



PRIVACY AND CONSENT FOR CAREGIVERS

What **Healthcare Providers** Need to Know

Navigating privacy and consent concerns in patient care can be a challenge, and can sometimes seem even more challenging when family caregivers are involved. Here are some of the privacy and consent challenges you may face as a healthcare provider:

- You may be asked to respond to a caregiver's request for information about the patient's care when there is no record to confirm that the caregiver is legally authorized to have the information.
- You may need to identify a primary caregiver in a family where multiple family members are involved in supporting the patient.
- You may need to work with family members of patients who are incapable of making treatment decisions, especially when there are disagreements about the best course of treatment, or when not all family members have the role of substitute decision-maker with legal authority to make treatment decisions.

And to complicate things even further:

- There is no consistent way across all parts of the health care system for a patient (or their substitute decision-maker) to provide a blanket consent for access to their health information.
- This consent typically needs to be repeated with each provider, and sometimes needs to be re-introduced at subsequent appointments.

So what do you, as a provider, need to know to help you navigate these privacy and consent issues?

- If the patient seems uncomfortable with the presence of the caregiver, you should ask the patient if they give consent for information to be shared with, or collected from, the caregiver or to have the caregiver in the room. This may involve asking the caregiver to leave the room for this conversation.
- You should train your staff to ask patients, periodically throughout their care, if there is anyone you are allowed to share their personal health information with, either verbally or by sharing the actual health records.
- The law establishes specific timeframes and procedures about granting access to records, as well as to charge reasonable fees for providing copies of health records.
- If the patient is deemed incapable for treatment decisions, you must turn to the patient's substitute decision-maker to make decisions on the patient's behalf, i.e. consenting to (or declining) proposed treatment. In that case, the substitute decision-maker can also make related information decisions, including giving consent for you to share the patient's personal health information with the caregiver.

ABOUT THIS DOCUMENT:

This document summarizes some of the information found in The Change Foundation's report, *Making Privacy and Consent Rules Work For Family Caregivers*, which sets out to explain how the *Personal Health Information Protection Act, 2004* (PHIPA) and the *Health Care Consent Act, 1996* (HCCA) apply to caregivers. To read the full report, please visit ChangeFoundation.com.



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