revised: 7/1/2013

PURPOSE:

The purpose is to identify how and who OSU must treat as a personal representative of the individual patient.

POLICY:

1. 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, a OSU must treat such person as a personal representative under the Privacy Rule, with respect to protected health information relevant to such personal representation, except that such person may not be a personal representative of an unemancipated minor, and the minor has the authority to act as an individual, with respect to protected health information pertaining to a health care service, if: §164.502(g)(3)(i)
 - (A) The minor consents to such 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; §164.502(g)(3)(i)(A)
 - (B) 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 §164.502(g)(3)(i)(B)
 - (C) A parent, guardian, or other person acting *in loco parentis* assents to an agreement of confidentiality between a covered health care provider (OSU) and the minor with respect to such health care service. §164.502(g)(3)(i)(C)
2. Notwithstanding the provisions of the first paragraph of this policy: §164.502(g)(3)(ii)
 - (A) If, and to the extent, permitted or required by an applicable provision of State or other law, including applicable case law, OSU may disclose, or provide access in accordance with § 164.524 *Access of Individuals to protected health information* to, protected health information about an unemancipated minor to a parent, guardian, or other person acting *in loco parentis*; §164.502(g)(3)(ii)(A)



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- (B) If, and to the extent, prohibited by an applicable provision of State or other law, including applicable case law, a covered entity may not disclose, or provide access in accordance with § 164.524 *Access of Individuals to protected health information* to, protected health information about an unemancipated minor to a parent, guardian, or other person acting *in loco parentis* ; and §164.502(g)(3)(ii)(B)
- (C) Where the parent, guardian, or other person acting *in loco parentis*, is not the personal representative under this policy or PRV-01.12 Adults and Emancipated Minors, and where there is no applicable access provision under State or other law, including case law, a covered entity may provide or deny access under § 164.524 *Access of Individuals to protected health information* to a parent, guardian, or other person acting *in loco parentis*, if such action is consistent with State or other applicable law, provided that such decision must be made by a licensed health care professional, in the exercise of professional judgment. §164.502(g)(3)(ii)(C)

PROCEDURE:

1. OSU staff will follow the above policy.
2. OSU staff will make every effort to obtain parent or guardian consent where applicable.
3. If no parent or guardian is available for consent, and no one else meets the qualifications listed in the above policy section, OSU will use the unemancipated minor's decisions in relation to health care services.
4. In regards to a personal representative of an unemancipated minor, OSU will make all efforts to obtain:
 - a. Verbal confirmation from the patient when possible that the individual in question is a personal representative of the patient; or
 - b. Written confirmation from the patient when possible that the individual in question is a personal representative of the patient.
5. If the patient is unable to confirm in step 4, such as the patient is physically or mentally unable to do so, unconscious, or in an emergent situation, and is an unemancipated minor, OSU faculty and staff will question the possible personal representative in a friendly manner as if they were the patient, allowing all health care decisions to be made by the personal representative.
6. OSU staff shall document in the patient's chart the name and relation of all known personal representatives.