



High Desert Health System POLICY AND PROCEDURE

POLICY NUMBER: 375
VERSION: 1

SUBJECT: PATIENT CONSENT / MINOR CONSENT FOR SENSITIVE SERVICES / INFORMED CONSENT

PURPOSE: To provide compliance with regulatory standards regarding consent for medical treatment. To define the legal rights of minors to consent for sensitive services. Family planning decisions can only be voluntary if people freely consent to receive these services. The United States legal system requires that patients provide informed consent for any service or treatment before it is administered.

POLICY: A General Consent must be signed by each patient or his legal guardian prior to receiving treatment in any High Desert Health System (HDHS) Ambulatory Care clinic. The consent must be witnessed and dated at the time the patient signs it. All signatures and dates must be in ink. Consent must be freely given and obtained without duress or coercion. A new consent must be signed annually for continued treatment.

Emergency Treatment

In the case of a medical emergency, treatment may proceed without the patient's consent so long as no evidence exists to indicate that the patient (or the patient's legal representative) would refuse the treatment – such as a particular religious belief, for example, or a relative's statement regarding the patient's wishes.

The attached excerpt from the California Healthcare Association Consent Manual (pages 1.2 – 1.4) provides a summary of the Emergency Treatment Exception, and outlines recommended procedures for Providing Care Pursuant to the Emergency Treatment Exception. These procedures will be followed in all HDHS Ambulatory Care clinics.

Informed consent encompasses the following elements:

Informed: implies that the patient, having received, read, understood and accepted the information, has a comprehensive understanding of the potential benefits and risks of proposed procedures or methods including the risk of failure as well as all of his or her alternatives.

Consent: implies the patient is legally and mentally capable of giving consent and is not under any subtle or overt coercion or duress to make a particular decision.

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Informed Consent

California law requires that a patient must be given “Informed Consent” prior to certain medical treatments. Informed Consent includes

- The nature of the procedure
- The risks, complications, and expected benefits or effects of the procedure
- Any alternatives to the treatment and their risks and benefits
- Any potentially conflicting interest that the physician may have, such as research or financial interests.

The attached excerpt from the California Healthcare Association Consent Manual (pages 1.4 – 1.8) provides a summary of the Informed Consent process and requirements, and outlines recommended procedures for obtaining informed consent, when required. These procedures will be followed in all HDHS Ambulatory Care clinics.

How Consent Should be Obtained

The attached excerpt from the California Healthcare Association Consent Manual (pages 1.9 – 1.11) provides a summary of procedures for obtaining consent, including various special circumstances such as Consent by Telephone, E-Mail, and Facsimile, and securing consent when communication barriers exist. These procedures will be followed in all HDHS Ambulatory Care clinics.

Special Consent Issues

The attached excerpt from the California Healthcare Association Consent Manual (pages 2.1 – 2.24) provides a summary of legal requirements and recommended procedures for specific circumstances. Identified legal requirements will be adhered to in all HDHS Ambulatory Care clinics.

Adults

- Adults with legal capacity to consent
- Adults who have executed a Power of Attorney for Health Care or appointed a surrogate.
- Adults under conservatorship
- Adults lacking capacity and not under a conservatorship

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Minors

- Minors lacking legal capacity to consent
- Third-party consent
- Special circumstances involving minors who lack capacity to consent
 - minors with divorced parents
 - adopted minors
 - minors placed for adoption
 - children of minor parents
 - minors who are also parents
 - minors who are pupils
 - non-abandoned minors whose parents are not available
 - abandoned minors
 - minors in custody of juvenile court
 - minors in custody of social worker or probation
 - minors in custody of foster parents
 - minors who are suspected victims of child abuse
- Minors with legal capacity to consent to medical treatment
 - self-sufficient minors
 - emancipation pursuant to court order
 - minors on active duty with U.S. Armed Forces
 - married minors
 - minors receiving pregnancy care
 - minors suffering from a reportable disease
 - minors who are rape victims
 - minors who are victims of sexual assault
 - minors in need of mental health treatment
 - minors with drug or alcohol-related problems
- Summary of consent requirement regarding minors.

