
Department: UW Medicine Compliance

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

Policy Number: 14

Established Date: January 9, 2003

Revised Date:

Review Date: January 31, 2003, July 27, 2006, November 12, 2009

Policy:

A personal representative or legally authorized surrogate decision-maker, for an adult or emancipated minor, who has the authority to act on behalf of the patient in making decisions related to health care can also make decisions concerning UW Medicine's use and disclosure of the patient's Protected Health Information (PHI). For information on how family members can act as surrogate decision makers for healthcare services, see UW Medicine Consent Manual policies):

https://know1.mcis.washington.edu/manuals/amc_consent/index.html

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 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 make decisions concerning UW Medicine's use and disclosure of the their PHI. (For information on what services are available to minors, see UW Medicine Consent Manual for policy(ies) on minor consent to healthcare.):
https://know1.mcis.washington.edu/manuals/amc_consent/index.html

- 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 make decisions concerning UW Medicine's use and disclosure of their PHI.

- 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 make decisions concerning UW Medicine's use and disclosure of their PHI.

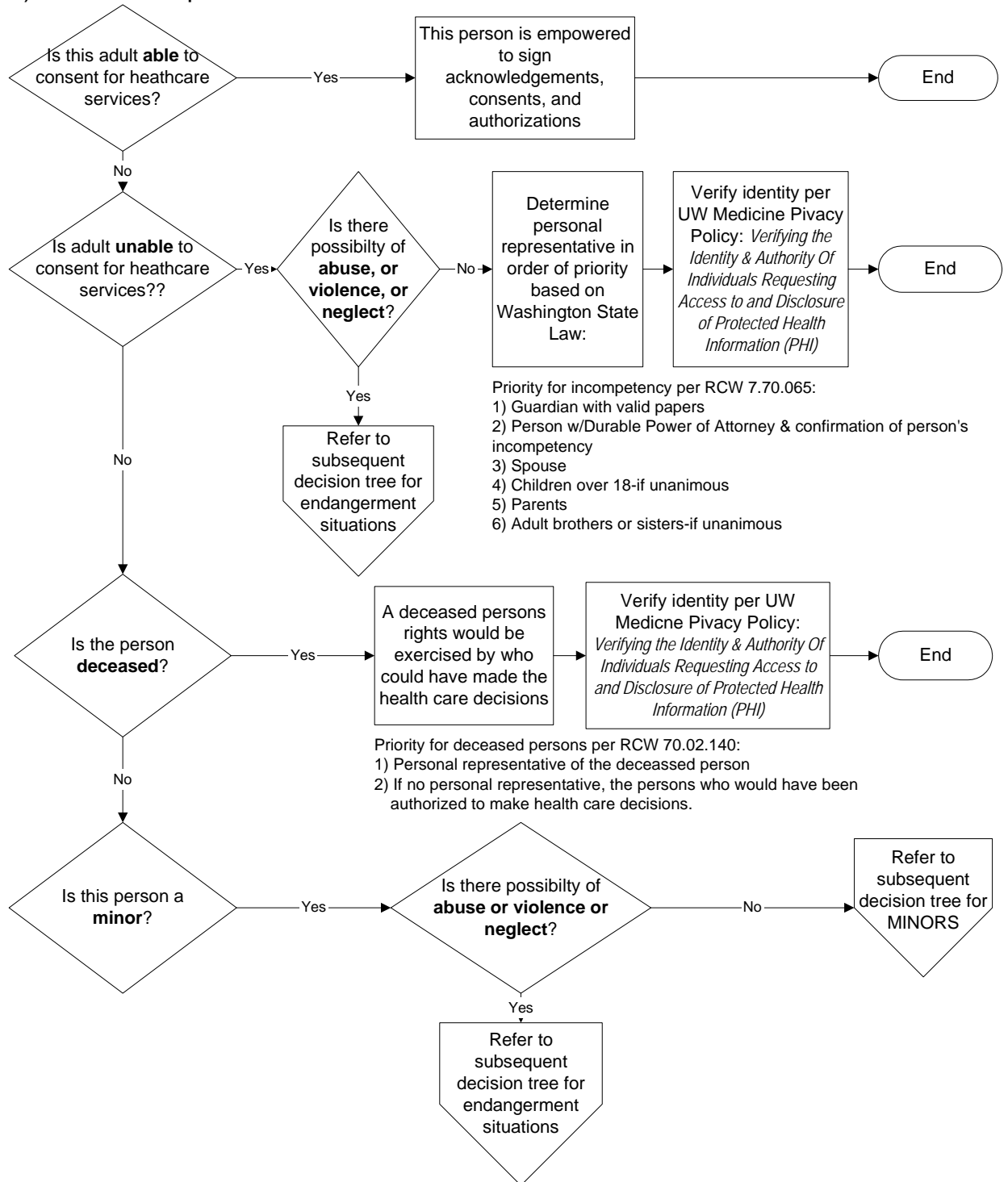
With respect to a deceased individual's PHI, the executor, administrator, or other person who has authority to act on behalf of a deceased individual or of the individual's estate is considered the personal representative or legally authorized surrogate of the deceased individual and may make decisions concerning UW Medicine's use and disclosure of their PHI

