

HEALTH SCIENCE CENTER HANDBOOK OF OPERATING PROCEDURES

Chapter 11	Patient Privacy Policies	Effective:	April 2003
Section 11.1	General and Oversight Policies	Revised:	February 2006
Policy 11.1.9	Consent for Treatment of a Minor	Responsibility:	Assistant Vice President for Regulatory Affairs & Compliance

CONSENT FOR TREATMENT OF A MINOR

Policy

The Health Science Center will obtain appropriate consent to treat minor patients, according to applicable state and federal law.

Definitions

MINOR: A person under the age of 18 who has not been legally emancipated by a court and who is not and has not been married or who has not had disabilities of minority removed for general purposes.

EMANCIPATED MINORS: Persons under the age of 18 who are legally emancipated by the court and able to provide their own consent for treatment.

MANAGING CONSERVATOR: May be a court-appointed parent, another competent adult, or an agency appointed by the court to provide the place where the minor will live and receive daily care. Consent for invasive procedures may be given by the managing conservator.

NON-PARENT MANAGING CONSERVATOR: Essentially same rights and duties as parent managing conservator(s), including the right to consent to medical, dental, and psychological treatment.

PERSONAL PATIENT REPRESENTATIVE: An individual with decision-making capacity that is identified as the person who has authority to consent to medical treatment on behalf of a patient in need of medical treatment. This includes an individual who has authority by law or by agreement from the individual receiving treatment, to act in the place of the individual. This includes parents, legal guardians or properly appointed agents, such as identified in a "Durable Power of Attorney".

POSSESSORY CONSERVATORSHIP: Court-appointed person(s) with approved possession of the child during specified times and conditions. Rights of the possessory conservator(s) are specified by the court, usually allowing them the right to consent for medical/dental care not involving an invasive procedure. The non-parent possessory conservator has the same right of access to medical, dental, and psychological records as the managing conservator, without regard to whether these rights are specified in the court order.

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**Who May Consent
for Minors**

As a general rule, consent for a minor must be given by either parent, guardian, managing conservator, joint managing conservator, or possessory conservator. For invasive procedures, consent may be given by either parent or guardian. In the case of a divorce, the parent appointed by the court as a managing conservator has the right to consent to medical care for the minor. The parent(s) of a minor is normally expected to, and has the authority to, make medical decisions for the minor.

When the person who otherwise has the authority to consent cannot be contacted, any of the following persons may consent to medical, dental, psychological, and surgical treatment of the minor:

1. A grandparent;
2. An adult brother or sister of the child;
3. An adult aunt or uncle of the child;
4. An educational institution in which the child is enrolled that has received written authorization to consent from a person having the right to consent;
5. An adult who has actual care, control, and possession of the child and has written authorization to consent from a person having the right to consent;
6. A court having jurisdiction of the minor;
7. An adult responsible for the care and control of the minor under the jurisdiction of a juvenile court;
8. A peace officer who has lawfully taken custody of a minor, if the peace officer has reasonable grounds to believe the minor is in need of treatment; or,
9. The Texas Youth Commission may consent to the treatment of a minor committed to it; however, the Health Science Center will attempt to contact the parents prior to providing any treatment.

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This section does not apply to consent for the immunization of a child.

When Minor May Consent

A minor may consent to the furnishing of medical, health, dental, surgical, and psychological care and treatment if the minor:

1. Is on active duty with the armed forces of the United States;
2. Is 16 years of age or older and resides separate and apart from his parents, managing conservator, or guardian, and regardless of duration of such residency is managing his own financial affairs regardless of the source of the income;
3. Consents to the diagnosis and treatment of any infectious, contagious, sexually transmitted disease, or communicable disease which is required by law to be reported;
4. Is unmarried and pregnant, and consents to hospital, medical, or surgical treatment, other than abortion, related to her pregnancy;
5. Consents to examination and treatment for drug or chemical addiction, drug or chemical dependency, or any other condition directly related to drug or chemical use; or,
6. Is unmarried and is the parent of the child and consents to medical, dental, psychological, or surgical treatment of that child.

Consent of the parent(s), managing conservator, or guardian is not necessary to provide care to a minor if one of the above conditions exists; however, a licensed physician, dentist, or psychologist may, with or without the consent of the child who is a patient, advise the parents, managing conservator, or guardian of the child of the treatment given to or needed by the child. The practitioner generally should inform the minor prior to providing services of his/her intention to inform the parent or conservator should treatment occur.

It is the responsibility of the physician, dentist, or psychologist to ensure that the minor understands their plan of care, any risks, and any alternative means of treatment.

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The Health Science Center may rely on the written statement of the minor asserting why the child has the capacity to consent to treatment.

**Consent for
Counseling**

A minor may consent to counseling for sexual abuse, physical or emotional abuse, suicide prevention, or chemical addiction or dependency.

A physician, psychologist, counselor, or social worker licensed or certified by the State of Texas who has reasonable grounds to believe that a child requires counseling for the above conditions, may:

1. Counsel the child without consent of the minor's parents, managing conservator, or guardian;
2. With or without the consent of a minor who is a client, advise the minor's parents or, if applicable, managing conservator or guardian of the minor of the treatment given to or needed by the minor; and,
3. Rely on the written statement of the minor containing the grounds on which the minor has capacity to consent to his/her own treatment.

Unless consent is obtained as otherwise allowed by law, the above listed professionals may not counsel a child if consent is refused by court order.

If the minor requests confidentiality, and the health care provider has agreed, the provider should not write or call the parent or conservator to discuss any related issues such as appointments, bills, or test results. A non-consenting parent or conservator is not obligated to compensate for services, which were provided to the minor confidentially.

The law permits, but does not require a physician to provide confidential care to a minor. A physician may decide, with or without consent of the minor, to advise the parent or conservator of the treatment given or needed, even if the minor is allowed to consent to his own treatment, with the exception of family planning services. The practitioner

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Abuse or Neglect

Except as outlined in this section, a physician, dentist, or psychologist having reasonable grounds to believe that a child's physical or mental condition has been adversely affected by abuse or neglect, may examine the child without consent of the child, the child's parents, or other person authorized to consent to treatment as noted in this policy.

An examination may include x-rays, blood tests, photographs, and penetration of tissue necessary to accomplish those tests.

Unless consent is obtained as otherwise allowed by law and this policy, a physician, dentist, or psychologist may not examine a child who is 16 years of age or older who refuses consent or for whom consent is prohibited by court order.
