

# EVMS Medical Group

**POLICY: Personal Representative of Patient**

**DATE: 3/2003**

**CATEGORY: PRIVACY**

**REVIEWED/  
REVISED:  
04/2013**

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**POLICY:** As required by the Privacy Rule, EVMS Medical Group will 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. A personal representative is a person legally authorized (under State or other applicable law) to make health care decisions on an individual's behalf or to act for a deceased individual or estate. The Privacy Rule permits an exception when the Department has a reasonable belief that the personal representative may be abusing or neglecting the individual or that the personal representative could otherwise endanger the individual.

## **PROCEDURE:**

### Who Must Be Recognized as the Individual's Personal Representative

#### If the Individual Is:

#### The Personal Representative Is:

An Adult or Emancipated Minor

A person with legal authority to make health care decisions on behalf of the individual.

*Examples:* Health care power of attorney  
Court appointed legal guardian  
General power of attorney

An Unemancipated Minor

A parent, guardian or other person acting *in loco parentis* with legal authority to make health care decisions on behalf of the minor child

*Exceptions:* See below

Deceased

A person with legal authority to act on behalf of the decedent or the estate (not restricted to health care decisions)

*Examples:* Executor of the estate  
Next of kin or other family member

1. Verify that the patient has another individual identified as a personal representative. Document the relationship and scan any supporting documentation into the EHR.
2. Recognize that a parent, guardian or other person acting *in loco parentis* has the authority to act on behalf of the patient who is an unemancipated minor.

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3. Realize that the unemancipated minor can over ride any decisions made by a parent, guardian or other person acting *in loco parentis* if he/she consents to the healthcare service. The minor's consent to healthcare will be acknowledged even if the parent, guardian or *in loco parentis* have not consented to the health service or if the decision for health service is in contradiction to the minor's decision. Document the decisions regarding consent to health care services provided to the unemancipated minor and the individual(s) responsible for the decisions.

4. The Department may refuse to accept an individual as a personal representative of a patient if the Department believes the patient has been or may be subjected to domestic violence, abuse or neglect, or the patient's life could be endangered by the individual identified as the patient's personal representative.

5. The Department may exercise professional judgment and decide that it is not in the best interest of the patient to accept the individual identified as the patient's personal representative should there be a threat of violence, abuse, neglect or endangerment of life.