I. Abuse, Neglect, Endangerment Situations

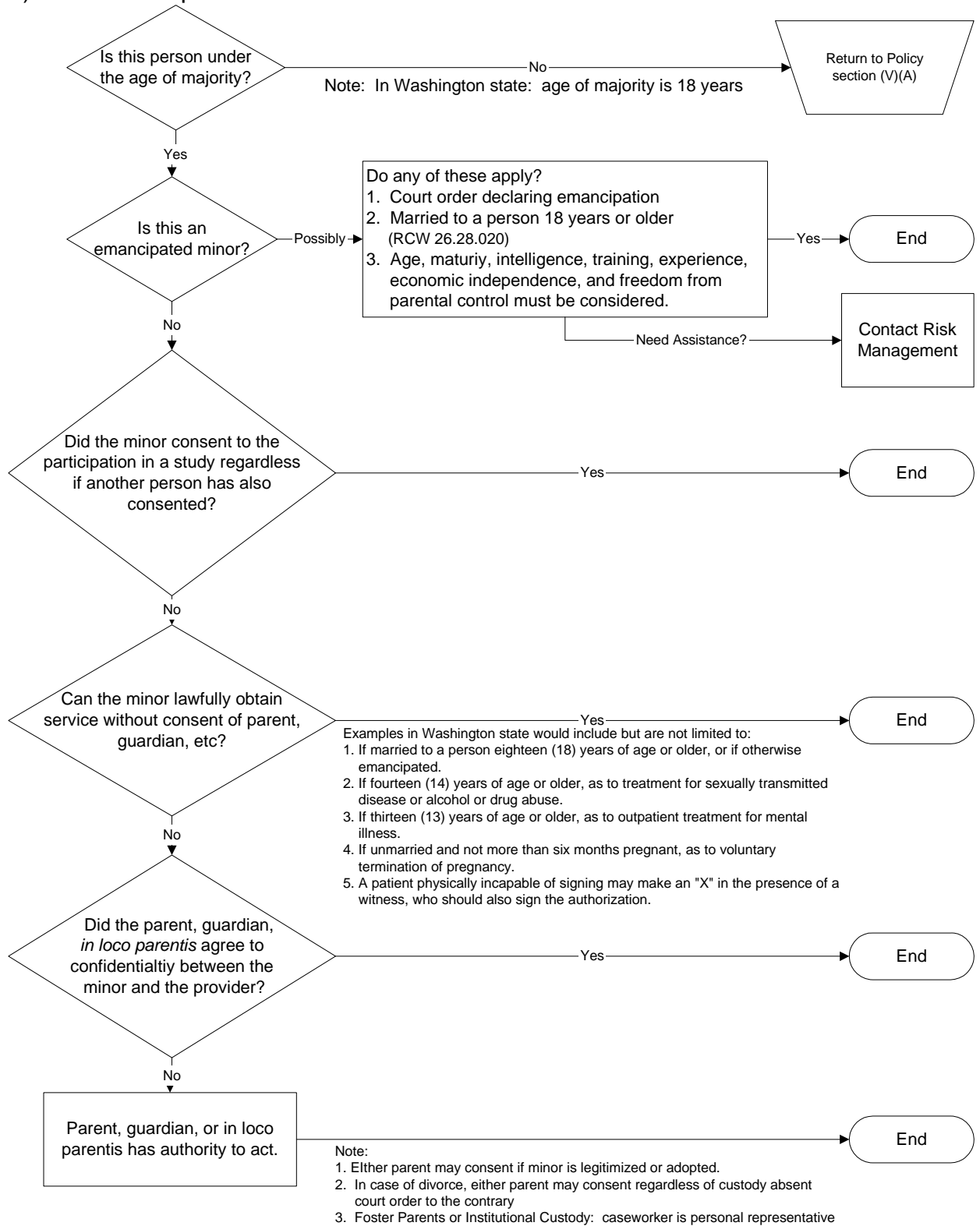
UW Medicine workforce in exercising professional judgment may elect not to treat a person as the personal representative or legally authorized surrogate of a patient if there is a reasonable belief that the patient has been or may be subjected to domestic violence, abuse or neglect by such person or that treating such person as the personal representative could endanger the patient.

