



11.1.7 Patient Consent and Authorization for Treatment

Chapter 11 - Patient Privacy	Original Effective Date: April 2003
Section: 11.1 General 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 patient or patient representative consent prior to providing treatment in accordance with 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. Consent to Treat

1. Prior to care being rendered, a consent form specific to the individual school, department, division, and/or procedure will be completed and signed by the patient or individual authorized to consent on behalf of the patient. This consent form is to be considered valid for the duration of the course of treatment.
2. The duty to obtain the consent of the patient for medical procedures rests with the physician, dentist or other authorized clinicians. The consent form serves as written confirmation of the patient's consent. Workforce members may give the form to the patient for signature and assist the patient with understanding the procedure or treatment, but staff are not authorized to explain the procedure in lieu of the physician, dentist or other authorized clinician. A consent form is not a substitution for discussion of the procedure and actual consent between the physician, dentist or other authorized clinician and the patient.
3. If the patient, or authorized individual, communicates to the workforce member that they do not understand the nature of the procedure or treatment, has additional

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questions, or second thoughts, signature should not be obtained. The workforce member should immediately notify the physician, dentist or other authorized clinician that the form has not been signed and additional information of further explanation is required.

4. The consent form may not be signed by any patient who has received a sedative, unless the physician, dentist or other authorized clinician had documented in the progress notes that the patient was informed of the procedure prior to the sedation and was capable of fully understanding the procedure.
5. If the procedure is completed at an affiliated organization, the organization's consent form may be used in lieu of UT Health San Antonio forms.

B. Incapacitated Adults

1. If an adult is comatose, incapacitated, or otherwise mentally or physically incapable of communication and the patient does not have a legal guardian or has not designated a durable power of attorney for health care, an adult from the following list, in the order of priority as listed, may consent to treatment on behalf of the patient.
 - a. The patient's spouse;
 - b. An adult child of the patient who has the waiver and consent of all other qualified adult children of the patient to act as sole decision-maker;
 - c. A majority of the patient's reasonably available adult children;
 - d. The patient's parents;
 - e. The individual clearly identified to act for the patient, by the patient, before the patient became incapacitated; or,
 - f. The patient's nearest living relative.
2. The individual consenting on behalf of the patient must have decision making capacity; be available to serve as a patient representative after a reasonably diligent inquiry; and be willing to consent to medical treatment on behalf of the patient. A patient representative cannot consent to the appointment of another patient representative.

C. Consent by a Personal Representative

1. If an adult patient is incapacitated or otherwise mentally or physically incapable of communication and, according to reasonable medical judgement, is in need of medical treatment, the attending physician, dentist or other authorized clinician will document the patient's incapacity in the patient's health record.
2. The physician, dentist or other authorized clinician will make a reasonable, diligent effort to contact, or cause to be contacted, the individuals eligible to serve as patient representatives. Efforts to contact those individuals will be included in the patient's health record.

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3. If a patient's personal representative consents by telephone, the attending physician, dentist or other authorized clinician shall record in the progress notes the date and time consent was given and by whom, including relationship to the patient. The patient representative will countersign the consent as soon as possible.

D. Consent for Minors

1. The parent(s) of a minor is normally expected to and has the authority to make medical decisions for a minor.
2. When the individual who otherwise has the authority to consent cannot be contacted, any of the following individuals, listed in order of priority, may consent to medical treatment of the minor:
 - a. A grandparent;
 - b. An adult brother or sister;
 - c. An adult aunt or uncle;
 - d. Any court having jurisdiction of the minor; or,
 - e. Any adult responsible for the care and control of the minor under the jurisdiction of a juvenile court.
3. 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.
4. See HOP policy [11.1.9 Consent for Treatment of a Minor](#) for specific guidance.

E. Abuse, Neglect, Endangerment Situations

UT Health San Antonio workforce members are not obligated to recognize an individual as the patient's representative if they believe it is not in the best interest of the patient, and one of the following conditions exist:

1. The patient has been or may be subjected to domestic violence, abuse, or neglect by a parent, guardian or patient representative; or,
2. Treating such a person as the patient's representative could endanger the patient.

F. Consent Forms

1. The consent form should include the name of the patient; the name of the person providing consent, such as a personal representative, or conservator or guardian for a minor, and their relationship to the patient, UT Health San Antonio's name, the name of the school, division, and/or program name to adequately identify where services are to be rendered; the name of the physician, dentist or other authorized clinician, who will conduct or supervise the treatment; a statement of the nature of the treatment to be given; the date of the treatment is to begin; and, possible risks and benefits of the treatment.

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2. The consent form should not contain blanket statements allowing disclosure of the patient's protected health information (PHI) for any purposes otherwise not allowed by UT Health San Antonio policy or by law.

G. Unable to Obtain Consent

If the patient is competent and able to verbalize consent but is unable to sign a consent form due to impaired vision, physical impairments, or illiteracy, the workforce member will write the words "Patient Unable to Sign" and document the reason for the inability to sign on the consent form. A family member or other workforce member will sign the form as a witness.

H. Effective Communication

On a case by case basis, a translator will be provided for patients who do not speak English or patients who are deaf. A workforce member or patient's relative or friend may translate. The name and relationship of anyone translating will be noted on the consent form. Patients who do not speak English or who are deaf may still sign the form after having had it explained to them in their native language, including sign language. A family member or other workforce member will sign the form as a witness.

I. Emergency Situations

If a health care provider determines that the patient needs emergency treatment, consent is implied. The circumstances surrounding the treatment shall be specifically documented in the medical record. The guardian shall be notified as soon as possible.

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 at compliance@uthscsa.edu.

*Health Insurance Portability and Accountability Act (HIPAA) of 1996
HIPAA Privacy Rule, 45 CFR Part 160 and Subparts A and E of Part 164
HIPAA Security Rule, 45 CFR Part 160 and Subparts A and C of Part 164*

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		
01/2023	Policy Review, discretionary edits	ICPO	01/06/2023