




# KERN HEALTH SYSTEMS

<b>KERN HEALTH SYSTEMS</b>					
<b>POLICY AND PROCEDURES</b>					
SUBJECT: Access – Treatment of a Minor			POLICY #: 2.17-P		
DEPARTMENT: Health Services – Quality Improvement					
Effective Date: 08/1997	Review/Revised Date: 1/26/2017	DMHC		PAC	
		DHCS		QI/UM COMMITTEE	
		BOD		FINANCE COMMITTEE	

  
 \_\_\_\_\_  
 Douglas A. Hayward  
 Chief Executive Officer

Date 1/26/17

\_\_\_\_\_  
 Chief Medical Officer  
  
 \_\_\_\_\_  
 Administrative Director Health Services

Date \_\_\_\_\_

Date 1/26/17

## POLICY:

Under normal circumstances, treatment of a minor requires the consent of the parent/guardian. Under the following circumstances, minors may be treated without the consent of the parent/guardian:

- The minor becomes ill or injured while attending school and the parent/guardian cannot be reached
- The minor gives consent for those services that qualify as minor consent services
- A qualified relative caregiver gives consent

The details of these exceptions are outlined in this policy.

## PROCEDURES:

### 1.0 TREATMENT DURING SCHOOL HOURS

If a parent or guardian cannot be reached, a physician and the hospital may provide reasonable treatment without the consent of the child's parent(s) or legal guardian for any child enrolled in any school in any district when the child is ill or injured during regular school hours.

## 2.0 MINOR CONSENT SERVICES

By statutory definition, a person under the age of 18 is incompetent to consent to medical treatment except as otherwise allowed by law. Please read this policy in full to define those exceptions. Minors may access treatment for sensitive services such as sexual assault, drug or alcohol abuse for children 12 years of age or older, pregnancy, family planning, venereal disease for children 12 years of age or older, sexually transmitted diseases designated by the Medical Director for children 12 years of age or older, and mental health care for children 12 years of age or older who are mature enough to participate intelligently and which is needed to prevent the children from seriously harming themselves or others or because the children are the alleged victims of incest or child abuse.<sup>12</sup>

If patient is...	Parental consent required?	Are parents responsible for care?	Is minor consent sufficient?	May MD inform parents of treatment without minor consent?
Under 18, unmarried, no special circumstances	Yes	Yes	No	Yes
Under 18, married or previously married <sup>i</sup>	No	No	Yes	No
Under 18, no special circumstances, emergency and parents not available <sup>ii</sup>	No	Yes	Yes (if capable)	Yes
Emancipated minor (declaration by court, identification card from DMV) <sup>iii</sup>	No	No	Yes	No
Self-sufficient minor (over 15, not living at home, manages own financial affairs) <sup>iv</sup>	No	No	Yes	Yes
Not married, pregnant, under 18, care related to prevention or treatment of pregnancy <sup>v</sup>	No	Yes*	Yes	Probably not <sup>+</sup>
Not married, pregnant, under 18, care not related to prevention or treatment of pregnancy and no other special circumstances	Yes	Yes	No	Yes
Under 18, on active duty with Armed Forces <sup>vi</sup>	No	No	Yes	No
Under 18, over 12, care for contagious reportable disease or condition <sup>vii</sup>	No	No	Yes	Probably not <sup>+</sup>
Under 18, over 12, care for rape <sup>viii</sup>	No	Yes*	Yes	Probably <sup>+</sup>
Under 18, care for sexual	No	Yes*	Yes	Yes, usually <sup>+</sup>

assault <sup>ix</sup>				
Under 18, over 12, care for alcohol or drug abuse <sup>x</sup>	No	Only if participating in counseling	Yes	Yes, usually <sup>+</sup>
Under 18, over 12, care for mental health, outpatient only <sup>xi</sup>	No	Only if parents are participating in the counseling	Yes, if capable	Yes, usually <sup>+</sup>

Members are made aware of minor consent services through the *Member Handbook*.

KHS personnel will not discuss with a minor's parents, the access of sensitive services by the minor as defined above without consent of the minor.

### 3.0 QUALIFIED RELATIVE CAREGIVER<sup>xii</sup>

An adult relative, with whom a minor is living, who is not the parent, legal guardian, or conservator of the minor may provide consent for medical care for the minor by signing a *Caregiver's Authorization Affidavit*. (See Attachment A). All of the following must apply in order for the consent to be valid:

- A. The minor must be living with the adult relative
- B. The adult must be a "qualified relative", which is defined in the law 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 of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.
- C. The adult must advise the parents of the proposed medical treatment and have received no objection thereto; or the adult must be unable to contact the parents
- D. The adult must complete an affidavit in which he or she attests that the elements outlined above are true and correct.

Once the affidavit is completed in its entirety, KHS practitioners/providers or their personnel must, if possible, make one further attempt to reach the minor's parents prior to care being delivered to the minor.

A copy of the signed affidavit must be placed in the minor's permanent medical record. The affidavit is valid for only one year from the date of the signature. This affidavit does NOT mean that the minor is automatically a dependent for health care coverage purposes.

