

SHORE HEALTH SERVICES - ADMINISTRATIVE

INFORMED CONSENT, OBTAINING AND DOCUMENTING

Shore Memorial Hospital Shore Rehab Shore Life Care Shore Health Care at Home
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VP, Chief Nursing Officer

President of the Medical Staff

Purpose:

To outline the policy and procedures for obtaining informed consent for medical and / or surgical treatment or procedures for patients within Shore Health Services, Inc.

Policy:

Definitions

Informed Consent: A person's agreement to allow or undergo a medical treatment or surgery that is based on a full disclosure of the facts needed to make the decision intelligently.

"Competency" (for the purpose of consenting to or refusing treatment): The ability to understand the nature and consequences of the illness and of the proposed treatment and alternative to treatment and the ability to make a reasonable decision in this regard. The law presumes the competency of every person 18 years of age or older.

Why is Consent necessary?

A person does not give up the right to control what is done with his or her body when he or she seeks medical cares at a facility. The physician has both an ethical and a legal duty to obtain the patient's consent, or the consent of the patient's legal representative, to medical treatment or procedures.

Failure to obtain the patient's consent in accordance with applicable legal standards may result in a charge of battery, negligence, and / or unprofessional conduct.

Consent to Treat Generally

Patient consent (as distinguished from informed consent) is required for all procedures and is obtained when the patient or the patient's legal representative signs the hospital's Patient Authorization Form at the time of admission.

Informed Consent

A patient's right to decide whether or not to receive medical treatment establishes the physician's corresponding duty to inform the patient about the recommended care so that the patient's decision is meaningful. Physicians are responsible for disclosing to their patients information that they know, or should know, would be regarded as significant by a reasonable person in the patient's condition and circumstances when deciding to accept or reject the proposed treatment or procedure.

In order to give informed consent, the patient must be informed of:

- The nature of the proposed treatment or procedure
- The risks, complications, and expected benefits or effects of the treatment or procedure and the likelihood of success
- Any alternatives to the treatment or procedure and their risks and benefits and the likelihood of success.
- The right to not consent to the treatment or procedure (the physician has a duty to give the patient all the information that is material to a knowing decision to refuse to consent
- Any personal research and / or economic interest unrelated to the patient's immediate care or treatment that may affect the physician's choice of treatment or medical judgment
- Problems related to recuperation and impact on daily living.

Identifying Procedures That Require Informed Consent

- Written documentation of the patient's or surrogate's informed consent is required for all surgical procedures, both on an inpatient

and outpatient basis, except in an emergency. Informed consent for other invasive diagnostic or therapeutic procedures involving more than minimal risk should generally be documented as well. Clinical departments may determine the appropriateness of written documentation of consent for specific procedures based on the significance of risk and whether the procedure is simple and common. For example, informed consent is not required for the performance of “simple and common” procedures when the related risks are commonly understood. For example, a blood count is an example of a “simple and common” procedure.

- Specific informed consent must be considered for complex procedures.
- The determination of which procedures are complex, and thus require informed consent, is medical in nature. The medical staff is responsible for reviewing these procedures that are invasive and / or involve a risk of serious injury (e.g. paralysis, certain types of chemotherapy, etc.)
- The following or types of procedures in which informed consent is usually obtained prior to the procedures
 - Major or minor surgery that involves entry into the body, either through an incision or through a natural body opening.
 - All procedures in which anesthesia are used; regardless of whether an entry into the body is involved.
 - Nonsurgical procedures, including the administration of medicines that involve more than a slight risk of harm to the patient or that may cause a change in the patient’s body structure (e.g. chemotherapy, hormone treatments).
 - Nonsurgical invasive diagnostic and / or therapeutic procedures (e.g. myelograms, arteriograms,)
 - Radiation therapy
 - Electro convulsive therapy
 - Intravenous injection of contrast material
 - All experimental procedures.
 - All other procedures that the medical staff determines to require a specific explanation to the patient. Any doubts about the necessity of obtaining a special consent from the patient should be resolved in favor of procuring the consent.

Obtaining Informed Consent

Form of documentation: Physicians may use the general consent form (Authorization for Surgery and Other Procedures) to document consent. Physicians or clinical departments may develop and use procedure-specific consent forms if the form has been reviewed and approved by Risk Management and or legal council.

Role of the physician: It is the physician's sole responsibility to obtain informed consent. How the physician obtains informed consent is generally within the discretion of the physician. However, it is recommended that the physician give a personal explanation of the procedure and its possible complications, risks, and alternatives. Such verbal discussion gives the patient the opportunity (as required by the legal doctrine of informed consent) to ask about the information presented by the physician.

