

COOPERATIVE OF AMERICAN PHYSICIANS, INC. (CAP)

RISK MANAGEMENT

CONSENT FOR MINORS

In California, a minor is defined as a person under the age of 18 years. Generally, minors may not consent for medical diagnosis or treatment. There are, however, situations for which they may consent. Whether adult or minor, the consenting individual must be provided with informed consent and that discussion must be documented in the medical record.

WHO MAY GRANT CONSENT FOR A MINOR?

- California law authorizes the parent(s) or legal guardian of a minor child to give consent for most medical decisions on behalf of the minor.
- A qualified adult relative may grant consent if the minor lives with that adult. A "qualified adult relative," is defined as an adult spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of those persons. A specific authorization form is required
- Court assigned guardians may consent for a minor's medical care as defined by the documents awarding guardianship.
- In divorce situations, a parent with legal custody may give consent. If both parents have legal custody, and there is no disagreement, either parent may give consent and have access to information / records.
- Foster parents may consent to "ordinary" medical care such as immunizations, physical exams, or x-rays if placement was by court order or with consent of the child's legal custodians. Foster parents may NOT give consent for surgical or experimental/controversial treatments/medications.

WHEN MAY A MINOR GIVE CONSENT?

- Minors who are married or divorced, on active duty with the U.S. Armed Forces, emancipated by a court order, or self-sufficient 15 years or older, living away from home, and managing his own finances) may consent to most types of health care treatment.
- Minors of any age may consent to medical diagnosis and/or treatment of the following:
 - Contraception, pregnancy and abortion;¹
 - Diagnosis or treatment of sexual assault.²
- Minors 12 years old or older may consent to medical diagnosis or treatment of the following:
 - Infectious or communicable diseases which must be reported to the local health officer;
 - Sexually transmitted diseases, rape or HIV testing;
 - Mental health services on an outpatient basis. Minors may NOT consent to convulsive therapy, psychosurgery or psychotropic drugs;
 - Drug or alcohol-related problems. Minors may NOT consent to treatment with methadone or levoalphacetylemethadol (LAAM).

WHEN MUST THE PARENTS (S), GUARDIAN OR QUALIFIED RELATIVE BE CONTACTED?

- The physician must attempt to contact the parent(s), guardian, or qualified relative when care is:
 - Related to the diagnosis or treatment of sexual assault;²
 - Provided for outpatient mental health treatment or counseling;
 - Related to the diagnosis or treatment of drug or alcohol-related problems.

This information is not intended to be inclusive, nor is intended as legal advice. If you have a specific patient situation, please contact CAP Risk Management & Patient Safety at 800-252-7706.

¹ Minors may NOT consent to sterilization.

² If the physician "reasonably believes" that the parent or guardian committed the sexual assault, contact is not required. If the physician believes that contact would be inappropriate or harmful to the physician-patient relationship or the minor's family relationships, contact is not required. The situation must, however, be reported to the appropriate state mandated authorities. The physician should document, in the medical record, any attempt to contact the parent(s), guardian or qualified relative and the results of the attempt. He must also document the reasons for not contacting the parent(s) or guardian.