

RI.14 Medical Consent for Treatment

Purpose

To provide a process for obtaining a medical treatment consent prior to treatment of patients/clients.

Policy Summary

PHC is required to have consent to treat patients/clients as stated in the Texas Administrative Code TAC 97.292 (a)(3).

As defined in the Health and Safety Code Chapter 313.004(e) an adult surrogate may be used to obtain this signed written agreement under certain patient/client conditions.

Procedure

1. PHC will obtain a signed medical treatment consent prior to treatment of patient/client.
2. PHC will also communicate with an adult surrogate, who may speak for the patient/client, for any adult patient/client who is comatose, incapacitated, or otherwise mentally or physically incapable of communication.
 - a. The adult surrogate may be one of the following, "in order of priority, who has decision-making capacity, is available after a reasonably diligent inquiry, and is willing to consent to medical treatment on behalf of the patient/client":
 - i. The patient's/client's spouse,
 - ii. An adult child who has the consent of all other adult children to act as sole decision-maker,
 - iii. A majority of reasonably available adult children,
 - iv. The patient's/client's parents,
 - v. An individual who has been clearly identified to act for the patient/client prior to becoming incapacitated,
 - vi. The patient's / client's nearest living relative, or
 - vii. A member of the clergy.
3. If the surrogate decision-maker gives consent by phone, PHC will reduce the consent to writing, sign and obtain a counter-signature from the surrogate decision-maker as soon as possible. The consent will be kept in the medical record.

4. When a surrogate decision-maker is not available, PHC will document demonstrating that the attending physician made a reasonably diligent effort to contact the persons eligible to serve as surrogate decision-makers and will keep this documentation in its clinical record.
5. In order to provide care, PHC will obtain documentation from the primary physician describing the comatose state, incapacitate state, or mental or physical inability and the proposed medical treatment and will include this in the medical record.
6. The following is applicable since PHC provides pediatric services:
 - a. If the patient/client is a child (a minor, a person under the age of 18 who has not been emancipated by a court), consent for treatment may be given by a parent or conservator (when applicable).
 - b. The following persons may consent to healthcare treatment of a child (other than immunization) when the parent or conservator cannot be contacted and that person has not given actual notice to the contrary:
 - i. grandparent of the child;
 - ii. an adult brother or sister of the child;
 - iii. an adult aunt or uncle of the child;
 - iv. an educational institution in which the child is enrolled that has received written authorization to consent from a person having the right to consent;
 - v. an adult who has actual care, control, and possession of the child and has written authorization to consent from a person having the right to consent;
 - vi. a court having jurisdiction over a suit affecting the parent-child relationship of which the child is the subject;
 - vii. An adult responsible for the actual care, control, and possession of a child under the jurisdiction of a juvenile court or committed by a juvenile court to the care of an agency of the state or county; or
 - viii. 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 immediate medical treatment.
 - ix. the Texas Juvenile Justice Department may consent to medical, dental, psychological, and surgical treatment of a child committed to the department when the person having the right to consent has been contacted and that person has not given actual notice to the contrary.
 - c. Consent to medical treatment in this situation must be in writing, signed by the person giving consent, and given to the doctor, hospital, or other

medical facility that administers the treatment. The consent must include:

- i. the name of the child;
 - ii. the name of one or both parents, if known, and the name of any managing conservator or guardian of the child;
 - iii. The name of the person giving consent and the person's relationship to the child; and
 - iv. a statement of the nature of the medical treatment to be given.
- d. Consent for the immunization of a child may be obtained from a parent or conservator or:
- i. a guardian of the child;
 - ii. a person authorized under the law of another state or a court order to consent for the child.
 - iii. If these persons are not available and the authority to consent is not denied, consent to the immunization of a child may be given by:
 - iv. a grandparent of the child;
 - v. an adult brother or sister of the child;
 - vi. an adult aunt or uncle of the child;
 - vii. a stepparent of the child;
 - viii. an educational institution in which the child is enrolled that has written authorization to consent for the child from a parent, managing conservator, guardian, or other person who under the law of another state or a court order may consent for the child;
 - ix. another adult who has actual care, control, and possession of the child and has written authorization to consent for the child from a parent, managing conservator, guardian, or other person who, under the law of another state or a court order, may consent for the child;
 - x. a court having jurisdiction of a suit affecting the parent-child relationship of which the minor is the subject;
 - xi. an adult having actual care, control, and possession of the child 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
 - xii. an adult having actual care, control, and possession of the child as the child's primary caregiver.
- e. A person otherwise authorized to consent as above may not consent for the child if the person has actual knowledge that a parent, managing conservator, guardian of the child, or other person who under the law of another state or a court order may consent for the child:

- i. has expressly refused to give consent to the immunization;
 - ii. has been told not to consent for the child; or
 - iii. has withdrawn a prior written authorization for the person to consent.
- f. The Texas Juvenile Justice Department may consent to the immunization of a child 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 child.
- g. A person who consents under this statute 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 care provider to determine adequately the risks and benefits inherent in the proposed immunization and to determine whether immunization is advisable.
- h. Consent to immunization must meet the requirements of the written consent to medical treatment as listed above.