

Resident Representative Electronic Monitoring Consent

FORMS AND INSTRUCTIONS

Important Information

You or the resident may decline electronic monitoring. If you do not wish to use electronic monitoring, do not complete or sign this form.

Minnesota law allows electronic monitoring in certain types of facilities. Before placing an electronic monitoring device, a designated representative **must**:

- Give written consent on the resident representative consent form;
- If they have a roommate, get written consent, on the roommate or the roommate representative consent form; and
- Give the form(s) to the facility **unless** using the 14-day exception. See page 4 for more information.

Choose Correct Consent Form(s)

There are options for who can complete an electronic monitoring consent form. The requirements and instructions are different for each form. Make sure to choose the form(s) that fit your situation. For example, if you are a resident and you have a roommate, you complete the resident consent form and your roommate completes a roommate consent form.

The four forms are:

- **Resident** Consent Form: used when a resident is consenting for themselves.
- **Resident Representative** Consent Form: used when a resident has a designated representative. **Note: a representative consents under limited circumstances that include the resident's lack of capacity.**
- **Roommate** Consent Form: used when the resident shares a room or living unit with another person and the roommate is consenting for themselves.
- **Roommate Representative** Consent Form: used when the roommate has a designated representative. **Note: a representative consents under limited circumstances that include the roommate's lack of capacity.**

Questions

If you have questions, you can use any of the resources below:

- A staff member at your facility
- The Office of Ombudsman for Long-Term Care
 - Phone: 651-431-2555 or 1-800-657-3591
 - Email: e.monitoring.ooltc@state.mn.us
- The Minnesota Department of Health
 - Phone: 651-201-4101
 - Email: health.fpc-web@health.state.mn.us
- Minnesota Statute [§144.6502](#)

Instructions for completing the forms:

Identification

- Print identifying information.

Determining Representative Authority

In most circumstances, a resident must consent to electronic monitoring and a representative may not consent on their behalf. A representative may only consent on a resident's behalf if:

1. The resident did not affirmatively object to electronic monitoring; **and**
 2. The resident's medical professional determines that the resident currently lacks the ability to understand and appreciate the nature and consequences of electronic monitoring. Get the determination in writing and attach it to the consent form.
- Mark the box beside the statement that best describes how you got authority to represent the resident.
 - Mark the box **only** if the resident you represent did not object to electronic monitoring.
 - Enter the date you:
 - Explained electronic monitoring to the resident you represent;
 - Asked them if they wanted electronic monitoring; and
 - The resident you represent did not object.
 - Print the names and relationships of everyone who was present when you asked the resident you represent if they wanted electronic monitoring used in their room or living unit.
 - Mark the box if the medical professional of the resident you represent determined that the resident lacks the ability to understand and appreciate the nature and consequences of electronic monitoring.

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- Have the medical professional put their determination in writing.
- Attach the medical professionals written determination to the consent form.

Explanations

- Review each item under the section “Explanations” starting below on page 6.
- If you explained each of the items in that section to the resident, mark the box

Device

- Print the make or brand name of the device.
- Enter the model number.
- Mark each box that describes something your device does.
- If you mark “Device records” or “Device broadcasts/streams,” print the names and relationships of all people who will have access to the recording or streaming, for example:
 - Mary Bunyan, daughter
 - John Minnesota, friend

Conditions and Restrictions

Carefully consider if you want conditions or restrictions about when or how to use the device.

- If you want an electronic monitoring device and do not want any conditions or restrictions on when or how it is used, mark the box stating: “I choose electronic monitoring with no conditions or restrictions.”
- If you choose to have conditions and restrictions about when or how to use the device, mark the box stating: “I choose electronic monitoring with the conditions marked below.”
 - Review the list of conditions and mark the box before each condition you want.
 - If you choose “Turn off the device for the duration of a visit,” mark a box for each type of visitor for whom you want the device turned off. If you choose “Other visitor(s),” print specific titles or names. You may want to say “All visitors” or mark the “All visitors” box.
 - You may choose other conditions or restrictions not specifically listed. If you have conditions or restrictions not on the list, mark the box “Any other condition or restriction on the use of an electronic monitoring device.” Describe the condition or restriction on the line(s).

Understanding

This section has important statements. Read them carefully. If you know what the statement means, continue to the signature section. If you are not sure what a statement means, do not sign the form yet. Ask someone to explain the statement to you first. When you understand what it means, go to the signature section.

Signature

- Print the first and last name of the resident you represent.
- Sign your name and enter the date.
- Give the completed consent form(s) you, your roommate, and/or your roommate's representative signed to your facility (unless you are using the-14 day exception, explained below).
- Unless you are using the 14-day exception, you may begin monitoring after you given all the completed forms to the facility.

Withdrawing Consent for Electronic Monitoring

****Only fill out this section if you give consent and later want to withdraw your consent for electronic monitoring****

After you fill out a consent form and give it to your facility, you can take away your consent at any time. To remove your consent, ask your facility to give you back the form.

