



Disclosure to Personal Representatives Policy

August 5, 2026

APPLICABILITY:

This policy applies to Florida Atlantic University's Covered Components and those working on behalf of the Covered Components (collectively "FAU") for purposes of complying with the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

PURPOSE:

This policy will clearly identify the Privacy Rights afforded to a personal representative on a patient's behalf, identify those persons who may be designated as a personal representative on a patient's behalf, and establish a process for identity verification of personal representatives.

POLICY:

A. Personal Representatives

For the purposes of these policies, FAU will treat a person as a personal representative of a patient, if under applicable law, a person has authority to act on behalf of an individual who is an adult or an emancipated minor in making decisions related to health care (45 CFR 164.502(g)).

FAU will also treat a person as a personal representative of a patient, if under applicable law, a parent, guardian, or other person acting in loco parentis has authority to act on behalf of an individual who is an unemancipated minor in making decisions related to health care.

A person shall be treated as a personal representative only to the extent authorized by applicable law and only with respect to PHI relevant to the authority granted. FAU may limit disclosures where required or permitted by HIPAA, Florida law, or applicable court order.

B. Who Has Authority

A competent adult patient has authority to exercise his or her rights regarding the use or disclosure of Personal Health Information (PHI). In addition, other persons described in this policy may serve as the patient's personal representative with authority to exercise, on the patient's behalf, the patient's rights regarding the use or disclosure of PHI.

C. Privacy Rights

The privacy rights subject to this policy are the right to:

1. Receive a notice of FAU's privacy policies.
2. Inspect and obtain copies of FAU's records containing the patient's PHI.
3. Amend the information.
4. Obtain an accounting of disclosures of the information.
5. Request restrictions on the use or disclosure of the information.
6. Receive confidential communications from FAU.

D. Adult Patients

For adult patients (age 18 or older), only the following persons have authority to exercise the patient's privacy rights:

1. The patient, if not incompetent.
2. A person who has been appointed by the patient under a valid durable power of attorney for health care decisions or under any other valid power of attorney to the extent that the document describes such rights.
3. The patient's court-appointed guardian, conservator, or administrator.
4. A spouse, adult child, parent, sibling, or other individual authorized pursuant to Chapter 765, Florida Statutes, or other applicable law, to make healthcare decisions on behalf of the patient.
5. The executor or administrator of a deceased patient's estate. Following a patient's death, FAU shall recognize the executor, administrator, or other person authorized under applicable law to act on behalf of the decedent or estate as the decedent's personal representative.

E. Minor Patients

For minor patients (under 18 years of age), only the following persons have authority to exercise the patient's privacy rights:

1. The minor patient if, under state law, the minor is deemed "emancipated" or is otherwise entitled to make treatment decisions without parental involvement.
2. The minor patient's court-appointed guardian, conservator, or administrator.
3. The minor patient's parents, unless state law authorizes the minor to obtain the treatment without parental involvement, and the minor sought and consented to the treatment independently.
4. Other persons authorized under state law to make treatment decisions on the patient's behalf.
5. The executor or administrator of a deceased minor patient's estate.

Florida law permits minors in certain circumstances to consent independently to treatment, including certain behavioral health, STI, substance-abuse, and reproductive-health services. Where Florida or federal law permits a minor to consent independently to treatment, and the minor has exercised that authority, the minor shall be treated as the individual for purposes of access to and control of related PHI, unless otherwise required by law.

F. Abuse, Neglect and Endangerment Situations (45 C.F.R. § 164.502(g)(5))

When a physician or other covered entity reasonably believes that an individual, including an unemancipated minor, has been or may be subjected to domestic violence, abuse, or neglect by the personal representative, or that treating a person as an individual's personal representative could endanger the individual, the covered entity may choose not to treat that person as the individual's personal representative, if in the exercise of professional judgment, doing so would not be in the best interests of the individual. The basis for the determination shall be documented in the medical record or other appropriate compliance documentation.

G. Verification of Identity and Authority (45 C.F.R. § 164.514(h) (verification)

The patient's personal representative's identity and authority must be verified and documented before the person may exercise any of the patient's privacy rights. The patient's confirmation of a personal representative's identity and authority is adequate. If given verbally, rather than in writing, the confirmation must be documented in the record. Other acceptable verification of identity includes:

- 1) Driver's license
- 2) Birth certificate
- 3) Passport
- 4) Social Security card
- 5) Photo ID (with another piece of verification if possible)
- 6) Any other verification deemed reasonable by the Privacy Official.

Acceptable verification of relationship or legal authority includes, but is not limited to, relevant official documents, including birth certificates, marriage certificates, passports, guardianship papers, and attorney-in-fact documents.

H. Healthcare Proxy (F.S. 765.401)

If an incapacitated or developmentally disabled patient has not executed an advance directive, or designated a surrogate to execute an advance directive, or the designated or alternate surrogate is no longer available to make health care decisions, health care decisions may be made for the patient by any of the following individuals, in the following order of priority, if no individual in a prior class is reasonably available, willing, or competent to act:

1. The judicially appointed guardian of the patient or the guardian advocate of the person having a developmental disability who has been authorized to consent to medical treatment, if such guardian has previously been appointed; however, this paragraph shall not be construed to require such appointment before a treatment decision can be made;
2. The patient's spouse;
3. An adult child of the patient, or if the patient has more than one adult child, a majority of the adult children who are reasonably available for consultation;
4. A parent of the patient;

5. The adult sibling of the patient or, if the patient has more than one sibling, a majority of the adult siblings who are reasonably available for consultation;
6. An adult relative of the patient who has exhibited special care and concern for the patient and who has maintained regular contact with the patient and who is familiar with the patient's activities, health, and religious or moral beliefs; or
7. A close friend of the patient; or
8. A clinical social worker licensed pursuant to chapter 491, or who is a graduate of a court-approved guardianship program. Such a proxy must be selected by the provider's bioethics committee and must not be employed by the provider.

I. Consent Related to Research

For Division of Research consent-related information, refer to the links provided.

- Florida Atlantic University – Office of Research Integrity (ORI):
<https://www.fau.edu/research-admin/research-integrity/>
- FAU Human Research Protection Program (HRPP):
<https://www.fau.edu/research-admin/research-integrity/human-research-protection-program/>
- FAU Institutional Review Board (IRB):
<https://www.fau.edu/research-admin/research-integrity/irb/>
- FAU IRB Policies and Procedures:
<https://www.fau.edu/research-admin/research-integrity/human-subjects-irb/irb-policies-and-procedures/>