



11.1.9 Consent for Treatment of Minor

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| Chapter 11 - Patient Privacy | Original Effective Date: April 2003 |
| Section: 11.1 General and Oversight Policies | Date Last Reviewed: January 2023 |
| Responsible Entity: Chief Compliance and Privacy Officer | Date Last Revised: January 2023 |

I. Purpose

UT Health San Antonio will obtain appropriate consent to treat minor patients according to applicable state and federal law.

II. Scope

This policy applies to all faculty, staff, students, residents, healthcare providers, researchers, contractors, or any other individual (collectively, Workforce Member, including employees and non-employees) who has direct or indirect access to patient protected health information (PHI) created, held or maintained by any UT Health San Antonio controlled affiliate, including, not limited to its clinics, hospitals, and research operations.

III. Policy

A. Who May Consent

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.

1. Medical, Dental, Psychological and Surgical Treatment

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:

- a. A grandparent;

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- b. An adult brother or sister of the minor;
- c. An adult aunt or uncle of the minor;
- d. An educational institution in which the minor is enrolled that has received written authorization to consent from a person having the right to consent;
- e. 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;
- f. A court having jurisdiction of the minor;
- g. An adult responsible for the care and control of the minor under the jurisdiction of a juvenile court;
- h. 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
- i. The Texas Youth Commission may consent to the treatment of a minor committed to it; however, UT Health San Antonio will attempt to contact the parents prior to providing any treatment.

2. Immunizations

The authority to consent for the immunization of a minor is to be handled separately and in accordance with the [Texas Family Code, Ch. 32, Subchapter B. Immunization, \(Sec. 32.101\)](#).

- a. The following persons may consent to immunization of a minor:
 - i. A guardian of the child; and
 - ii. A person authorized under the law of another state or court order to consent for the child.
- b. If the persons listed above are not available and the authority to consent is not denied under Subsection (c) of the [Texas Family Code, Ch. 32, Subchapter B. Immunization, \(Sec. 32.101\)](#), consent for the immunization of a child may be given by:
 - i. A grandparent of the minor;
 - ii. An adult brother or sister of the minor;
 - iii. An adult aunt or uncle of the minor;
 - iv. A stepparent of the minor;
 - v. An educational institution in which the minor is enrolled that has written authorization to consent for the minor from a parent,

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- managing conservator, guardian, or other person who under the law of another state or a court order may consent for the minor;
- vi. Another adult who has actual care, control and possession of the minor and has written authorization to consent for the minor from a parent, managing conservator, guardian, or other person who under the law of another state or a court order may consent for the minor;
 - vii. A court having jurisdiction of a suit affecting the parent-child relationship of the minor is the subject;
 - viii. An adult having actual care, control and possession of the minor under an order of a juvenile court or by commitment by a juvenile court to the care of an agency of the state or county; or
 - ix. An adult having actual care, control and possession of the minor as the minor's primary caregiver.
- c. A person otherwise authorized to consent under Subsection (a) of the [Texas Family Code, Ch. 32, Subchapter B. Immunization \(Sec. 32.101\)](#) may not consent for the minor if the person has actual knowledge that a parent, managing conservator, guardian of the minor, or other person who under the law of another state or court order may consent for the minor:
 - i. has expressly refused to give consent to the immunization;
 - ii. has been told not to consent for the minor; or
 - iii. has withdrawn a prior written authorization for the person to consent.
 - d. The Texas Juvenile Justice Department may consent to the immunization of a minor committed to it if a parent, managing conservator, or guardian of the minor or other person who, under the law of another state or court order, may consent for the minor has been contacted and:
 - i. refuses to consent; and
 - ii. does not expressly deny to the department the authority to consent for the minor.
 - e. A person who consents under this section shall provide the health care provider with sufficient and accurate health history and other information about the minor for whom the consent is given and, if necessary, sufficient and accurate health history and information about the minor's family to enable the person who may consent to the minor's immunization and the health provider to determine adequately the risks and benefits inherent in the proposed immunization and to determine whether immunization is advisable.