- Sign your name and enter the date in the section for withdrawing consent.
- Give the form back to the facility.

Special Instructions for 14-Day Exception to Notifying the Facility about Electronic Monitoring

There are situations when you do **not** need to notify the facility before you start using your electronic monitoring device. If the resident:

1. Fears retaliation by the facility;
2. Did not receive a timely written response from the facility to a concern the resident gave the facility in writing, and that concern leads you to want to use an electronic monitoring device; **or**
3. Already reported concerns to the Minnesota Adult Abuse Reporting Center or the police, and those concerns lead you to want to use an electronic monitoring device.

If one of the three exceptions above applies:

- You can place and use the device for up to 14 days without notifying the facility.
- You **must** still complete the resident representative consent form.
- You **must** timely send a completed copy of the Resident Representative Consent Form to the Office of Ombudsman for Long-Term Care (Ombudsman).
- Keep the original completed Resident Representative Consent Form.

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- If your reason for using the exception is fear of retaliation, you are required to report suspected maltreatment recorded on your device to the Minnesota Adult Abuse Reporting Center (MAARC), the police or both. The MAARC phone number is **1-844-880-1574**.
- If you obtain evidence from the electronic monitoring device that suspected maltreatment occurred, contact the Minnesota Adult Abuse Reporting Center, the police or both. The MAARC phone number is **1-844-880-1574**.
- If you use electronic monitoring for more than 14 days, give the original form to the facility by the 15th day.

Using the 14-Day Exception with a Roommate

If you have a roommate:

- Your roommate or their representative must consent before you begin electronic monitoring.
- When you send a copy of the Resident Representative Consent Form to the Ombudsman, also send a completed copy of the roommate or roommate representative consent form to the Ombudsman.
- If you use electronic monitoring for more than 14 days, give the original forms to the facility by the 15th day.
- If you use the 14-day exception and a new roommate moves in during the 14 days, you must stop using the electronic monitoring device.
- Before using it again, you must obtain a written consent from the new roommate or their representative to use electronic monitoring. Send your new roommate's consent form to the Ombudsman for the remainder of the 14 days. If you use electronic monitoring for more than 14 days, give your consent form and the consent forms of your previous and new roommate to the facility by the 15th day.
- If your new roommate does **not** consent to use electronic monitoring in the room or living unit, you **must** stop electronic monitoring. If you do not remove or disable the device, the facility must remove the electronic monitoring device.

Understanding Related to 14-Day Exception

This section has important statements. If you know what the statements mean, continue to the signature section. If you are not sure what a statement means, do not sign the consent yet. Ask someone to explain the statement to you first. When you understand what it means, continue to the signature section.

Signature on 14-Day Exception

- If you agree to use an electronic monitoring device in your room or living unit and want to use the 14 day exception, sign your name and enter the date.
- Send a copy of the entire completed consent form to the Office of Ombudsman for Long-Term Care. Keep the original form(s) in your possession for up to 14 days.

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- Give the original form(s) to the facility by the 15th day.

Questions about the 14-Day Exception

The Ombudsman provides advocacy services to residents. You may contact the Ombudsman at 651-431-2555 or 1-800-657-3591 to discuss electronic monitoring or the concerns prompting you to place the electronic monitoring device. If you want the Ombudsman to contact you, enter your contact information:

- Write a phone number where they can call you and include the area code.
- Write an email address where they can write to you.
- Write another way they can contact you or someone you trust.

INSTRUCTIONS END HERE. FORM(S) TO BE COMPLETED FOLLOW ON NEXT PAGE.

Resident Representative Consent Form

Identification

Resident: _____

Facility: _____

Room or living unit identification _____

Resident representative: _____

Determining Representative Authority

1. The resident's representative is a:
 - Court-appointed guardian;
 - Person age 18 or older appointed by the resident in a health care power of attorney to make health care decisions on behalf of the resident; or
 - Person who is not an agent of a facility or of a home care provider designated in writing by the resident and maintained in the resident's records on file with the facility.
2. The representative may consent to electronic monitoring on behalf of the resident if:
 - The resident did not affirmatively object to electronic monitoring.
 - a. Date the resident was asked if they consented to electronic monitoring conducted in their room or living unit and did not affirmatively object to electronic monitoring was: _____
 - b. Person(s) present when the resident was asked if they consented to electronic monitoring conducted in their room or living unit:

And

- The resident's medical professional determined that the resident currently lacks the ability to understand and appreciate the nature and consequences of electronic monitoring. (Attach a written determination by the medical professional to this consent form.)

