Section 9 Clinical Policies Subject 9.3 Patient Rights **Policy 9.3.18 Consent for Treatment of a Minor**	04/01/94-Originated 09/11/07-Reviewed w/changes -Reviewed w/o changes Hospital Administration-Author

Consent for Treatment of a Minor

Definitions

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 only by the managing conservator.

Minor is defined as an individual under the age of 18 and who has not been legally emancipated by a court and is

- not legally or previously married;
- not serving in the armed forces;
- not presently an offender in the Texas Department of Criminal Justice or other correctional facility; or,
- not at least 16 years old and living away from home and managing their own financial affairs.

Non-parent Managing Conservator has essentially the same rights and duties as parent managing conservator(s), including the right to consent to medical, psychiatric, psychological, dental, and surgical treatment.

Parent is defined as the mother, the minor's legitimate father, a man adjudicated to be the biological father, or an adoptive mother or father, but not a parent with whom the parent-child relationship has been legally terminated.

Possessory Conservatorship is one or more 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 (e.g., a grandparent appointed as a 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.

Legal Guardian: an individual or public agency appointed for a temporary, fixed, or indefinite term only by order of the court located in the county in which the patient resides

Definitions, continued

Consent for a minor is given by either a:

- parent
- guardian
- managing conservator
- joint managing conservator
- possessory conservator.

However, for invasive procedures, consent may be given by either parent or guardian. In the case of a divorce, only the parent appointed by the court as the managing conservator has the right to consent to medical care for the minor.

Policy

UTMB ensures that State and Federal laws pertaining to consent for treatment of a minor are observed to protect the rights of patients.

When A Minor May Consent

A minor may consent to medical, surgical, psychological, and dental care by a licensed physician or dentist if the minor:

- is on active duty with the armed services of the United States of America;
- is 16 years of age or older and resides separate and apart from his or her parents, managing conservator, or guardian, with or without the consent of the parents, managing conservator, or guardian and regardless of the duration of such residence; and, is managing his or her own financial affairs, regardless of the source of the income;
- consents to the diagnosis and treatment of any infectious, contagious, sexually transmitted diseases, or communicable disease which is required by law or a rule to be reported by the licensed physician or dentist to a local health officer or the Texas

Department of Health;

- is unmarried and pregnant, and consents to hospital, medical, or surgical treatment, other than abortion, related to her pregnancy;
- consent 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
- is unmarried and has actual custody of his or her biological child and consents to the medical, dental, psychological, or surgical treatment of that child.

When Minor May Consent (cont'd)

Consent of the parents, managing conservator, or guardian of a child is not necessary in order to authorize hospital, medical, surgical, or dental care under this section.

It is the physician's responsibility to ensure that the patient or legal guardian understands fully their plan of care, any inherent risks, and any alternative means of treatment.
A physician, psychologist, hospital or medical facility may rely on the written statement of the child asserting why the child has the capacity to consent to the child's treatment (e.g., military, 16 years and financially independent, etc.)

NOTE: Immunizations represent a special circumstance addressed in Policy 9.3.20, *Informed Consent for Immunization of a Minor*.

In the Absence of Parent or Guardian

When the person having the right to consent as provided by law cannot be reasonably contacted (see Policy 9.3.3, *Telephone Consent for Treatment/Procedures*) and has not provided notice that the following may not consent, consent may be given by the following people, in order of priority:

1. a grandparent
2. an adult brother or sister
3. an adult aunt or uncle
4. an educational institution in which the minor is enrolled that has written authorization to consent from the person having the right to consent
6. an adult who has actual care control, and possession of the minor and has written authorization to consent from a person having the right to consent
7. a court having jurisdiction of the child over a suit affecting the parent-child relationship of which the minor is the subject any adult responsible for the actual care, control, and possession of a minor under the jurisdiction of a juvenile court or committed by a juvenile court to the care of an agency of the state or county

The Texas Youth Commission may consent to the medical, dental, psychological, and surgical treatment of a minor committed to it when the person having the right to consent has been contacted and that person has not given actual notice to the contrary.

