
Department: UW Medicine Compliance

Subject: PP-14 Use & Disclosure of Protected Health Information – Personal Representatives/Surrogate Decision-Makers

Policy Number: 14

Effective Date: January 9, 2003

Review Date: July 27, 2006

Policy:

Subject to exceptions described below, the personal representative or legally authorized surrogate decision-maker for the patient may sign the acknowledgement for receipt of the UW Medicine¹ *Notice of Privacy Practices (Notice)* which describes how medical information may be used and disclosed and how the individual can get access to the information. In addition, unemancipated minors may sometimes acknowledge receipt of the UW Medicine *Notice*.

This policy is broken into the following four sections:

- I. Adults/Emancipated Minors**
- II. Unemancipated Minors**
- III. Deceased Individuals**
- IV. Abuse, Neglect, Endangerment Situations**
- V. Personal Representative Decision Trees**

I. Adults or Emancipated Minors

When an adult or emancipated minor patient is not able to exercise his or her right to consent to healthcare services or when the adult or emancipated minor patient has designated another individual, who is an adult, to make healthcare decisions on his or her behalf, the person authorized to act on behalf of an individual or emancipated minor will be treated as the individual or emancipated minor's *personal representative or legally authorized surrogate* with respect to decisions concerning UW Medicine's use and disclosure of the individual or emancipated minor's PHI.

¹ UW Medicine includes the following entities: University of Washington Medical Center and Clinics; Harborview Medical Center and Clinics; UW Medicine Neighborhood Clinics (University of Washington Physicians Network); UW Physicians Sports Medicine Clinic; UW Physician's Eastside Specialty Center; Hall Health Primary Care Center; and University of Washington Physicians.

II. Unemancipated Minors

If a parent, guardian, or other person acting *in loco parentis* (day-to-day responsibility to care for and financially support the unemancipated minor) has authority to make health care decisions for an unemancipated minor, UW Medicine will treat that person as a **personal representative or legally authorized surrogate** with respect to making decisions concerning use or disclosure of the unemancipated minor's PHI. This is the general rule, subject to the following exceptions:

- A) When the minor may lawfully consent to the healthcare service without the consent of a personal representative or legally authorized surrogate, and the minor has exercised his or her right to consent to the healthcare service, then the minor may authorize the use and disclosure of his or her PHI and acknowledge receipt of the UW Medicine *Notice*. (For information on what services are available to minors, see UW Medicine Consent Manual for policy(ies) on minor consent to healthcare.)
- B) When the minor may lawfully consent to the healthcare service without the consent of a personal representative or legally authorized surrogate, but the minor has designated another individual to act as his or her surrogate for healthcare decisions or the law allows another individual to consent to the healthcare service, the minor or the individual designated or legally authorized to consent to the healthcare service may authorize the use and disclosure of the minor's PHI and acknowledge receipt of the UW Medicine *Notice*.
- C) When the law does not allow the minor to consent to the healthcare service, but the personal representative or legally authorized surrogate assents to an agreement of confidentiality between UW Medicine healthcare provider and the minor with respect to such service, the minor may authorize use and disclosure of the minor's PHI and acknowledge receipt of the UW Medicine *Notice*.

III. Deceased Individuals

A person will be considered the personal representative or legally authorized surrogate with respect to a deceased individual's PHI if the person is the personal representative of the deceased individual. If no personal representative is available or the personal representative has been discharged, the personal representative or legally authorized surrogate for PHI shall be the individual who would have been authorized to make health care decisions for the deceased.

