

UC Riverside, School of Medicine Policies and Procedures

Policy Title: Confidentiality and Consent Requirements for Treatment of Minors

Policy Number: 950-02-018

Responsible Officer:	Chief Compliance and Privacy Officer
Responsible Office:	Compliance
Origination Date:	04/18/2016
Date of Revision:	4/2019
Scope:	UCR SOM/ UCR Health

I. Policy Summary

UCR Health providers will respond appropriately to minors' requests to keep certain categories of their Protected Health Information (PHI) confidential and to exercise the rights granted to patients by the Health Insurance Portability and Accountability Act (HIPAA) in accordance with city, state, and federal laws and regulations.

II. Definitions

Intimate Partner Violence – intentional or reckless infliction of bodily harm that is perpetrated by a person with whom the minor has or has had a sexual, dating, or spousal relationship.

III. Policy

This Policy describes when, and under what circumstances, UCR Health providers must maintain the confidentiality of a minor's PHI when it is requested by the minor's personal representative, such as a parent, and to ensure that staff members are knowledgeable that information and records related to sensitive services is strictly confidential and shall not be released to any third party without the consent of the patient involved, including minors.

IV. Responsibility

All medical office staff.

V. Procedures

A. Minor's right to consent to certain treatment. The following services will be provided to a minor who is over the age of twelve (12), at their consent, independently from their personal representative. (Parental consent is not required).

1. HIV/AIDS testing and treatment

A minor will have the right to consent for or refuse HIV testing based on their capacity to understand, without regard to chronological age, what an HIV antibody test actually tests for, the implications and consequences of being HIV infected, and why they are at risk for HIV. Upon request, a minor will receive the anonymous testing and treatment for HIV / AIDS when their physician determines the patient has this capacity to understand the above stated information. If a minor requests and receives confidential testing and

treatment for HIV/AIDS (without parental notification or consent), and other than is required for public health reporting, the minor's HIV/AIDS-related PHI will not be released or made available without first obtaining written authorization from the minor.

2. Testing and treatment for venereal and sexually transmissible infections
Minors 12 and older may consent to STI-related diagnosis and treatment services, such as testing for and treatment of chlamydia, gonorrhea, and syphilis. This will include prevention services for vaccines that prevent sexually-transmitted infections.
3. Pregnancy and pre-natal care
Care for the prevention or treatment of pregnancy including contraception will be provided confidentially and without parental consent. Sterilization for minors of any age will not be performed unless legal exceptions apply (see section C). The minor will also have the right to consent to pregnancy related services including genetic counseling and testing services, which under the law must be offered to all pregnant women.
4. Abortion
Minors have the right to have an abortion without the need for parental consent or the need to notify any other adult.
5. Chemical dependency services
Care related to the diagnosis or treatment of drug or alcohol-related problems will be provided, however, methadone or LAAM (levomethadyl acetate) treatment will not be provided. The treating physician may contact the parents or guardian and give them an opportunity to participate unless the physician believes such contact would be inappropriate.
6. Mental health outpatient services
Mental Health treatment or counseling on an outpatient basis may be provided with minor consent if the minor is twelve years or older and is mature enough to participate intelligently and/or the minor is an alleged victim of incest or child abuse or there is danger of serious physical or mental harm to the minor or others without such treatment.

B. Abuse/Sexual Assault

Care related to the diagnosis or treatment of abuse or sexual assault may be provided for a minor of any age without parental consent, if the health care provider reasonably believes the minor has been or is subject to domestic violence, abuse, and/or neglect by the minor's personal representative and that keeping the minor's PHI related to the abuse confidential is in the best interests of the minor, the health care provider may refuse to release or provide access to the minor's abuse-related PHI to the minor's personal representative.

