



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Director
Office for Civil Rights
Washington, D.C. 20201

December 3, 2025

Re: The HIPAA Privacy Rule and Parental Access to Minor Children's Medical Records

Dear Colleagues:

The Office for Civil Rights (OCR) at the U.S. Department of Health and Human Services administers and enforces the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy, Security, and Breach Notification Rules, which establish the minimum privacy and security requirements for protected health information (PHI), breach notification requirements that covered entities (health plans, health care clearinghouses, and most health care providers) and their business associates must follow, as well as the rights that individuals (and their personal representatives) have with respect to their PHI, such as the right to access this information.

OCR has become aware that there may be instances in which the parents of minor children are not receiving access to their children's medical records¹ to the extent required by the HIPAA Privacy Rule ("Privacy Rule"). For example, parents, as the personal representative of their minor children, may be denied access to their minor children's medical records, or a covered entity may be requiring minor children to authorize parental access before such access will be granted, when no such requirement exists under applicable law² and, thus, under the Privacy Rule. Denial of access in those circumstances may be a violation of the Privacy Rule.

The Privacy Rule establishes the right of an individual, or a personal representative acting on the individual's behalf, to access the individual's medical records and other PHI about the individual.³ The Privacy Rule provides that, "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 covered entity must treat such person as a personal representative under [the HIPAA Rules], with respect to [PHI] relevant to such personal representation"⁴

In most cases, a parent is the personal representative of an unemancipated minor child (hereinafter, "child") and can exercise the child's rights with respect to PHI, because the parent usually has the authority to make health care decisions about his or her child. **Accordingly, the Privacy Rule generally gives the parent the right to access the child's medical records as the child's personal representative**, unless one of the limited exceptions applies.

¹ Throughout this letter medical records and PHI are used interchangeably.

² Applicable law refers to other laws such as state or Tribal law.

³ The right of access applies to PHI in a designated record set. See 45 CFR 164.524.

⁴ 45 CFR 164.502(g)(3)(i).

There are three situations in which a child's parent is not a personal representative under the Privacy Rule with respect to some or all of the child's PHI. These exceptions are:

1. **When the child consents to health care and the consent of the parent is not required under state or other applicable law.** In this situation, the parent is not the child's personal representative with respect to PHI related to *that* health care.
2. **When the child obtains health care at the direction of a court, or a person appointed by the court.** In this situation, the parent is not the child's personal representative with respect to PHI related to *that* health care.
3. **When, and to the extent that, the parent agrees that the child and the health care provider may have a confidential relationship.** In this situation, the scope of the parent's agreement to the confidential relationship determines the degree to which the parent is the child's personal representative for purposes of PHI maintained by that health care provider.

These three exceptions are generally limited to certain types of health care services, such as mental health care. That is, under HIPAA, a parent might be a child's personal representative for—and have the right of access to PHI about—most medical treatments and health care services received by the child, but that parent might not be the child's personal representative with respect to certain limited types of medical treatments and health care services. Whether a parent is their child's personal representative under HIPAA depends, in part, on the laws of the state. Additionally, state law may limit a parent's rights as a child's personal representative, including state-specific limits on the right of a parent to access certain portions of a child's medical records.

Finally, as is the case with respect to all personal representatives under the Privacy Rule, a provider may determine not to treat a parent as a personal representative when the provider reasonably believes, in his or her professional judgment, that the child has been or may be subjected to domestic violence, abuse or neglect, or that treating the parent as the child's personal representative could endanger the child.⁵ This requires an individualized, patient-specific professional determination by the health care provider.

Absent these limited exceptions, where a parent is the personal representative of his or her child, a covered entity (and, where applicable, its business associate acting on the covered entity's behalf) may not place additional limitations on a parent's access to the child's medical records beyond any existing limitations in applicable law.

Consider the following scenarios where, absent the existence of an applicable and specific exception, a parent cannot be denied access to his or her child's PHI:

- A patient is 16 years old, consents to receive treatment for a sexually transmitted infection, and there is a state law that permits children who are 16 years or older to obtain such treatment without parental consent. A covered health care provider might, depending on the particular state law, deny the child's parent access to PHI related to *that* health care. However, the provider may not deny the parent, as the child's personal representative, access to the child's PHI that is unrelated to that particular health care.

⁵ See 45 CFR 164.502(g)(5).

- A patient is 13 years old, and a state law requires parental consent for patients under 15 years old to receive health care in all cases. A covered health care provider cannot require authorization from that 13-year-old child before the provider will give the parent access to the child's PHI. The covered health care provider could not deny the parent access to that child's health care records by claiming that the 13-year-old child had not authorized parental access.

With respect to electronic access to PHI, covered entities should work with any business associates involved in facilitating such access (*e.g.*, electronic health record or patient portal vendors) to ensure that parents who are their children's personal representatives have electronic access to their children's PHI to the full extent required by the Privacy Rule. This includes establishing electronic access configurations to allow parents access to their children's PHI in accordance with the Privacy Rule. For example, if the default configurations of electronic information systems that maintain a child's PHI result in the improper denial of a parent's right, as the child's personal representative, to timely access the information, the covered entity should modify, or work with their business associate (if applicable) to modify, the default configurations to allow such access as required by the Privacy Rule. A covered entity that denies such access may be in violation of the Privacy Rule.

OCR has the following materials to assist covered entities, business associates, and the public in understanding a personal representative's right to access an individual's medical records and other PHI, particularly in the case of a parent seeking access to their child's medical records.

- [Does the HIPAA Privacy Rule Allow Parents the Right to See Their Children's Medical Records?](#)
- [HIPAA and Personal Representatives](#)
- [Am I My Child's "Personal Representative" Under HIPAA?](#)
- [How HIPAA Applies to Mental Health and Substance Use Disorder Information](#)

OCR urges covered entities, and business associates that facilitate the provision of access to PHI on the covered entities' behalf, to review their policies and procedures and, if necessary, proactively make any necessary changes to ensure their compliance with the Privacy Rule. Further, covered entities should ensure that parents' access to their children's medical records in electronic systems (*e.g.*, electronic health records system, patient portal) is properly configured and maintained to provide access in compliance with the Privacy Rule.

Providing parents who are their children's personal representatives with easy access to their children's PHI empowers parents to be more in control of decisions regarding their children's health and well-being. OCR is making parental access to children's medical records an enforcement priority and will use all civil remedies available, including civil money penalties, to ensure compliance with this Privacy Rule requirement.

Sincerely,

/s/

Paula M. Stannard
Director, Office for Civil Rights