

Communication with Personal Representatives versus Friends and Family

Question: If a legal guardian is not named on the “permission to treat” form, is staff allowed to share patient information with the legal guardian?

Answer: Yes, staff can share patient information with a personal representative of the patient such as a legal guardian. Personal representatives have an important role and have the authority to act on behalf of the patient and make health care decisions. The role of personal representative should be clearly distinguished from the role of other individuals involved in the patient’s care who are named in the “permission to communicate” form. At UConn Health, when patients provide us permission to communicate with companions/family members, this allows staff to disclose limited patient information to the degree this is necessary and appropriate to assist the patient with coordination of care. Staff is assured that they can share patient information with personal representatives regardless of who is named in the permission to communicate with friends and family.

When a patient is legally or otherwise incapable of exercising their rights, or simply chooses to designate another to act on their behalf with respect to these rights, a personal representative is authorized to act on behalf of the individual and HIPAA requires covered entities to treat an individual’s personal representative as the individual with respect to uses and disclosures of the individual’s protected health information, as well as the individual’s rights under the Rule. In general, the scope of the personal representative’s authority to act for the individual under the Privacy Rule derives from his or her authority under applicable law to make health care decisions for the individual. Where the person has broad authority to act on the behalf of a living individual in making decisions related to health care, such as is usually the case with a parent with respect to a minor child or a legal guardian of a mentally incompetent adult, the covered entity must treat the personal representative as the individual for all purposes under the Rule, unless an exception applies.

To learn more, please see the UConn Health policies for [Legal Representative for Health Care Decisions](#) and [Use and Disclosure to Family and Friends](#), and the DHHS Office for Civil Rights guidance regarding health information privacy and [Personal Representatives](#) and [Disclosures to Friends and Family](#). Please contact Margaret DeMeo, MA, RN, Associate Compliance Officer at 860-679-1226 or demeo@uchc.edu for comments, questions or concerns.