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**Owner:** Michelle Grimpo: VP of Quality  
**Department:** Patient Rights and Responsibilities  
**Facilities:** Patient Rights  
**Applicability:** Presbyterian/St. Luke's Medical Center

## Informed Consent for or Refusal of Medical Treatment to Minors [Adult and Pediatric]

### PURPOSE:

This policy should be used to determine who may consent to or receive notice of treatment of a minor. Once it is determined who should give consent or must receive notice, refer to [Informed Consent for or Refusal of Treatment, Surgery, Procedures, or Plan of Care](#) for additional information.

### SCOPE:

All areas that treat minors at Presbyterian/St. Luke's Medical Center and Rocky Mountain Hospital for Children at P/SLMC.

### DEFINITIONS:

1. **Guardian** shall mean the legal guardian having authority to make health care decisions for a minor pursuant to court order or under the will or other writing of the child's deceased Parent(s) or an adult who has been given power to make health care decisions for a minor pursuant to a valid power of attorney signed by the minor's Parent or legal guardian within the last twelve months.
2. **Legal Custodian** shall mean the legal custodian of a minor, such as the Department of Social Services, who, pursuant to court order, has the duty to provide ordinary medical care and has the right to consent to surgery or other extraordinary care for the minor in an emergency.
3. **Parent** shall mean the natural or adoptive parent of a minor child, including a parent who is also a minor, but does not include a step or foster parent who is not otherwise a Guardian as defined above, whether or not the minor lives with the step or foster parent.
4. **Practitioner** shall mean an individual with prescriptive authority who is authorized to obtain consent in the state of Colorado.

### POLICY:

A Parent, Guardian, or other "Legal Custodian" as defined above, or, where permitted by law, the minor himself shall have the opportunity to participate in decisions regarding the minor's treatment, as appropriate, and to receive the information needed to enable informed consent to or refusal of a particular treatment, service or plan of care. Although Parents generally have authority to make medical decisions on behalf of their children, that authority has certain limitations as described below

# PROCEDURE:

## Informed Consent for Minor - Consent of Parent, Guardian or Legal Custodian:

1. When the patient is **under the age of 18**, informed consent should be obtained from the patient's Parent, Guardian, or Legal Custodian as required below, **except** in the following circumstances:
  1. When the minor has the right to consent for himself or herself, because of his or her marital status, emancipation, or the nature of the care being provided, as outlined in [Consent of the Minor for His or Her Own Medical Care, Treatment or Procedures](#).
  2. No Parent, Guardian or Legal Custodian may consent to or refuse treatment for a minor child if the consent or refusal constitutes a failure to provide proper or necessary medical care. Ethical and legal counsel should be consulted in such circumstances.
2. A Parent who is himself a minor may consent to organ or tissue donation or medical care or treatment for his or her child to the same extent as if he or she were an adult.

## Consent of the Minor for His or Her Own Medical Care, Treatment or Procedures

1. A patient under the age of 18 can provide his or her own informed consent:
  - a. with respect to **general health services**, treatment or procedures, and for **organ or tissue donation**, if the minor is **emancipated**, i.e., the minor:
    - i. is at least 15 years of age, living apart from his or her parents or legal guardian and managing his or her own finances, **or**
    - ii. has been lawfully married. (per Colo. Rev. Stat. § 13- 22-103(1).)
  - b. with respect to general health services, mental health services, and emergency health or surgical care if the minor has been sentenced to the youthful offender system pursuant. This law applies only to the Youthful Offender System, which is separate from the main juvenile justice system. (Colo. Rev. Stat. § 18-1.3-407(4.5).)
  - c. with respect to **mental health services**:
    - i. if the minor is at least 15 years of age (but the professional person providing mental health services may inform the Parent or Guardian, with or without the minor's consent, of the services given or needed), and
    - ii. A minor of any age may object to hospitalization for mental health services and have the objection reviewed by the court.
2. A minor may give consent at any age with regard to his or her **drug or alcohol use**, including voluntary inpatient or emergency treatment for drug abuse, alcoholism or intoxication; **HIV infection; sexual disease and assault (but see section below regarding additional limitations with respect to examination and treatment for a [sexual offense](#)); and to obtain birth control and abortion procedures, supplies and information (but see section below regarding notice of [abortion](#))**.
3. A minor who has been sentenced to the **youthful offender** system may consent to hospital, medical, dental, emergency care or emergency surgery at any age.

4. A pregnant minor may give consent at any age to prenatal, delivery, and post-delivery care for herself related to the intended live birth of a child.

## Emergency Treatment of Minors

In all cases involving a minor who presents with an emergency medical condition and for whom consent from a Parent, Guardian or Legal Custodian is required, the staff shall make and document a reasonable attempt to contact the Parent, Guardian or Legal Custodian but medical screening and treatment necessary to stabilize the emergency medical condition shall not be delayed while such attempts are being made. (See EMTALA policies). The attending Practitioner shall document the medical record to reflect all information which would have been provided to the Parent, Guardian or Legal Custodian if one had been available.

