

TITLE: MINORS - RIGHTS OF MINORS TO KEEP CERTAIN CATEGORIES OF PROTECTED HEALTH INFORMATION CONFIDENTIAL

POLICY:

Columbia University Medical Center will respond appropriately to minors' requests to keep certain categories of their Protected Health Information (PHI) confidential and to exercise the rights granted to patients by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) in accordance with city, state, and federal laws and regulations.

PURPOSE :

HIPAA provides individuals with certain rights related to their PHI, including the right to request their PHI be kept confidential. Although minors do not generally have the authority to exercise rights on their own behalf, state law and HIPAA provide minors with the authority to exercise control over certain categories of their own PHI.

This Policy describes when, and under what circumstances, the minor's health care provider must maintain the confidentiality of a minor's PHI when it is requested by the minor's personal representative (parent).

PROCEDURES:

1. **Minor's right to consent to certain treatment.** A minor who is over the age of twelve (12) may seek and receive the following types of health care services independently from his/her personal representative. (Parental consent is not required.)
 - a. HIV/AIDS testing and treatment;
 - b. Testing and treatment for venereal and sexually transmissible diseases;
 - c. Pregnancy and pre-natal care;
 - d. Abortion;
 - e. Chemical dependency services; and
 - f. Mental health outpatient services.

The minor's personal representative does not have the right to the minor's PHI if the minor alone consented to the treatment, unless the minor authorizes the release.

2. **HIV/AIDS-related information.** A minor's right to consent for or refuse HIV testing is based on his/her capacity to understand, ***without regard to chronological age***, what an HIV antibody test actually tests for, the implications and consequences of being HIV infected, and why he/she is at risk for HIV. A minor has the right to anonymous testing and treatment for HIV / AIDS.
 - a. If a minor requests and receives anonymous testing and treatment for HIV/AIDS (without parental notification or consent), and the minor's personal representative requests access to or copies of the minor's HIV/AIDS-related PHI, the health care provider will not release it or make it available without first obtaining written authorization from the minor.

3. **Abuse.** If the health care provider reasonably believes the minor has been or is subject to domestic violence, abuse, and/or neglect by the minor's personal representative and that keeping the minor's PHI related to the abuse confidential is in the best interests of the minor, the health care provider may refuse to release or provide access to the minor's abuse-related PHI to the minor's personal representative.
4. **Requests for PHI from the minor's school.**
 - . If a health care provider receives a request for a minor's PHI from the minor's school, the health care provider will provide the requested PHI either:
 1. to the minor's personal representative to be provided to the minor's school; or
 2. if the PHI includes or is of a type described in this Policy, to the minor who may then provide it to the school.
 - a. If the school requests the minor's PHI be sent directly from the health care provider, before disclosing the PHI to the school, the health care provider will either:
 1. obtain the minor's personal representative's written authorization for the release; or
 2. if the PHI includes or is of a type described in this Policy, obtain the minor's written authorization for the release.
5. **Requests from a minor's personal representative that are denied.**

If the health care provider denies access to or refuses to release a minor's PHI to the minor's personal representative because the PHI is related to services the minor obtained that did not require parental consent, HIV/AIDS, abuse of the minor, or if the request is initiated by the minor's school, the health care provider will:

Notify the requester on what basis his/her request for access was denied or why the minor's PHI will not be released.

- . Notify the requester that he/she may request a review of the denial; **and**
- a. If the minor's personal representative requests review of a denial, within ten (10) days of receipt of the request, the health care provider will transmit the requested PHI along with an explanation of the specific reason(s) access was denied to the HIPAA Privacy Officer; **and**
- b. Abide by the decision of the HIPAA Privacy Officer to uphold or overturn the decision to deny access and/or disclosure; **and**
- c. If the HIPAA Privacy Officer denies access, in whole or in part, the health care provider will notify the minor's personal representative of his/her right to seek

judicial review of the denial.

6. **Questions.** Any questions about whether a minor's PHI is confidential, or whether a health care provider should allow access to it or make it available to the minor's personal representative should be directed to the minor's health care provider or the HIPAA Privacy Officer.

7. **Definitions**

A **minor** is an individual who is under 18 years of age, and who is neither married nor the parent of a child.

A **minor's personal representative** is the minor's parent, legal guardian, or another with documentation proving he/she has legal custody of the minor (e.g., a stepparent who presents valid custody papers).

Protected Health Information (PHI) means information, including demographic information that may identify the patient, that relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual or the past, present or future payment for the provision of health care to an individual and identifies or could reasonably be used to identify the individual.

RESPONSIBILITY: Departments, HIPAA Privacy Officer

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