



**Disclosure to Personal Representatives
(and to Family Members and Friends) Policy**
April 26, 2016

SCOPE

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).

POLICY STATEMENT

To allow for disclosures of Protected Health Information ("PHI") to the patient's personal representative as permitted under the HIPAA Privacy Rule. To establish a process for disclosing PHI to personal representatives, family members, relatives, or friends who are involved in the patient's care.

REASON FOR THE POLICY

To provide direction on disclosure of PHI to personal representatives and family members, relatives or friends who are involved in the patient's healthcare.

DEFINITIONS - Refer to Glossary and Terms

PROCEDURE

1. FAU shall treat a personal representative the same as the individual (e.g. patient) with respect to disclosing PHI.
2. FAU must verify the personal representative's identity and authority to act on behalf of the individual.
3. Personal representatives include: 1) a person with legal authority to make healthcare decision on behalf of the individual (for example, a court appointed legal guardian or the patient's attorney-in-fact under a durable power of attorney for health care); 2) a parent, guardian, or other person acting *in loco parentis* with legal authority to make health care decisions on behalf of an unemancipated minor child; and 3) a person with legal authority to act on behalf of a deceased individual or the individual's estate (for example, the executor or administrator of a deceased patient's estate or next of kin).
4. Abuse, Neglect and Endangerment Situations - Do not disclose PHI to a patient's personal representative if you have reason to believe that:

- a. the patient has been or may be subjected to domestic violence, abuse or neglect by the personal representative; or treating such individual as the personal representative could endanger the patient; and
 - b. you determine, in the exercise of professional judgment, that it is not in the best interest of the patient to treat the individual as the patient's personal representative.
5. Family Members and Friends - If the patient is present (or otherwise available) and is capable of making decisions, you must obtain the patient's agreement (can be oral), or provide the patient with an opportunity to object to the disclosure, or reasonably infer from the circumstances that the patient does not object to the disclosure. If the patient is not present or capable of making decisions, a health care provider may share the patient's information with family or friends involved in the patient's care or payment for care, after determining, based on professional judgment, that disclosing such information is in the best interest of the patient. In all cases, disclosures to family members or friends involved in the patient's care or payment for care are limited to only the protected health information directly relevant to the person's involvement in the patient's care or payment of care.