



Authorization to Disclose, Release or Obtain Protected Health Information FAQs

INFORMATION PROTECTED BY STATE / FEDERAL LAW

Release of mental health [RCW 71.05], alcohol and drug abuse [RCW 70.96A; 42 C.F.R Part 2], sexually transmitted diseases, including HIV/AIDS [RCW 70.24], and certain minor treatment records may require specific patient authorization.

INFORMATION FROM A DRUG OR ALCOHOL ABUSE TREATMENT PROGRAM

Federal regulations [42 C.F.R. Part 2], where applicable, may prohibit any further disclosure of this information except with specific written consent of the person to whom the information pertains or the parent or legal guardian of a minor child to whom it pertains, unless otherwise permitted by federal and state law.

A general authorization for the release of information is NOT sufficient for this purpose. This consent is subject to revocation at any time except to the extent that the program that is to make the disclosure has already taken action in reliance on it. The Federal rules restrict any use of information to criminally investigate or prosecute any alcohol or drug abuse patient and establish fines for violating any provision of the law.

MENTAL HEALTH TREATMENT INFORMATION Where applicable, state law may prohibit any further disclosure of mental health treatment information without specific written consent of the person to whom the information pertains, or the parent or legal guardian or a minor child to whom it pertains, unless otherwise permitted by state law. A general authorization to release information is NOT sufficient for this purpose. [RCW 71.05.390]

SEXUALLY TRANSMITTED DISEASE INFORMATION (includes HIV / AIDS) State law prohibits any further disclosure of sexually transmitted disease information without specific written consent of the person to whom the information pertains, or the parent or legal guardian of a minor child to whom it pertains, unless otherwise permitted by state law. A general authorization is NOT sufficient for this purpose. Any violation of the law is a gross misdemeanor and may lead to the imposition of fines. [RCW 70.24.105; WAC 246-101-320]

CONSENT OF MINOR Where a minor has the right to consent to medical treatment, he or she also has the right to control information related to that treatment. A competent minor patient's signature may be required to release information related to: 1) reproductive care including, but not limited to, birth control [RCW 9.02.100(1)] and pregnancy-related services [State v. Koome, 84 Wn.2d 901]; 2) testing or treatment for HIV/AIDS and other sexually transmitted diseases for patients age 14 and above [RCW 70.24.110]; 3) outpatient alcohol and drug abuse treatment for patients age 13 and above [RCW 70.96A.095]; and 4) mental health treatment for patients age 13 and above [RCW 71.34.500; RCW 71.34.530]

AUTHORIZED PERSONAL REPRESENTATIVE FOR PATIENTS NOT COMPETENT

A personal representative is an individual who may act on behalf of a patient when the patient lacks decision-making capacity to make health care treatment decisions. The personal representative may need legal documentation to demonstrate authority to sign for the patient. A member of one of the following classes of persons may sign for an adult patient who lacks capacity to consent, in the following order of priority: (a) the appointed guardian of the patient, if any; (b) the individual, if any, to whom the patient has given a durable power of attorney that includes the authority to make health care decisions; (c) the patient's spouse; (d) children of the patient who are at least eighteen years of age, if unanimous; (e) parents of the patient, if unanimous; and (f) adult brothers and sisters of the patient, if unanimous. If a person is not available in a given class to provide authority regarding health care decisions, then a person (or group of persons acting as one) must be found in the next successive class. [RCW 7.70.065(1)].

AUTHORIZED PERSONAL REPRESENTATIVE FOR MINORS A member of one of the following classes of persons may sign for a minor patient in the following order of priority: (a) the appointed guardian; (b) a person appointed by the court to consent to medical care for a child in out of home placement pursuant to RCW 13.32A or RCW 13.34; (c) parents; (d) an individual to whom a parent has given a signed authorization to make health care decisions for the child; and (e) an adult representing him or herself as responsible for the health care of the minor (a health care provider may, at its discretion, require documentation of this person's claimed status). [RCW 7.70.065(2)] Note: Under state law each parent has full and equal access to the health care records of their child absent a court order to the contrary. Neither parent may veto the access requested by the other parent. [RCW 26.09.225]