## Other Limitations on Treatment of Minors:

1. Electroconvulsive Treatment:
  - a. Shall not be performed on a minor under 16 years of age in any circumstance.
  - b. May be performed on a minor between 16 and 18 years of age only with the approval of two licensed psychiatrists and the informed consent of the minor and his or her Parent or Guardian.
2. Blood Donation: Blood donors generally must be 17 or older, and must have consent of a Parent or Guardian until age 18.
3. Stem cell product donation (peripheral blood or bone marrow): Donor must have consent of a Parent or Guardian until age 18 and the participation of a donor advocate to protect the interest and autonomy of the minor donor.
4. Sterilization: A Parent, Guardian or Legal Custodian may not consent to removal of reproductive organs or sterilization of the child without obtaining a court order; an unmarried minor, under age 18, may not consent to permanent sterilization without consent of a Parent or legal guardian.
5. Sexual Offense: Prior to examining or treating a minor who indicates he or she was the victim of a sexual offense, the Practitioner must make a reasonable effort to notify the patient's Parent, Guardian or Legal Custodian of the sexual offense. However, as long as the minor has given consent, the Practitioner may examine the minor to obtain evidence of the offense and may treat the minor for any immediate condition caused by the offense, whether or not the Parent, Guardian or Legal Custodian has been reached or has refused consent. In addition, Colorado laws and regulations regarding (i) the reporting of child abuse and (ii) informing the victim of the offense about the availability of emergency contraception must be followed.
6. Abortion: Abortion will not be performed on an unemancipated minor until at least 48 hours after written notice of the pending abortion has been delivered to either a Parent or, if the child is not living with a Parent, to a grandparent or adult aunt or uncle with whom the child is living, **except** that NO NOTICE is required when:
  - a. The minor declares she is the victim of child abuse or neglect by the person who would be entitled to notice and the attending physician (as required by statute) has reported the abuse or neglect in accordance with the Child Protection Act of 1987, without disclosing that he or she learned of the abuse or neglect when the minor sought an abortion;
  - b. The attending physician (as required by statute) certifies that a medical emergency exists and there is insufficient time to provide notice; or
  - c. A court order has been issued waiving the notice requirement.

7. Living Will: Must be 18 or older to execute a valid living will.
8. CPR Directive: After a physician (as required by statute) issues a "do not resuscitate" order for a child under 18, the Parents of the child (if living together), or the custodial Parent or Parent with decision-making responsibility for such a decision, or the legal guardian can execute a CPR Directive. See P/SLMC Policy [Do Not Resuscitate Orders/CPR Directives](#).
9. HIV Testing: Refer to [HIV 1 and 2 Testing and Consent](#) for circumstances where a minor may be tested for HIV without consent.

## Determination of Parental, Guardianship or Legal Custodian Status

1. The statement of a person who represents himself to be a Parent of a minor may be accepted as true unless it reasonably appears from the facts known to facility personnel that this representation is false.
2. With respect to divorced Parents, consent should be obtained from the Parent having decision-making responsibility for medical decisions under the parenting plan or custody decree, if any.
3. If consent is from someone other than a Parent living with the child, a reasonable attempt should be made to verify the person's authority to act on the minor's behalf and the record should be documented accordingly, including, e.g., obtaining oral or written confirmation from a governmental agency or a copy of the document granting decision-making authority.
4. If at any time personnel believe that the person who is attempting to make medical treatment decisions for the minor may not have the authority to make such determinations, personnel shall consult with legal counsel prior to acting upon the consent provided by the questioned person. Such consultation shall not, however, delay performance of an appropriate medical screening examination or the initiation of treatment needed to stabilize an emergency medical condition, as discussed above.
5. A Parent or legal guardian of a minor may delegate decision-making authority with respect to the minor's health care by signing a written power of attorney which is valid for up to twelve months.

## THE ROLE OF THE PRACTITIONER AND FACILITY STAFF:

1. The Practitioner's Role:
  - a. The Practitioner should work with facility staff to determine the appropriate person to provide informed consent in accordance with this policy and to determine if any additional consent or notice is required; once the appropriate person(s) are determined, consent should be obtained in accordance with the P/SLMC Policy [Informed Consent for or Refusal of Treatment, Surgery, Procedures, or Plan of Care](#) and any additional requirements of this policy.
  - b. If informed consent cannot be obtained in writing (such as where the Parents are only reachable by phone), oral consent should be well documented in the medical record (including the reason written consent could not be obtained), and written consent should be subsequently obtained and added to the record.
2. The Role of Facility Staff:
  - a. Verify that informed consent has been obtained and any additional notice given and reflected on the patient's chart prior to treatment or procedure in accordance with this policy and the policy P/SLMC

Policy [Informed Consent for or Refusal of Treatment, Surgery, Procedures, or Plan of Care](#)

1. Include any documentation of appointment of Guardian or Legal Custodian status in the medical record.
2. Assist social services, medical and legal staff in identifying the need for, and providing evidence for, an action for dependency and neglect of a minor patient.

## REFERENCES:

1. Colorado Law re Treatment of Minors, §13-22-101 et seq.; electroconvulsive therapy, §13-20-401 et seq.; child neglect, §19-3-103; treatment related to alcohol use, § 25-1-308, 309; treatment of venereal disease, §25-4-402; HIV infection, §25-4-1405(6); sterilization, §25-6-102, § 27-10.5-102 and 128 et seq.; mental health §27-10-101 et seq.; living will and CPR directives, §15-18-101 et seq; abortion, §12-37.5-101 et seq.; parent's right to grant power of attorney, § 15-14-105; Colorado Children's Code, §19-1-101 et seq.; information regarding the availability of emergency contraception, §25-3-110.

## Attachments

No Attachments

## Approval Signatures

Approver	Date
Shaela Moen: Quality and Regulatory Manager	May 21st, 2019
Whitney McIntyre: Director of Medical Staff	May 21st, 2019
Shaela Moen: Quality and Regulatory Manager	April 15th, 2019
Julie Stewart: VP of Quality	April 15th, 2019
Michelle Robinson: Director of Risk and Patient Safety	March 28th, 2019
Shaela Moen: Regulatory Coordinator	March 28th, 2019

## Applicability

Presbyterian/St. Luke's Medical Center