MINOR CONSENT FOR SENSITIVE SERVICES

SENSITIVE SERVICES DEFINED:

Sensitive Services are services related to sexual assault, substance or alcohol abuse, pregnancy, family planning and sexually transmitted diseases for minors 12 years of age and older.

Minors 12 years of age and older may sign an Authorization for Treatment form for any sensitive service without parental consent. Parent or guardian consent is required for minors under 12 years of age who seek substance or alcohol services or for treatment of sexually transmitted diseases.

MINORS WITH LEGAL AUTHORITY TO CONSENT

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1. Self-sufficient minor: 15 years or older who lives apart from parent/guardian and manages own financial affairs regardless of the source of income.
2. Emancipated minor: 14 years of age or older who has been granted emancipation status by the court, and has been issued an identification card from the Department of Motor Vehicles stating that the minor is emancipated.
3. Minors on active duty: Any minor, regardless of age, while serving on active duty with any branch of the U.S. armed services.
4. Married minors: Any minor under the age of 18 who has entered into a valid marriage whether or not the marriage was terminated by dissolution or death of spouse.
5. Minor receiving pregnancy care: Any minor, regardless of age or marital status, may consent to care related to treatment or prevention of pregnancy.
6. Minor with a reportable disease: 12 years of age or older who has come into contact with any infectious, contagious, or communicable disease, including STD's, of the type which must be reported to the local health officer.
7. Minor rape victim: 12 years of age or older who has allegedly been raped.
8. Minor victim of sexual assault: 12 years of age or older who has allegedly been sexually assaulted.
9. Minor in need of mental health treatment. 12 years of age or older may consent to outpatient mental health treatment or counseling.
10. Minor with drug or alcohol related problem: 12 years of age or older may consent to medical care and counseling for drug or alcohol related problem.

Examples of Sensitive Services

1. Routine pregnancy testing
2. Pre-natal care
3. Elective therapeutic abortion
4. Birth control pills
5. "Morning After Pill" to avoid pregnancy
6. Depo-Provera as routine birth control
7. Norplant device, insertion and removal
8. Diaphragm
9. HIV screening, testing, diagnosis, education and referral for treatment

INFORMED CONSENT

POLICY GUIDELINES:

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Family Planning staff is obligated to give correct information in an unbiased way. The information must be based on facts and not on personal opinion. Unbiased information assists patients to better understand their options and choices. Patients can then make their own decision about family planning without unnecessary pressure from others. Furthermore, a patient who is informed and knowledgeable about her/his treatment or birth control method is more likely to be consistent with his/her follow-up care and, therefore, to be a more successful and effective user of a chosen birth control method. This may empower a patient who is informed and knowledgeable about reproductive health care to continue his/her level of wellness in all aspects of health care.

Patients also have the right to withhold their consent and they may change their decision at any time without affecting the health care services they receive. Verbal information or written material must be given to assist the patient's decision-making process. Each patient interaction regarding the informed consent procedure and discussion will be documented in the patient's chart.

REFERENCES:

California Healthcare Association Consent Manual 2012

California Health and Safety Code

- Mandated Blood Testing and Confidentiality to Protect Public Health, Section 120975 – 121020
- Patient Access to Health Records, Section 123100 – 123149.5
- Maternal Health: Abortion, Section 123420 – 123450

California Family Code

- Medical Treatment: Consent by Minor, Section 6920 – 6929

California Penal Code

- Child Abuse and Neglect Reporting Act, Section 11164 – 11174.4

Department of Health and Human Services, Office of Population Affairs (OPA)

Program Requirements Title X

California Family Health Council (CFHC)

California State Office of Family Planning (OFP)

California Department of Public Health Office of Family Planning (FPACT)

Patient Education and Counseling Protocol, Los Angeles Biomedical Research Institute at Harbor –UCLA Medical Center, Torrance, California

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