



LOMA LINDA  
UNIVERSITY  
MEDICAL CENTER

# LOMA LINDA UNIVERSITY MEDICAL CENTER

## OPERATING POLICY

<b>CATEGORY:</b>	CLINICAL MANAGEMENT	<b>CODE:</b>	M-100
<b>SUBJECT:</b>	AUTHORIZATION FOR TREATMENT OF MINORS WHO LACK CAPACITY TO CONSENT	<b>EFFECTIVE:</b>	05/2019
		<b>REPLACES:</b>	12/2018
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### Related Policy

#### [Patient Consent \(P-2\)](#)

1. The need for emergency versus non-emergency care shall be determined by a physician. If an emergency situation exists, reference Policy [Emergency Treatment When Consent is Unobtainable \(P-8\)](#).
2. Non-emergency care shall be given to a non-emancipated minor only with authorization from one of the persons listed in pars 2.1 through 2.4, in that order of priority. For special circumstances as described in par. 2.5, the CHA Consent Manual shall be used as a guide and/or legal counsel shall be consulted.

NOTE: The person or persons who will be giving consent for surgeries, procedures, etc., should be identified upon admission to prevent confusion or conflicts at the time consent is needed. If guardianship is unclear or if guardianship papers are not available, the Social Work Department should be notified for follow up.

#### 2.1 Parent

- a. If parents are married, either has the legal authority to consent. If there is a disagreement, treatment should not be provided until the conflict is resolved.
- b. If parents are divorced and they agree on the proposed treatment, both should sign the consent form(s)
- c. If parents are divorced and they disagree, the custody agreement should be referenced to determine who has authority to make health care decisions.
  - 1) If there is joint legal custody, they should be instructed to obtain a court order resolving the dispute
  - 2) If delay might harm the minor, the physician and hospital may decide that treatment should be provided, notwithstanding one parent's objection. Rationale for such a decision shall be documented.

- d. For minors born to unmarried parents, the mother and father (as identified by the mother) have legal authority to consent to medical treatment of the minor. When the mother is unavailable to identify the father and there is reason to doubt the status of someone claiming to be a child's father, a copy of a birth certificate, court judgment or court order determining the existence of the father-child relationship may be required before accepting the consent of the alleged father and legal counsel shall be consulted.
- 2.2 Stepparent/registered domestic partner – a stepparent/registered domestic partner who has not legally adopted a minor does not have the authority to consent to treatment without written authorization from the natural parent/guardian.
- 2.3 Legal guardian
- a. A copy of the official certified letters of guardianship should be obtained and placed in the minor's medical record prior to proceeding with treatment. The official letters of guardianship should be reviewed to determine the scope of the guardian's legal authority to consent and that, if any, of the parents.
  - b. Unless otherwise specified in the letters of guardianship, the guardian may consent to medical treatment of the minor as follows:
    - 1) Non-surgical Treatment - the guardian shall have same rights as a parent who has legal custody of the minor to consent to non-surgical treatment for the minor.
    - 2) Surgical Treatment - If the minor is 14 years of age or older, surgery shall not be performed upon him/her without:
      - a) The consent of both the minor and guardian
      - b) The consent of the guardian alone, provided that the guardian determines in good faith based on medical advice that the case involves an emergency in which the minor faces loss of life or serious bodily injury if the surgery is not performed; or
      - c) A court order obtained by the guardian.
- 2.4 Non-parent adult relative (California Family Code Section 6550-6552) with whom the minor is living. The relative has the same rights as does a guardian.
- a. All of the following must apply for the authorization to be valid:
    - 1) A qualified adult relative is defined as a 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 persons qualified in this definition, even after the marriage has been terminated by death or dissolution.

- 2) The minor must be living with the adult family member (not temporarily visiting an adult relative)
- 3) The adult relative must advise the parents of the proposed medical treatment and receive no objection thereto or,
- 4) The adult relative must be unable to contact the parents.
- 5) The adult relative must complete an affidavit in which he or she attests that the required elements are true and correct, which may be obtained from the CHA Consent Manual.

- b. Health care providers shall require that the affidavit be completed in its entirety and that an attempt be made to reach the minor’s parents before the delivery of care to the minor.

2.5 Other third-party authorization to consent to treatment of minors lacking capacity to consent.

- a. Prior to providing any nonemergency treatment to a minor who is not accompanied by a parent, guardian or caregiver, the hospital should attempt to contact the minor’s parents, guardian or caregiver. If they are not available, an Authorization for Third Party to Consent to Treatment of Minor Lacking Capacity to Consent, which may be obtained from the CHA Consent Manual, or an authorization containing comparable language and the designation of an agent(s) for the parent(s) should be obtained.
- b. The authorization shall be in writing and prepared by a parent or by another person with legal custody.
- c. The designated third person can be any adult person into whose care the minor has been entrusted.
- d. The authorization should be placed in the minor’s medical record.

2.6 Special circumstances involving minors. In the following circumstances, the CHA Consent Manual or the LLUMC Office of General Counsel should be consulted (if issues beyond information covered above).

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- a. Minor with divorced parents
- b. Minor with Stepparents
- c. Adopted minors
- d. Minors placed for adoption
- e. Minors born to unmarried parents
- f. Minors with Registered Domestic Partner Parent(s)
- g. Children of minor parents
- h. Minor students
- i. Nonabandoned minors whose parents are unavailable
- j. Nonabandoned minors over the age of 16 whose parents are unavailable - Court authorization
- k. Abandoned minors
- l. Minors in custody of probation officer
- m. Minors in custody of foster parents
- n. Minors who are suspected victims of child abuse

Reference CHA chart "[Medical Treatment of Minors](#)"

**APPROVERS:** Hospital Executive Leadership, LLUMC Chief Executive Officer, LLUMC Medical Staff President and Chair of MSEC, Senior VP, Patient Care Services