

WHITING FORENSIC HOSPITAL
OPERATIONAL PROCEDURE MANUAL

SECTION II:	ORGANIZATION FOCUSED FUNCTIONS
CHAPTER 9:	Management of Information/HIPAA
PROCEDURE 9.25:	Disclosures to Personal Representatives
Governing Body Approval:	June 7, 2018
REVISED:	

PURPOSE: To inform staff that if a person has the legal authority to act on behalf of a patient in making health care decisions or act on behalf of a deceased patient or estate, Whiting Forensic Hospital (WFH) shall treat such person as a personal representative with respect to the patient's Protected Health Information (PHI).

SCOPE: All Clinical Staff, HIM and Unit Clerks

POLICY:

It is the policy of Whiting Forensic Hospital (WFH) that if a person has the legal authority to act on behalf of a patient in making decisions related to healthcare, WFH shall treat such person as a personal representative with respect to the patient's Protected Health Information (PHI).

If a person has the legal authority to act on behalf of a deceased patient or the patient's estate, WFH shall treat such person as a personal representative with respect to the patient's PHI.

Definitions:

1. *Disclosure:* The release, transfer, provision of access to, or the divulging in any other manner of information outside the agency holding the information.
2. *Individually Identifiable Health Information:* Information that is a subset of health information, including demographic information collected from an individual, and that: (1) is created or received by a health care provider, health plan, employer, or health care clearinghouse; and (2) 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 (3) which identifies the individual, or (4) with respect to which there is a reasonable basis to believe that the information can be used to identify the individual. *Note:* Individually identifiable health

information is to be treated as protected health information.

3. Personal Representative: A person who has authority under applicable law to make decisions related to health care on behalf of a patient.
4. Protected Health Information (PHI): Individually identifiable information relating to past, present or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present or future payment for health care provided to an individual.

PROCEDURE:

1. HIM staff discloses PHI to a personal representative of a patient if such person has the legal authority to act on behalf of the patient. (See *Operational Procedure 9.21 Verification Requirements for Use and Disclosure*, for criteria to identify that a person has legal authority to act on behalf of a patient)
2. WFH may decline to treat a person as a personal representative of a patient if:
 - A. WFH has a reasonable belief that:
 1. the patient has been or may be subjected to abuse or neglect by such person; or
 2. treating such person as the personal representative could endanger the patient; and
 - B. WFH, in the exercise of professional judgment, decides that it is not in the best interest of the patient to treat the person as the patient's personal representative.

Illustration/Example:

Example: In a psychiatric hospital a legally appointed Conservator of Person of a patient requests disclosure of an evaluation from the patient's medical record. The conservator presents a copy of the legal document verifying their authority as a personal representative to the Medical Records Department, along with a release form. The Medical Records Department releases the record.