Required Consent Information

The consent form signed by an adult consenting to medical treatment or a medical procedure on behalf of a minor must contain the following information:

- the name of the minor
- the name of one or both parents, if known, and the name of the managing conservator or guardian of the person, if either has been appointed
- the name of the person giving consent and their relationship to the minor child
- a statement of the nature of the medical treatment to be given
- the specified risks of any treatment to be provided or procedure to be performed that is listed on the *Texas Medical Disclosure Panel's List of Procedures Requiring Full Disclosure List of Risks*
- the risks of any proposed procedure not included on the *Texas Medical Disclosure Panel's List of Procedures Requiring Full Disclosure List of Risks* that a reasonable person would consider material in the decision of whether or not to consent
- the date on which the treatment is to begin
- any other information required on a consent form for a procedure/ treatment to be performed on, or administered to an adult

Consent for Emergencies

Consent is not necessary for emergencies in which prompt attention is required for preservation of life and limb. Effort to contact the parent/conservator should be made by the appropriate personnel while emergency treatment progresses. Refer to Policy 9.1.21, *Consent for Emergency Medical Conditions, including Women in Labor.*

Consent to 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 has been sexually, physically, or emotionally abused, is contemplating suicide, or is suffering from a chemical or drug addiction or dependency may:
  1) counsel the child without consent of the minor's parents, managing conservator, or guardian.

Consent to Counseling

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 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 the minor's own treatment.

- Unless consent is obtained as otherwise allowed by law, a physician, psychologist, counselor, or social worker licensed or certified by the State of Texas **may not** counsel a child if consent is refused by an order of a court.

Note: A parent, or, if applicable, managing conservator or guardian, who has not consented to counseling treatment of the child is not obligated to compensate a physician, psychologist, counselor, or social worker for counseling services rendered under this section.

Confidentiality

If the minor has requested 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/ conservator is not obligated to compensate for services that were provided to the minor confidentially.

The parent/conservator may prefer to consent for some (or all) care in advance, instead of at the time of each specific visit. 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.[1] However, if it is the practice of the physician to inform the parent or conservator about

[1]Note: These requirements govern confidentiality and consent for general medical services. Family planning agencies receiving federal funding from Titles V, X, and XX for family planning services and providers billing Medicaid using family planning codes must provide confidential family planning services in accordance with those requirements.

Confidentiality (cont'd)

care given to a minor, it is considered ethical to inform the minor of this practice prior to taking a history. The minor may choose to go, or be referred, to a different provider who will provide services confidentially.

References

Institutional Handbook of Operating Procedures, Policy 9.3.20, *Informed Consent for Immunization of a Minor*

Letter from Texas Department of Health to: Texas Health Steps Provider, dated September 21, 1998.

Texas Family Code, Chapter 32

LEGAL CONSENT REQUIREMENTS FOR TREATMENT OF MINORS IN VARIOUS CIRCUMSTANCES

If Patient is:	Parental Consent Required?	Parents Responsible for Cost?**	Minor's Consent Sufficient?	May Physicians Inform Parents of Treatment Without Minor's Consent
Under 18, unmarried no special circumstances.	**YES**	**YES**	**NO**	**YES**
Under 18, married or previously married.	**NO**	**NO**	**YES**	**YES**
Under 18, emergency and parents not available.	**NO**	**YES**	**N/A**	**YES**
Emancipated Minor (Decree issued by court)	**NO**	**NO**	**YES**	**NO**
Self-Sufficient Minor (16 or older not living at home, manages own financial affairs)	**NO**	**NO**	**YES**	**YES**
Under 18, unmarried and pregnant, care related to hospital, medical, or surgical treatment of pregnancy other than abortion.	**NO**	**YES**	**YES**	**YES**
Under 18, active duty with armed forces.	**NO**	**NO**	**YES**	**YES**
Under 18, care for infectious, contagious or communicable disease, including all sexually transmitted diseases, reportable to the TDH,	**NO**	**YES**	**YES**	**YES**
Under 18, care for drug or chemical addiction, dependency or condition directly related to drug or chemical use.	**NO**	**YES**	**YES**	**YES**
Under 18, counseling and/or treatment for sexual, emotional, or physical abuse, suicide prevention, chemical addition, dependency or abuse.	**NO**	**NO**	**YES**	**Contact Legal Affairs**
Under 18, unmarried and have actual custody of the child's biological child, when consent is sought for the minor's child.	**NO**	**NO**	**YES**	**NO**

** A non-consenting parent/conservator is not obligated to compensate for services which were provided to the minor confidentially.

For court orders or affidavits related to abortions, contact the Department of Legal Affairs.
Information obtained from Texas Family Code, Chapter 32