For information on surrogate decision makers for healthcare services, see UW Medicine Consent Manual policies (uses UW NetID):
https://know1.mcis.washington.edu/manuals/amc_consent/index.html

IV. Abuse, Neglect, Endangerment Situations

UW Medicine may elect not to consider a person as the personal representative or legally authorized surrogate of an individual if:

There is reasonable belief that:

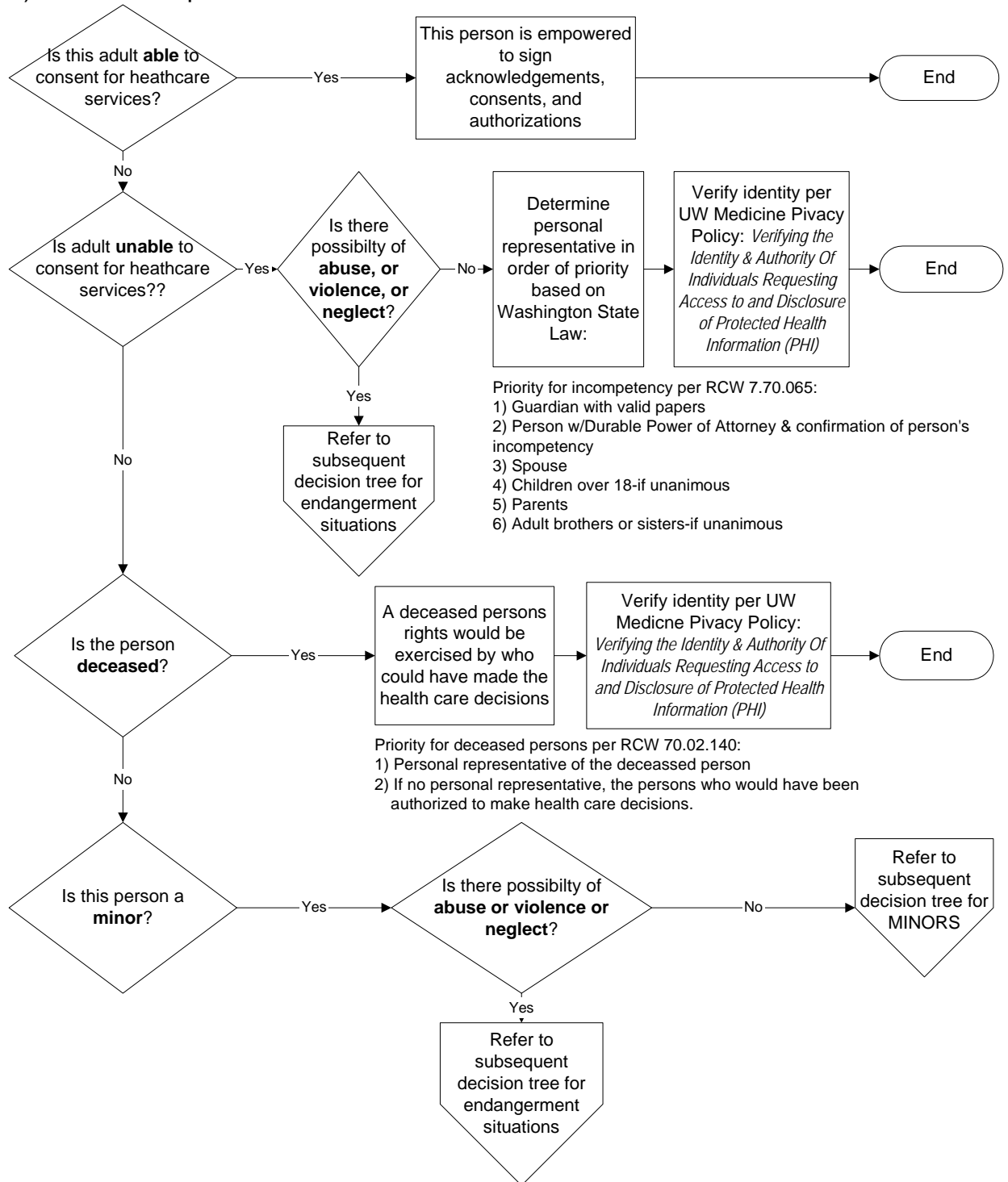
A) The individual has been or may be the subject of domestic violence, abuse or neglect by such person,