C. Treatment Related to Intimate Partner Violence

A minor age 12 or older who states that they are injured as a result of domestic partner violence may consent to medical care including diagnosis, treatment, and the collection of medical evidence related to the stated incident of intimate partner violence. Where the health care practitioner reasonably believes that an injury is the result of assaultive / abusive conduct or the result of a gunshot wound, the practitioner shall make appropriate reporting as required under Cal. Penal Code section 11160 and shall both:

1. Inform the minor that the report is being made and
2. Attempt to contact the minor's parent or guardian and inform them of the report and shall document those notification attempts. If the health care practitioner reasonably believes that the minor's parents or guardian committed the intimate partner violence then such a report is not required.

D. Minor Consent Based on Status

1. Minors satisfying the following conditions may consent for all of their own care:
 - a. Married, separated or divorced minors – Family Code 7002 and 7050 (e) (1)
 - b. Minors on active duty with the U.S. Armed Forces – Family Code 7002 and 7050 (e) (1)
 - c. Minors emancipated by a court order – Family Code 7002 120.
 - d. Self-sufficient minors (minors fifteen years or older living away from home and managing their own financial affairs) (Family Code 6922) these minors may be asked to complete produce evidence which provides information demonstrating that they fall within the statute.
2. When a minor seeks medical treatment for which the minor has the legal power to consent, for example treatment for the prevention and care of pregnancy, and the minor's parents have no knowledge of the proposed care, UCR Health provider will generally discuss with the minor the advantages of disclosing the proposed treatment to the minor's parents or guardian before services are rendered. The physician and minor should reach an understanding concerning:
 - a. The extent to which the parents or guardians will be informed.
 - b. Who is responsible for paying the cost of the medical treatment and where billing should be directed.
 - c. To whom the physician can disclose the medical information that is necessary to obtain payment for the treatment.
3. Minors should understand that it may be impossible to keep the information from their parents if the minor expects the parent's health plan to pay for the services.

4. Any questions about whether a minor's PHI is confidential, or whether a health care provider should allow access to it or make it available to the minor's personal representative should be directed to the Chief Compliance and Privacy Officer.

VI. Forms/Attachments

Attachment A: Descriptions of Parent and or Responsible Party for Minor Consent
Attachment B: Consent Requirements for Medical Treatment of Minors

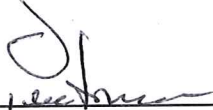
VII. Related Information

Understanding Confidentiality and Minor Consent in California
http://publichealth.lacounty.gov/std/docs/Adolescent_Confidentiality_Toolkit.pdf
Family Code 6925
Health & Safety Code 125000
Family Court 121020
[AB 3189](#) (Family Code 6930)
Family Code 6928

VIII. Revision History: New

Approval(s):

APPROVED BY CHAIR OF COMPLIANCE COMMITTEE (04/24/19)



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05-13-19
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Attachment A

Descriptions of Parent and or Responsible Party for Minor Consent

Adoptive Parents

If a child has been legally adopted, the adoptive parents have the same authority to consent to medical treatment as do biological parents.

Minors Born to Unmarried Parents

The biological mother has the legal right to make medical treatment decisions for a minor whether or not she is married. If there is no question of the identity of the natural father, then he also has the legal right to make medical treatment decisions for the minor. In cases of uncertainty about biological father's identity or if the biological parents disagree about the appropriate treatment, court resolution may be necessary.

Minors Born to Minor Parents

A minor natural parent has the legal right to make medical treatment decisions for his or her minor child. It is important to make sure that the minor parent understands the nature of the treatment and the possible consequences of the treatment to give informed consent.

Parents Who Disagree

For most common medical procedures, it is sufficient to obtain the consent of one parent (in an intact married couple) however, if the treatment poses a significant risk to the minor, or implicates special personal or religious concerns for example, a blood transfusion if one or both of the parents are Jehovah's Witness, the consent of both parents would be advisable. If the parents disagree about the advisability of the procedure, and the dispute can't be resolved. Treatment should be held pending resolution of the dispute. It may be necessary for a juvenile court to intervene.

Parents Who Have Divorced

If the parents have joint legal custody, the parent must share the right to make health care decisions for their child. This means that either parent acting alone may consent to a recommended medical procedure unless the court issuing the order of joint legal custody has specified that the consent of both parents is required for certain or all medical decisions. (Family Code 3003 and 3083) If the parents with joint legal custody are unable to agree about the treatment that should be provided treatment should be held pending resolution of the dispute. It may be necessary to obtain a court order resolving the matter before treatment is provided, unless there is an emergency.

