

INFORMED CONSENT: QUICK TIPS FOR PROVIDERS UPMC

**Contact Us: Risk Management
and Corporate Legal**

Contact Corporate Risk Management with
questions - 412-647-3050

Contact Corporate Legal via Medcall for
immediate legal concerns 412-647-7000

**24 Hour Availability— Risk Manager on
Call 412-647-5511**

Additional Resources:

Patient Informed Consent Policy
HS-R11302

Risk Management Page on InfoNet:
InfoNet> Clinical Tools> Risk Manage-
ment and Compliance

Consent Forms on InfoNet:
InfoNet> Clinical Tools> Consent Forms

Who Can Consent?

Any competent person who is 18 years of age or older has the right to give or refuse consent. In the case of a patient who is conscious, alert and oriented, competency can be presumed unless circumstances call the presumption into question.

Adult Consent: Chain of Command

Healthcare representatives may make health care decisions and provide consent on behalf of patients who can no longer understand, make and communicate healthcare decisions. This is a priority list of healthcare representative:

- The spouse, unless an action for divorce is pending, and the adult children of the patient who are not the children of the spouse
- Adult child
- Parent
- Adult sibling
- Adult grandchild
- Any adult who has knowledge of the patient's preferences and values, including but not limited to religious and moral beliefs to assess how the patient would make healthcare decisions

Phone Consent

Phone consent with a healthcare representative is acceptable. Phone consent requires signature of 2 witnesses on the informed consent form.



Informed Consent

The physician or designee has a *duty to discuss the procedure, risks and benefits and alternatives* to the patient or surrogate when required by law to obtain informed consent. *The discussion* of informed consent should be memorialized by completing the consent form and documenting the discussion in the medical record.

Physician Liability- Attending Physicians
Are Responsible for making sure informed consent is obtained but may delegate that duty to fellows, residents, and APPs (CRNA, CNM, PA, CRNP) where appropriate.

Procedures Covered: The law provides that except in emergencies, a physician or designee owes a duty to obtain informed consent from a patient prior to the following: Performing surgery, Administering anesthesia related to the performance of surgery, Administering radiation or chemotherapy, Administering a transfusion of blood or blood products, Inserting a surgical device or appliance, Administering an experimental medication, Using an experimental device, Using an approved medication or device in an experimental manner, Testing for human immunodeficiency virus (HIV).

Consent of a Minor: A parent must consent to a procedure performed on a minor (Patient under 18 years of age) except when the minor has rights under Pennsylvania law to consent to the procedure without parental involvement.

A minor can consent if:

- The minor has been pregnant
- The minor has been emancipated by the court and has an order noting emancipation
- The minor has been or is married
- The minor is a high school graduate
- The minor is seeking care for pregnancy, reportable infectious disease, drug and alcohol abuse
- If 14 or older and seeking care for mental illness

*For questions about prescribing opioids to minors, please consult the pharmacy director.

Example: Patient is 17 years old with IUD and is having a D&C. Can patient sign her surgical and anesthesia consents? Yes, can sign both.

Life of Consent Form:

Consents for Surgery/Special Procedures are valid for 90 days except for a change in the patient's condition (i.e., change in patient's physical/mental status) or change in the planned procedure. One consent form may be sufficient for a series of preplanned repeat procedures (e.g., multiple returns to the OR for wound debridement/V.A.C. dressing change, transfusions) in which case the form may be valid for 1 year unless there is a change in the patient's condition that might alter the diagnostic or therapeutic decision. If that occurs, then consent must be reobtained.

Additional Procedures:

Example: Patient is on OR table and has been consented and scheduled for procedure A. Due to unforeseen circumstances (like suspicious tissue/organ) surgeon feels it is best to remove/sample/biopsy specimen. Is this acceptable to perform although not on consent form?

Answer: Yes, this is acceptable. Physician should perform a comprehensive documented discussion prior to consenting the patient regarding possible procedures for consent. The physician may perform the specific procedures per their discretion. Per the written consent that the patient signed, physician can take steps or perform additional procedures that are medically necessary to achieve desired benefits or for patient's well being.

Pre-Medication:

Example: Patient is in pre-op and consent form has been reviewed and signed. Patient receives pre-medication from Anesthesia and is being wheeled to the OR. In front of the OR doors, the MD forgot to include a procedure on the consent form. Can the physician proceed with the procedure?

Answer: The physician can not expand the scope of the consent form and must wait for the patient to clear the medications prior to consenting. If patient is not competent, follow the adult consent chain of command. Supporting documentation in the record should support any consent discussion of the procedure which took place in the office/clinic.

Alternate Procedures:

Example: Patient is on OR table and has been consented and scheduled for procedure #1. Due to unforeseen circumstances (like patient anatomy) procedure 1 cannot be performed but procedure 2 could be performed to achieve the identical outcome. Can physician perform procedure #2?

Answer: Physician should perform a comprehensive documented discussion prior to consenting the patient regarding possible procedures for consent. The physician may perform the specific procedures per their discretion. If there are two possibilities that do not change the outcome of the procedure, this falls under the purview of the consent. It is permissible to continue the procedure without asking the patient's surrogate.

Note: Nothing in this brochure prevents the physician from providing updates to the patient's surrogate decision maker.