Adult caregivers should be encouraged to seek legal guardianship of the minor by KHS practitioners/providers and KHS personnel.

### 4.0 MONITORING

The effectiveness of this policy is monitored through the Facility Site Review process. See *KHS Policy and Procedure #2.22 – Facility Site Review* for details.

## ATTACHMENTS:

- ❖ Attachment A – *Caregiver's Authorization Affidavit*

## REFERENCE:

**Revision 2017-01:** Reviewed by QI Supervisor. Revisions made to signatory list

<sup>i</sup> **Revision 2013-07:** Policy reviewed by Director of Quality Improvement. No revisions required. Update with management titles and new format. **Revision 2009-04:** Reviewed by Director of Quality Improvement, Health Education & Disease Management. Updated titles. no additional revision needed. Not reviewed by the AIS Compliance Department. **Revision 2002-02:** Annual review. Revised per DHS Comment 09/19/01. Policy #2.18 – Consent for Treatment of Minor by a Relative Other Than a Parent was absorbed into #2.17.

<sup>i</sup> Family Code, Section 7002

<sup>ii</sup> Business and Professional Code, Section 2397

<sup>iii</sup> Family Code, Sections 7002, 7050, 7140

<sup>iv</sup> Family Code, Section 6922

<sup>v</sup> Family Code, Section 6925

\* It should be recognized that although the minor's parents or guardian are legally responsible for payment even though the law allows the minor to give consent, as a practical matter, other considerations, such as confidentiality of medical information, may prevent the hospital from seeking payment from the minor's parent or guardian.

<sup>+</sup> Law unclear. Depends on circumstances. Careful analysis recommended.

<sup>vi</sup> Family Code, Section 7002

<sup>vii</sup> Family Code, Section 6926

<sup>+</sup> Law unclear. Depends on circumstances. Careful analysis recommended.

<sup>viii</sup> Family Code, Section 6927

\* It should be recognized that although the minor's parents or guardian are legally responsible for payment even though the law allows the minor to give consent, as a practical matter, other considerations, such as confidentiality of medical information, may prevent the hospital from seeking payment from the minor's parent or guardian.

<sup>+</sup> Law unclear. Depends on circumstances. Careful analysis recommended.

<sup>ix</sup> Family Code, Section 6928

\* It should be recognized that although the minor's parents or guardian are legally responsible for payment even though the law allows the minor to give consent, as a practical matter, other considerations, such as confidentiality of medical information, may prevent the hospital from seeking payment from the minor's parent or guardian.

<sup>+</sup> Law unclear. Depends on circumstances. Careful analysis recommended.

<sup>x</sup> Family Code, Section 6929

<sup>+</sup> Law unclear. Depends on circumstances. Careful analysis recommended.

<sup>xi</sup> Family Code, Section 6924

<sup>12</sup> CCR Title 22, Section 50063.5

<sup>xii</sup> Family Code Sections 6550-6552 (SB 592). Legal Memorandum from California Association of Hospitals and Health Systems dated October 31, 1994; File Code CAHHS 94-10-61.

**CAREGIVER'S AUTHORIZATION AFFIDAVIT**

The minor named below lives in my home and I am 18 years of age or older.

1. Name of minor: \_\_\_\_\_
2. Minor's birthdate: \_\_\_\_\_
3. My name: (adult giving authorization) \_\_\_\_\_
4. My home address: \_\_\_\_\_  
\_\_\_\_\_
5. I am a grandparent, aunt, uncle or other qualified relative of the minor
6. Check one or both (for example, if one parent was advised and the other cannot be located):
  - I have advised the parent(s) or other person(s) having legal custody of the minor of my intention to authorize medical care, and have received no objection.
  - I am unable to contact the parent(s) or other person(s) having legal custody of the minor at the time, to notify them of my intended authorization.
7. My date of birth: \_\_\_\_\_
8. My California drivers license identification card number: \_\_\_\_\_

**Warning:** *Do not sign this form if any of the statements above are incorrect, or you will be committing a crime punishable by a fine, imprisonment, or both.*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

**Please Note:**

- This declaration does not affect the rights of the minor's parents or legal guardian regarding the care, custody and control of the minor, and does not mean that the caregiver has legal custody of the minor.
- A person who relies on this affidavit has no obligation to make any further inquiry or investigation.
- This affidavit is not valid for more than one year after the date on which it is executed.

**To Caregivers:**

1. "Qualified relative," for purposes of item 5, means 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 of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.

2. The law may require you, if you are not a relative or a currently licensed foster parent, to obtain a foster home license in order to care for a minor. If you have any questions, please contact your local department of social services.
3. If the minor stops living with you, you are required to notify any school, health care provider, or health care service plan to which you have given this affidavit.
4. If you do not have the information requested in item 8 (California driver's license or I.D.), provide another form of identification such as your social security number or Medi-Cal number.

**To School Officials:**

1. Section 48204 of the Education Code provides that this affidavit constitutes a sufficient basis for a determination of residency of the minor, without the requirement of a guardianship or other custody order, unless the school district determines from actual facts that the minor is not living with the caregiver.
2. The school district may require additional reasonable evidence that the caregiver lives at the address provided in item 4.