

Institutional Handbook of Operating Procedures
Policy 09.03.03

Section: Clinical Policies	Responsible Vice President: Senior Vice President & General Counsel
Subject: Patients' Rights	Responsible Entity: Legal Affairs

I. Title

Telephone Consent for Treatment/Procedures

II. Policy

Telephone consent may be obtained when a surrogate decision-maker (or parent or legal guardian, in the case of a minor patient) is not physically present and it is not possible to obtain a signed consent by fax or email.

Telephone consent should only be used as a “last resort” and is not recommended as a routine practice.

III. Procedures

Consent (or refusal to provide consent) for medical treatment that is not made in person must be recorded in the patient’s medical record, signed by UTMB’s staff member receiving the consent, and then countersigned in the patient’s medical record or on a consent form by the individual who provided (or refused) consent as soon as possible.

If it is necessary to obtain telephone consent, the following procedure should be followed:

1. Once telephone contact is first made, the physician should inform the individual that the call is being recorded (if applicable) and identify any third parties (preferably another health care professional, such as a physician or nurse) who is also participating. The physician should then ask the individual who will potentially provide consent:
 - a. to identify himself/herself and describe his/her relationship to the patient in order to verify his/her authority to provide consent;
 - b. verify that he/she is at least 18 years old or is an emancipated minor); and
 - c. whether he/she understands the nature and purpose of the phone call discussing consent for treatment, and the consequence(s) of their decision regarding whether the treatment may be provided.

2. The patient's condition, treatment plan, complications, risks and benefits of the treatment, as well as any alternative treatment should be outlined and all questions answered.
 - a. To the extent reasonably possible, telephone consent should be substantively the same as the written consent (i.e., the person providing consent should be read the same information as if they had the consent form in front of them, including a discussion about the potential benefits, risks and side effects of the patient’s proposed care, treatment, and services, as well as any reasonable alternatives (including not receiving the proposed care); the likelihood of the patient achieving his or her goals; and any potential problems that might occur during recuperation.)

 - b. It should be explained to the individual providing consent that any consent decision should be made in accordance with what the patient wanted, not what the individual

giving consent may want (e.g., ask the if the patient had ever discussed a similar treatment and if so, what treatment the patient had requested, along with any other information that might help verify when the patient made the statement).

3. Once all questions have been answered, there must be a specific request for consent to the treatment or procedure.
4. Consent (or refusal) should be reduced to writing in the patient's medical record and signed by the staff member(s) receiving consent. An informed consent form should also be signed by the person providing consent on behalf of the patient if possible, and the form then scanned into the patient's medical record thereafter.

IV. Relevant Federal and State Statutes

[Texas Government Code, Chapter 313](#), *Consent to Medical Treatment Act*

V. Related UTMB Policies and Procedures

[IHOP - 09.03.16 - Refusal of Consent/Treatment](#)

[IHOP - 09.03.17 - Consent – Overview and Basic Requirements](#)

[IHOP - 09.03.18 - Consent - Treatment of a Minor](#)

VI. Dates Approved or Amended

<i>Originated: 11/01/1995</i>	
<i>Reviewed with Changes</i>	<i>Reviewed without Changes</i>
03/28/2014	04/14/2017
	06/11/2020

VII. Contact Information

Legal Affairs
(409) 747-8738