If a parent has sole legal custody of the child, that parent has the right to make health care decisions for the child. It should be noted that a court may award joint legal custody without awarding joint physical custody. Therefore, the fact that a child lives with one parent only does not mean that the other parent does not have the legal right to make a medical decision for the child. A parent with legal custody cannot be denied access to his or her child's medical records and information merely because the parent is not the child's

custodial parent. (Family Code 3025)

If a custodial parent has been diagnosed with a terminal condition, as evidenced by a physician's declaration, a court may appoint the custodial parent a person nominated by the custodial parent as joint guardians of the minor. However, such an appointment cannot be made over the objection of a non-custodial parent unless a finding has been made that the non-custodial parent's custody would be detrimental to the minor. (Probate Code 1419.5 and 2105)

Stepparents

A stepparent does not have the authority to give legal consent to medical treatment for a minor stepchild unless the stepparent has legally adopted the child, has written authorization from the natural parent, or provides a valid Caregiver's Authorization Affidavit.

Registered Domestic Partners (RDP)

RDPs have the same rights as married spouses, however, a RDP has no right to make health care decisions for the child of their partner unless the RDP has adopted the child, provides a signed third-party authorization from a parent of the child, or provides a Caregiver's Authorization affidavit

Parents with Children under the Jurisdiction of the Juvenile Court but Living at Home

It is usually assumed that parents retain the right to make health care decisions for their children even when the court has taken jurisdiction due to child abuse or neglect unless the court specifically order's otherwise.

Legal Guardians

A legal guardian has full authority to consent to medical treatment for a minor. However, if the minor is fourteen years of age or older, no surgery may be performed upon the minor without either the consent of both the minor and the guardian or a court order specifically authorizing the treatment. However, if the guardian determines in good faith, based upon medical advice that there is an emergency in which the minor faces loss of life or serious bodily injury, if the surgery is not performed, the guardian's consent alone is sufficient for the surgery. (Probate Code 2353). In addition, a guardian cannot authorize sterilization, convulsive treatments, experimental things or placement in a mental health treatment facility over the minor's objections. (Probate Code 2356)

Caregivers

Certain categories of caregivers have the same rights to authorize medical or dental care as a guardian under the Probate Code 2353. The caregiver must meet the requirements of Family Code 6550 and complete and sign an affidavit form as set out in Family Code 6552. A caregiver who is a relative may consent to mental health treatment (subject to the limitations imposed on a conservator. (Probate Code 2356 and Family Code 6550)

Foster Parents

A person who is licensed to provide residential foster care to a child may legally give consent to ordinary medical and dental treatment for the child, including, but not limited to immunizations, physical examinations and x-rays. A foster parent may not give consent for other types of medical or dental treatments, e.g. surgical or experimental/controversial treatments. Moreover, with respect to court placements, the juvenile courts may expressly reserve the right to consent to medical treatment to itself. (Health & Safety Code 1530.6) Foster parents who have only temporary custody of a child before a dependency hearing do not have the legal right to give consent to medical treatment for the child.

Minors when Parents are Unavailable

As discussed previously, consent of a parent or guardian is not necessary when the minor is authorized to consent for themselves as provided with respect to certain categories of minors or certain types of care. There are other exceptions to the general rule which allow children to receive necessary medical care even in the absence of a parent or guardian.

Vacation, Camp, Parents at Work, etc.

A child's parents or legal guardian may sign a statement form authorizing someone else (friend, relative, camp director, babysitter, etc.) to consent to medical care in the event the child or the child's parents will be away from home, such as during vacations. (Family Code 6910)

School Children

Reasonably necessary medical treatments may be provided to school children who become ill or injured during regular school hours unless the parent or guardian has previously filed with the school a written objection to any medical treatment other than first aid. (Education Code 49407)

Emergencies

Minors requiring immediate services for alleviation of severe pain or immediate diagnosis and treatment of unforeseeable medical conditions which if not immediately diagnosed and treated would lead to serious disability or death generally may be treated even if the parent, guardian or other person authorized to consent cannot be contacted. In these emergencies the law 'presumes' consent since the alternative would be allowing the child to suffer avoidable injury.