Or

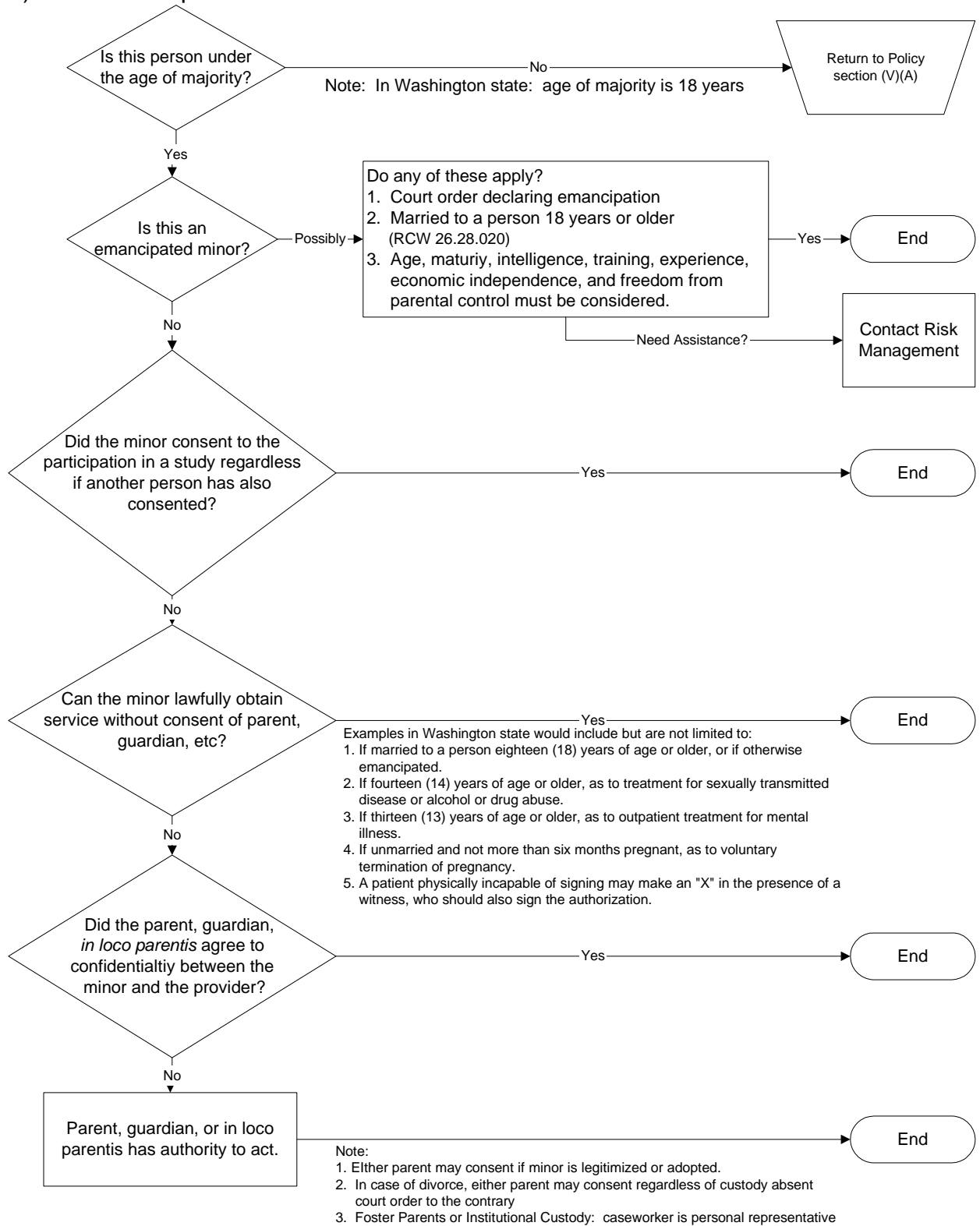
B) Treating such person as the personal representative could endanger the individual and it is determined, in the exercise of professional judgment, that it is not in the best interest of the individual to treat such person as the individual's personal representative or legally authorized surrogate.

