



## PLUMAS COUNTY, CALIFORNIA

### HIPAA RELATED POLICIES AND PROCEDURES

EFFECTIVE APRIL 14, 2003

### USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION TO A PERSONAL REPRESENTATIVE

#### **Policy:**

Plumas County will treat a person as a personal representative of an individual who has authorized such a personal representative, with two exceptions:

- Unemancipated minors; and
- Abuse, neglect and endangerment situations

#### **Purpose:**

The Privacy Rule allows an individual to agree or object to the use or disclosure of their protected health information (PHI) to a personal representative.

#### **Responsibilities:**

The Privacy Rule allows the County to use its discretion to disclose certain protected health information to family members, relatives, close friends, and others assisting in the care of an individual.

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, Plumas County must treat that person as a personal representative with respect to protected health information.

If under applicable law, a parent, guardian, or other person acting "in loco parentis" has authority to act on behalf of an unemancipated minor in making decisions related to health care, Plumas County must treat that person as a personal representative.

However, if the minor consents to health care service, no other consent is required by law, regardless of whether the consent of another person has also been obtained. If the minor has not consented to or requested that person be treated as their personal representative, the minor will have the authority to act as an individual with respect to PHI stemming from the consented to health care service.

Under the HIPAA Privacy Rule, Plumas County may:

- Disclose protected health information to a parent, guardian, or other person acting “in loco parentis” if applicable State law permits such disclosure.
- NOT disclose protected health information to a parent, guardian, or other person acting “in loco parentis” if State law prohibits such disclosure.
- May provide or deny access to protected health information to a parent, guardian, or other person acting “in loco parentis” that is not the personal representative as defined above, subject to the licensed healthcare professional’s judgment that the disclosure is in the best interest of the individual, if State law does not explicitly require the minor’s consent to sharing the information with a personal representative.

Without State law or any HIPAA Privacy Rule to the contrary, Plumas County may elect not to treat a person as the personal representative of an individual if Plumas County has a reasonable belief that:

- The individual has been or may be subjected to domestic violence, abuse or neglect by that person; or
- Treating that person as the personal representative could endanger the individual; and
- In the exercise of professional judgment, Plumas County staff decides that it is not in the best interest of the individual to treat the person as the individual’s personal representative.

**Process:**

Plumas County staff must verify the authority and identity of personal representatives.

When possible, Plumas County will obtain the individual’s agreement, in writing, to disclose protected health information to a personal representative.

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Last revision date: May 20, 2003

Reference: 45 CFR 164.502(g) & 164.510(b) & 164.512(c)(2)(ii) & 164.524 & 164.528