Explanations

- As the resident's representative, I explained the following to the resident:
 - No person may access any video or audio recording created through authorized electronic monitoring without my (the representative's) written consent, except if it is required under another law, a recording or copy of a recording may be disseminated to address the health, safety or welfare concerns of one or more residents.
 - Conditions may be placed on the use of the electronic monitoring device.
 - The resident has the ability to decline any and all recording.
 - If the resident consents to electronic monitoring they can:

- Withdraw consent at anytime
 - Add or remove conditions at anytime
- Type of electronic monitoring device I will use such as a:
 - Device that captures video
 - Device that captures audio
 - Device that records
 - Device that broadcasts/streams
 - If the device streams, who will have access

Electronic Monitoring Device

Make/Brand: _____ Model Number: _____

Type: (check all that apply)

- | | |
|--|--|
| <input type="checkbox"/> Device captures video | <input type="checkbox"/> Device captures audio |
| <input type="checkbox"/> Device records | <input type="checkbox"/> Device broadcasts/streams |

If the device records or streams, who will have access? List the name(s) of who will have access:

Conditions and Restrictions

- I choose electronic monitoring with no conditions or restrictions
- I choose electronic monitoring with the conditions marked below:
 - Prohibit audio recording
 - Prohibit video recording
 - Prohibit broadcasting/streaming of audio or video
 - Turn off the electronic monitoring device or block the visual recording component of the electronic monitoring device for the duration of an exam or procedure by a health care professional
 - Turn off the electronic monitoring device or block the visual recording component of the electronic monitoring device while dressing, bathing or toileting
 - Turn off the electronic monitoring device for the duration of a visit with the following:
 - Spiritual adviser/clergy
 - Ombudsman
 - Attorney
 - Financial planner
 - Intimate partner
 - Other visitor(s): _____
 - All visitors
- Any other condition or restriction on the use of the electronic monitoring device:

Understanding

I understand that:

- I may only begin to use an electronic monitoring device after I complete this consent form **and** submit it to the facility (**NOTE:** See exceptions on page 10 below).
- I can request to stop electronic monitoring at any time.
- I can add or remove conditions or restrictions at any time.
- No person may access any video or audio recording created through authorized electronic monitoring without my written consent. Except as required under other law, a recording or copy of a recording may be disseminated for the purpose of addressing health, safety, or welfare concerns of one or more residents.

Signature

By signing my name below:

I consent to place and use an electronic monitoring device in the room or living unit of

Signature of Resident Representative: _____ Date: _____



- If you are giving this consent form to the facility, the form is complete. You are done and you can give the facility the form.
- **If you are using the 14-day exception, go to the next page and continue.** 

Withdrawing Consent for Electronic Monitoring

After my signature, on the date above, I gave consent to use an electronic monitoring device in the room or living unit of the resident I represent. On the date in this box, I am withdrawing my consent to use an electronic monitoring device in their room or living unit.

Signature of Representative: _____ Date: _____

14 Day Exception to Notify Facility about Electronic Monitoring

Understanding Related to 14-Day Exception

I understand that:

- I can place and use an electronic monitoring device for up to 14 days without giving this consent form to the facility if I timely submit a copy of this completed resident consent form to the Office of Ombudsman for Long-Term Care (Ombudsman) **and** one of the following is true:
 - I reasonably fear retaliation against me by the facility;
 - There has not been a timely written response from the facility to a written communication from me about a concern that prompted me to place an electronic monitoring device; **or**
 - I already submitted a report to the Minnesota Adult Abuse Reporting Center or the police regarding the concerns that prompted me to place an electronic monitoring device.
- If my reason for submitting this form to the Ombudsman is because I fear retaliation, I **must** make a report to the Minnesota Adult Abuse Reporting Center, or the police, or both, if I obtain evidence from the electronic monitoring device that suspected maltreatment occurred.
- If I am using the 14 day exception and the facility discovers the electronic monitoring device, the facility may call the Ombudsman with the type, make and model number of the electronic monitoring device to ensure I placed the device. If I do not sign below to give my consent, the Ombudsman will not disclose the information listed in items #1 and #2 below to the facility, which may result in the facility disabling the electronic monitoring device.

And

- If I use electronic monitoring for more than 14 days, I must give my consent form and the consent forms of any previous and new roommate to the facility by the 15th day.

Signature on 14-Day Exception

By providing my signature below, I give consent to the Ombudsman to disclose to the facility the following information specific about the resident I represent and me:

1. The Ombudsman received this form from me;
2. The type of electronic monitoring device I placed; and
3. My name and source of authority allowing me to sign the Consent form on the resident's behalf.

Signature of Representative: _____ Date: _____

Questions about the 14-Day Exception

The Ombudsman provides confidential advocacy services for residents. Please give us your contact information below if you would like the Ombudsman to contact you about your concerns or electronic monitoring.

Phone number: _____

Email: _____ Other: _____

Send a copy of the entire Consent form, and a copy of this page, to the Office of Ombudsman for Long-Term Care by:

- Email using: e.monitoring.ooltc@state.mn.us
- Fax using: 651-431-7370
- U.S. Postal Service: Office of Ombudsman for Long-Term Care
P.O. Box 64971
St. Paul, MN 55164-0971

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