World Cup or Olympic Team Members

The official team manager who is responsible for any team member participating in events at the invitation of the XV FIFA World Cup Organizing Committee or the United States Olympic Committee in California may give consent to the furnishing of hospital, medical and surgical care to a minor who is a team member. The consent of the parent or parents of that minor is not necessary in order to authorize the hospital, medical and surgical care. (Business & Professional Code 2076.5)

Minors 16 or Older

If a minor is sixteen years or older and the minor has no parent or guardian available to give legal consent, the minor may apply to the superior court for consent to medical treatment. No fee may be charged for such a proceeding. (Family Code 6911)

Minors in Custody/Juvenile System

If a minor is taken into custody, the State must provide for health care needs. The Court may remove the parents' right to consent or grant other people the right to make decisions without taking away parents' rights. For minors in temporary custody, the Social Worker/Probation Officer may consent, but must inform parents. If there is an objection, a court order must be obtained. In the case of an emergency Social Worker/Probation Officer may consent, but they must make reasonable efforts to contact parents and obtain consent.

Attachment B

Consent Requirements for
MEDICAL TREATMENT OF MINORS

IF MINOR IS:	<i>Is parental consent required?</i>	<i>Are parents responsible for costs? †</i>	<i>Is minor's consent sufficient?</i>	<i>May M.D. inform parents of treatment without minor's consent?</i>
Unmarried, no special circumstances	Yes	Yes	No	Yes
Unmarried, emergency care and parents not available [Business and Professions Code § 2397]	No	Yes	Yes, if capable	Yes
Married or previously married [Family Code § 7002]	No	No	Yes	No
Emancipated (declaration by court, identification card from DMV) [Family Code §§ 7002, 7050, 7140]	No	Probably Not ¹	Yes	No
Self-sufficient (15 or older, not living at home, manages own financial affairs) [Family Code § 6922]	No	No	Yes	†
Not married, care related to prevention or treatment of pregnancy, except sterilization [Family Code § 6925]	No	No	Yes	No
Not married, seeking abortion	No	No	Yes	No
Not married, pregnant, care not related to prevention or treatment of pregnancy and no other special circumstances	Yes	Yes	No	Yes
On active duty with Armed Forces [Family Code § 7002]	No	No	Yes	No
12 or older, care related to diagnosis or treatment of a communicable reportable disease or to prevention of an STD [Family Code § 6926]	No	No	Yes	No
12 or older, care for rape ¹ [Family Code § 6927]	No	No	Yes	Yes, usually
Care for sexual assault ¹ [Family Code § 6928]	No	No	Yes	Yes, usually
12 or older, care for alcohol or drug abuse ¹ [Family Code § 6929]	No ²	Only if parents are participating in counseling	Yes	Yes, usually
12 or older, care for mental health treatment, outpatient only ¹ [Family Code § 6924; Health and Safety Code Section 124260]	No	Only if parents are participating in counseling	Yes	Yes, usually
17 or older, blood donation only [Health and Safety Code § 1607.5]	No	No	Yes	Probably not

¹ Special requirements or exceptions may apply. See Chapter 2 of the *Consent Manual* or Chapter 3 of *Minors & Health Care Law*.

² Parental consent *is* required for a minor's participation in replacement narcotic abuse treatment (such as methadone, LAAM or buprenorphine products) in a program licensed pursuant to Health and Safety Code Section 11875 (now codified at Section 11839 *et. seq.* [Family Code § 6929(e)])

Note: Notwithstanding the above information, a psychotherapist may not disclose mental health information to a parent who has lost physical custody of a child in a juvenile court dependency hearing unless the parent has obtained a court order granting access to the information.

† Reference: Welfare and Institutions Code Section 14010

Minors are defined as all persons under 18 years of age.

08/13



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