PURPOSE:
To identify and appropriately disclose PHI to individuals who are authorized personal representatives of patients of Watkins Health Services (WHS).

Definition: A person authorized (under state or applicable law) to act on behalf of the individual in making health care related decisions is the individual’s “personal representative.”

POLICY:
The rights of a Personal Representative are limited only by the scope of his/her legal authority. State or other law should be consulted to determine the authority of a personal representative to receive or access the patient’s PHI.

Minors as well as incapacitated and deceased patients must have a Personal Representative identified in order to make decisions regarding the patient’s PHI. WHS will require and retain documentation of the personal representative's legal authority (see Verification policy).

**WHS will treat a patient’s Personal Representative (consistent with his/her legal authority) as the patient for purposes relating to the use and disclosure of PHI.**

**Minors:** Ordinarily Kansas law regarding the confidentiality of PHI pertaining to minors should be followed. In most cases, the parent is the Personal Representative of a minor child and can exercise the minor’s rights with respect to PHI. Regardless of whether a parent is the personal representative, a Clinic may disclose to a parent or provide the parent with access to, a minor child’s PHI when and to the extent it is permitted or required by state or other laws.

Conversely, a parent is NOT authorized to the minor’s PHI when:
1. State or other law expressly prohibits the parent from accessing the information.
2. State or other law does not require the consent of a parent or other person before minor can receive particular health care service and the minor consents. For example:
   - Diagnosis and treatment of S.T.D.
   - Family planning services
• Alcohol/drug abuse treatment
  In these circumstances, the minor is permitted to acknowledge receipt of the
  NPP and authorize use/disclosure of PHI for the specific service to which they
  are consenting.

3. Court determines or other law authorizes someone other than the parent to make
  treatment decisions for the minor.

4. Parent agrees to a confidential relationship between the minor and the physician.
   Documentation of the agreement must be maintained in the patient record.

Abuse and Neglect. If it is believed that a patient, including an unemancipated minor,
has been or may be subjected to domestic violence, abuse or neglect by the personal
representative or that treating a person as a patient’s personal representative could
endanger the patient, WHS may choose NOT to treat that person as the personal
representative, if doing so would not be in the best interests of the patient.

Deceased Patients. PHI created during the life of a patient continues to be protected
from use/disclosure after the death of the patient unless otherwise permitted by law.
The designation of a personal representative must be confirmed.

REFERENCES:

AD-322 Verification of Person Requesting PHI

This document is on file with the KU Policy Library.