



CONSENT

It is very important to understand the need for the best consent possible when registering a patient for a clinic appointment or admission. These guidelines must be followed when obtaining consent from the parent/legal guardian at the time of service or by telephone. Remember that if you are unable to determine who has custody, legal documentation determines who may consent for medical treatment or the Legal Department must be consulted.

Guidelines for who may legally consent for medical treatment:

1. Every effort will be made to obtain consent for evaluation and treatment of each CCHMC patient from the patient (if able to consent) or from the patient's parent or legal guardian. Medical care will be rendered without consent if the physician determines that treatment is necessary to avoid jeopardizing the patient's well-being or contributing to the deterioration of the patient's condition.
2. A patient 18 years of age or older and of sound mind must consent to his or her own treatment.
3. A patient under 18 years of age who has proven he or she is an emancipated minor can consent to his or her own treatment (See Medical Center Policy G-106).
4. If the patient is under 18 years old and not emancipated:
 - a. Parents
 - i. If the parents are married, either parent may authorize treatment.
 - ii. If the parents are married, and are going through a divorce process that has not come to a final conclusion (neither has been granted custody of the patient by a court and there is no court documentation), either parent may authorize treatment and their marital status remains as "married" in the KIDS system until a final court determination.
 - iii. If the parents are divorced or legally separated, **generally**, the custodial parent must authorize treatment. In situations of joint custody or shared parenting, either parent may authorize treatment. Contact the Legal Department to review any documentation.
 - iv. If the parents have never been married and the father has not acknowledged paternity or adopted the child, the mother must authorize treatment. The father may be able to consent if he has formally acknowledged paternity and paternity has been determined by either (1) a court order, (2) father's name is listed on the birth certificate through the affidavit process, (3) DNA testing, or other process. Contact the Legal Department for clarification. Parents who have never been married may also have a court document that sets out who has custody and who can consent to treat. If parents have such documentation, that court

documentation will control who can consent to treat, notwithstanding the above information.

- v. Adoptive parents, once the adoption is final, are treated the same as biological parents. (A stepparent may not authorize treatment, unless the stepparent has legally adopted the patient.)
 - vi. If the mother is a minor, contact the Legal Department for guidance.
 - vii. If the mother is an emancipated minor (see CCHMC Policy G-106), she may authorize treatment.
 - viii. Same Sex Parents: Current Ohio law does not recognize same sex unions. See CCHMC Policy G-105 (Evaluation and Treatment When Consent is Unavailable from a Parent or Legal Guardian) and CCHMC Policy G-106 (Persons Authorized to Consent for Admission, Treatment and Discharge of Patients). The partner having legal custody of the patient must authorize consent for medical treatment. Documentation is not required if the individual is the biological or adoptive parent, unless the child's legal guardian has changed from that reflected in CCHMC records (such as when a child previously seen at CCHMC is subsequently adopted). If the patient is from a state that recognizes same sex unions, the Legal Department must be contacted during the registration/admission process.
- b. Legal Guardians
- i. If a legal guardian has full custody of the child and provides legal documentation proving custody, the legal guardian must authorize treatment. Contact the Legal Department to review any documentation.
 - ii. If the child is the ward of a court, telephone consent should be obtained from the county that has custody of the patient on the date of the appointment unless the caseworker has provided the information during the pre-registration process. (A foster parent may not authorize treatment.) If the county with custody has provided documentation authorizing the foster parent to consent to treatment, the Legal Department must review and approve it.
5. If the patient is 18 years of age or older but is not of sound mind (such that he or she cannot consent to his or her own treatment), the patient's legal guardian must consent. If there is no legal guardian, the next of kin should consent. Please see Medical Center Policy G-106 (Persons Authorized to Consent for Admission, Treatment and Discharge of Patients). In Ohio, the following order of preference for determining next of kin who can consent to treatment is: spouse, adult child (or majority of adult children if more than one), patient's parent, adult sibling of patient (or majority if more than one), or nearest other adult related by blood or adoption). Contact the Legal Department with any questions.

Documentation

- a) **Handwritten, typed or notarized statements purporting to transfer authority to consent from a parent or guardian to another person should not be accepted without Legal Department review.**

- b) The Legal Department must review Medical Authorization Forms from residential homes and foster care to determine if they constitute acceptable authorization to provide informed consent.
- c) A Medical Power of Attorney (for patients 18 years of age or older and of sound mind) is acceptable authorization for another person to provide informed consent if properly signed by the patient, but only if the patient is currently incapable of consent him or herself. A Medical Power Attorney for a patient under 18 years of age and signed by the parent/legal guardian is not an acceptable form to convey authority to consent to treatment. Acceptable Medical Powers of Attorney must be copied and attached to the Medical Record copy of the registration form. Contact the Legal Department with any questions.
- d) A Grandparent Power of Attorney may be acceptable under Ohio law to allow a grandparent to consent to a grandchild's treatment when the parent is (a) seriously ill, incarcerated or about to be incarcerated, (b) temporarily unable to provide financial support or parental guidance to the child, (c) temporarily unable to provide adequate care and supervision of the child because of my physical or mental condition, (d) homeless or without a residence because the current residence is destroyed or otherwise uninhabitable, or (e) in or about to enter a residential treatment program for substance abuse. This Power of Attorney can only be accepted in **limited cases** and must be on the **exact form** as prescribed by Ohio law. Contact the Legal Department to review any documentation.

Definitions

A **biological parent** is defined as one who gave birth to the patient (mother) or who has a direct genetic relationship to the patient (father).

An **adoptive parent** is one who has legally adopted the patient.

A **guardian** is one other than the biological/adoptive parent who has legal authority to make decision for the patient including authorizing consent for treatment.

All questionable documentation must be reviewed by the Legal Department . This may be accomplished by (i) calling 6-4707 and notifying them that you have legal documentation to be verified and (ii) faxing the complete document with a HIPAA-compliant cover sheet to 6-4076. After normal business hours, contact your supervisor/manager to determine if the on-call Legal representative needs to be paged.