V. **Personal Representative Decision Trees**

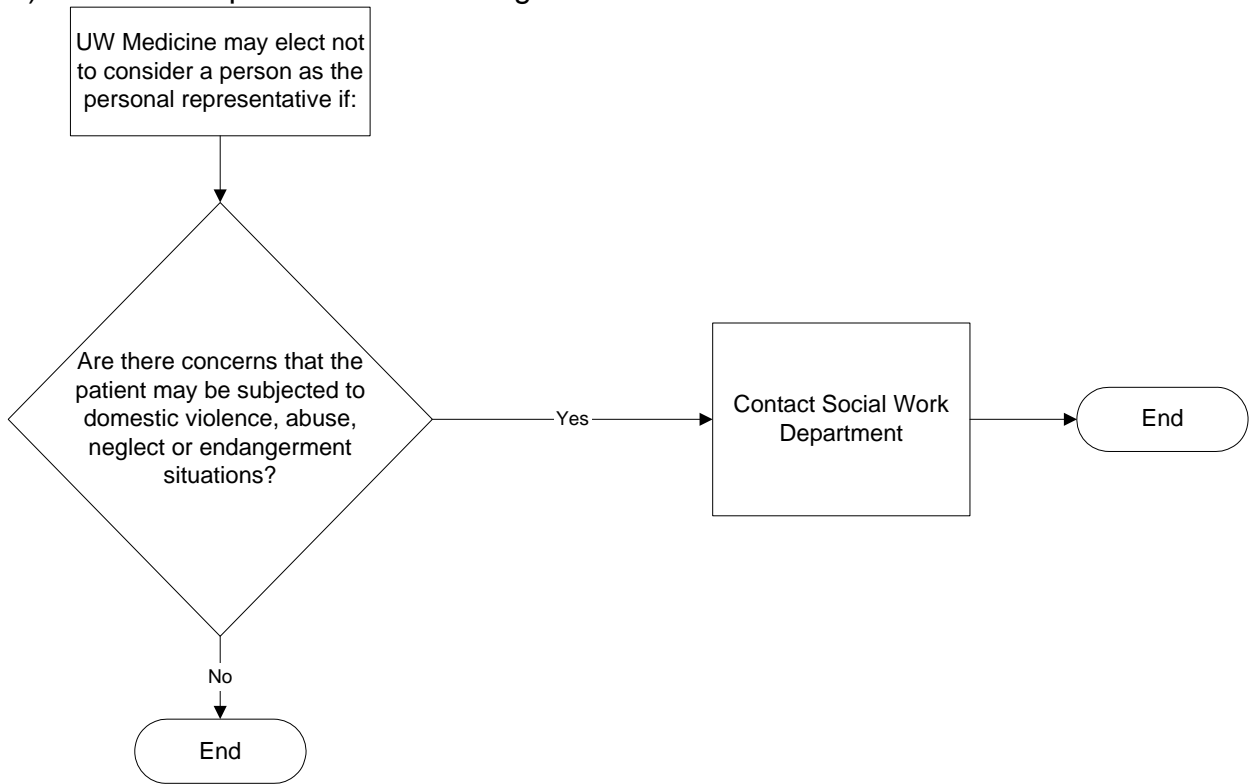
A) Personal Representative



B) Personal Representative: Minors



C) Personal Representative: Endangerment Situations



Cross References:

Please see following list of UW Medicine entity specific policies and procedures regarding: Adults/Emancipated Minors, Unemancipated Minors, Deceased Individuals, Abuse, Neglect, Endangerment Situations, and Personal Representatives/Surrogate Decision-Makers.

References:

- I. 45 CFR 164.502 – Personal Representatives.
 - II. RCW 70.02.140 – “Representatives of Deceased”.
 - III. RCW 7.70.065 – “Informed consent -- Persons authorized to provide for patients who are not competent”.
 - IV. UW Medicine Consent Manual
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UW Privacy Officer: _____ Date: _____

John A Coulter, Associate Vice President for Medical Affairs