II. Personal Representative Decision Trees

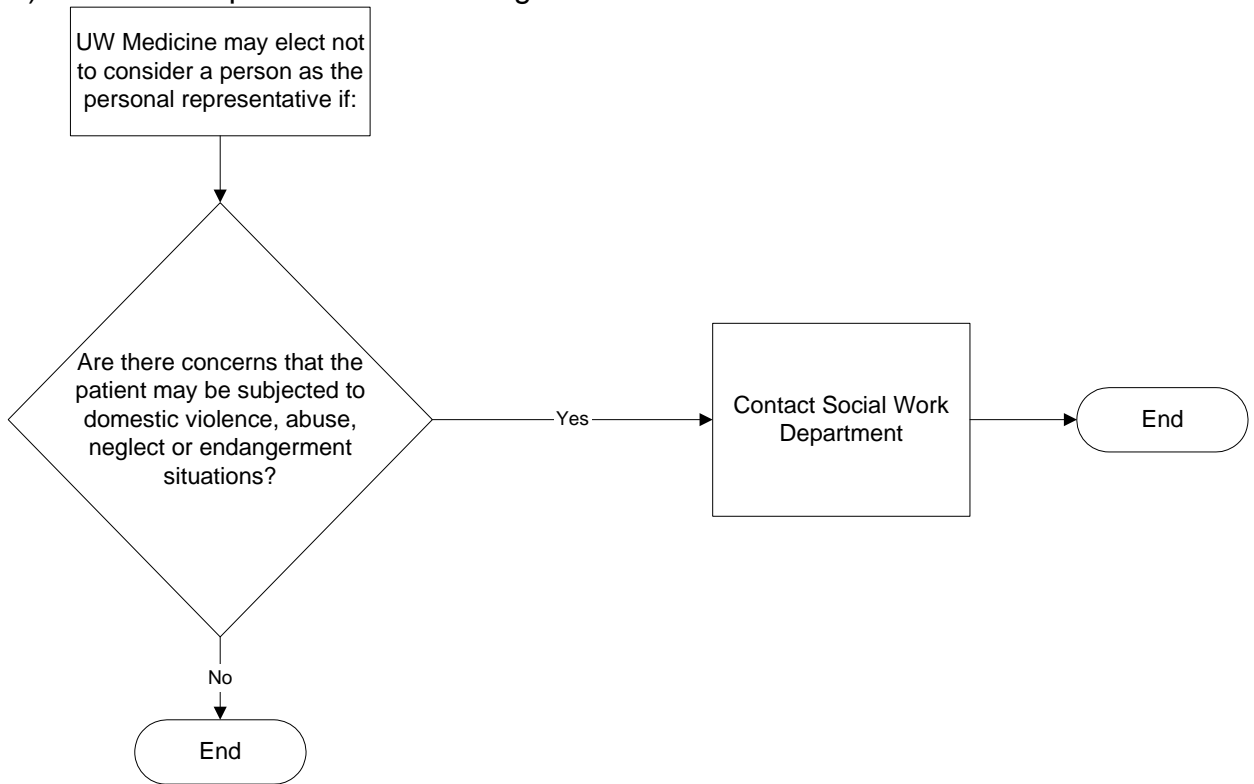
A) Personal Representative



B) Personal Representative: Minors



C) Personal Representative: Endangerment Situations



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

UW Privacy Officer: _____ Date: _____
Johnese M. Spisso, Vice President for Medical Affairs, UW & COO UW Medicine