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B. When a Minor May Consent

1. Medical, Dental, Psychological and Surgical Treatment

- a. A minor may consent to the furnishing of medical, health, dental, surgical, and psychological care and treatment if the minor:
 - i. Is on active duty with the armed forces of the United States;
 - ii. 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;
 - iii. Consents to the diagnosis and treatment of any infectious, contagious, sexually transmitted disease, or communicable disease which is required by law to be reported;
 - iv. Is unmarried and pregnant, and consents to hospital, medical, or surgical treatment, other than abortion, related to her pregnancy;
 - v. 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,
 - vi. Is unmarried and is the parent of the minor and consents to medical, dental, psychological, or surgical treatment of that minor.
 - vii. Is serving a term of confinement in a facility operated by or under contract with the Texas Department of Criminal Justice, unless the treatment would constitute a prohibited practice under *Section 164.052(a)(19), Occupations Code*.
- b. 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 minor who is a patient, advise the parents, managing conservator, or guardian of the minor of the treatment given to or needed by the minor. The practitioner generally should inform the minor prior to providing services of their intention to inform the parent or conservator should treatment occur.
- c. 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.
- d. UT Health San Antonio may rely on a written statement of the minor asserting why the minor had the capacity to consent to treatment.

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2. Immunizations

- a. A minor may consent to immunization if:
 - i. The child is pregnant or is the parent of a child and has actual custody of the child; and
 - ii. The Centers for Disease Control and Prevention recommend or authorize the initial dose of an immunization for that disease to be administered before seven years of age.
- b. UT Health San Antonio may rely on a written statement of the minor asserting why the minor had the capacity to consent to immunization.
- c. To the extent of any conflict between this section and section III.B.1 of this policy, this section controls.

C. Consent for Counseling

1. A minor may consent to counseling for sexual abuse, physical or emotional abuse, suicide prevention, or chemical addiction or dependency.
2. A physician, psychologist, counselor, or social worker licensed or certified by the State of Texas who has reasonable grounds to believe that a minor requires counseling for the above conditions, may;
 - a. Counsel the minor without consent of the minor's parents, managing conservator, or guardian;
 - b. 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,
 - c. Rely on the written statement of the minor containing the grounds on which the minor has capacity to consent to their own treatment.
3. Unless consent is obtained as otherwise allowed by law, the above listed professionals may not counsel a minor if consent is refused by court order.
4. 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.
5. The law permits but does not require a physician to provide confidential care to a minor. A physician may decide, with or without consent for 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 generally should inform the minor prior

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to providing services of their intention to inform the parent or conservator should treatment occur.

D. Abuse or Neglect

1. Except as outlined in this section, a physician, dentist, or psychologist having reasonable grounds to believe that a minor's physical or mental condition has been adversely affected by abuse or neglect, may examine the child without consent of the minor, the minor's parents, or other person authorized to consent to treatment as noted in this Policy.
2. An examination may include x-rays, blood tests, photographs, and penetration of tissue necessary to accomplish those tests.
3. Unless consent is obtained as otherwise allowed by law and this policy, a physician, dentist, or psychologist may not examine a minor who is 16 years of age or older who refuses consent or for whom consent is prohibited by court order.

IV. Definitions

Terms used in this document, have the meaning set forth in the [Patient Privacy Policies Glossary](#) unless a different meaning is required by context.

V. Related References

For questions regarding this policy, contact the Privacy Program Director at 210-567-2014 or compliance@uthscsa.edu.

VI. Review and Approval History

- A. The approving authority of this policy is the University Executive Committee.
- B. The review frequency cycle is set for three years following the last review date, a time period that is not mandated by regulatory, accreditation, or other authority.

| Effective Date | Action Taken | Approved By | Date Approved |
|-----------------------|------------------------------------|--------------------|----------------------|
| 04/2003 | Policy Origination | | |
| 02/2006 | Policy Revision | | |
| 03/2013 | Policy Revision | | |
| 01/2023 | Policy Review, discretionary edits | ICPO | 01/06/23 |