Role of the anesthesiologist / anesthetist (if any): If anesthesia or sedation is to be provided, the anesthesia or sedation provider must determine that the patient has been informed and acknowledges an understanding of the risks and consequences associated with the administration of anesthesia or sedation. The patient also should be advised as to the identity of the anesthetist administering the anesthesia. The anesthesia provider has the responsibility to verify that the informed consent discussion has occurred for special diagnostic or therapeutic procedures

Role of other professional hospital staff members.

- Nursing staff and other professionals who routinely obtain signatures on consent forms shall take reasonable steps to ensure that the benefits, risks, and alternatives of any procedure to be performed on a patient have been explained to the patient or patient representative or surrogate by the physician before obtaining signatures.
- Obtaining or witnessing who signs the consent form provides confirmation that the physician discussed the proposed treatment with the patient or surrogate; that the patient or surrogate gave consent to treatment after the discussion; that the patient or surrogate was given the opportunity to ask questions about the proposed treatment; and that all of these questions were answered fully. The witness should, if possible, be present during the informed consent discussion. If the witness is not present during the informed consent discussion, the witness should ask the patient or surrogate the following questions:

- Did your doctor explain the procedure/treatment to you?
- Have all your questions about the operation or procedure been answered?
- Is this your signature on the consent form?
- Have you given your consent to the proposed treatment?
- If the patient or surrogate answers” yes ‘ to all of the above questions, then the witness should sign the consent form on the appropriate signature line. If the patient or surrogate does not answer “ yes “ to all of the above questions, then the witness should not sign the consent form and should notify the physician of the patient’s or surrogate’s concerns.
- If the procedure is performed on a patient by a hospital employee (e.g. nurse, therapist, technician) it is the caregiver’s responsibility to obtain informed consent.

Documenting Informed Consent

- The medical record – The physician should carefully document in the medical record that a discussion was held with the patient, the substance of the discussion that was held, and that an informed consent was obtained. (Notes such as “ consent form signed” or “risks discussed” are generally insufficient and should be avoided.) If an interpreter is used, the name of this individual must be noted as well as his or her employment status or relationship to the patient.
- Consent forms: In order to provide written evidence of consent, various forms have been developed for use by physicians and the hospital. In addition, various laws may require that specific information be included in consent forms or require the use of prescribed forms under certain circumstances (See Special Circumstances section, below).
 - The physician should place in the record the applicable executed consent form(s) and a copy of any written materials given to the patient.
 - Surgical and Anesthesia consent forms. All information written on the Consent to Operation form must be in clear, simple, easily understood terms, The form must be signed by a physician member of the medical / surgical team or provider performing the procedure or treatment and the patient or his or

her representative as confirmation that informed consent has been obtained. Execution of the form by the patient (or the patient's legal representative) does not, in and of itself, satisfy the requirement for obtaining the patient's informed consent. Certain procedures may require more than one consent.

- Refusal to permit medical / surgical treatment. Refusal to consent to treatment is the right of all competent patients and must be respected; however, efforts should be made to allay concerns, or other alternative methods of treatment that might be acceptable to the patient. (See refusal to treat section)

Special Circumstances in Which a Physician Is Not Required to Obtain Full Informed Consent.

- Therapeutic Privilege – When the physician believes that fully informing the patient is not medically sound, in that such disclosure poses a serious threat to the patient, the physician may withhold the informed consent process. However, the physician may not utilize the therapeutic privilege because the physician believes that if fully informed, the patient will refuse to consent. Exercise of the therapeutic privilege requires the documented concurrence of a consulting physician, who should not be directly involved in the patient's care. In addition, consultation from psychiatry (consultation liaison) and / or from the ethics committee may also be helpful. Both physicians should document in detail:
 - The rationale for withholding the disclosure of the material information
 - The material information disclosed to the patient
 - Any material information not disclosed to the patient
 - What material informant was disclosed or not disclosed to the closest relatives
 - That approval was secured for proceeding with the treatment or procedure when full disclosure to relatives was made
- Patient requests not to be informed: Where the patient requests that he or she not be informed of the risks, etc. of a particular treatment or procedure, the physician should fully document in the patient's medical record the facts that resulted in this conclusion and that the patient has decision making capacity. The physician should also document what, if any, information was disclosed to the patient. For

- surgical procedures, except in an emergency, a written consent must be obtained using the Consent to Operation form.
- Exception – Emergency Treatment -- When a delay in treatment would jeopardize the life or health of the patient, and the patient is unable to give an informed consent, the law recognizes an exception to the requirement for obtaining an informed consent.
 - If the patient is unable to consent and has a lawfully authorized representative, the treating physician shall obtain the informed consent of the representative.
 - When an informed consent cannot be obtained from the patient or from his or her lawfully authorized representative, the physician treating the patient should determine the immediacy of the need for treatment.
 - Under circumstances in which an emergency situation has been determined to exist, the physician, whenever practical, may obtain clinical consultation with at least one other licensed physician to confirm that there is an immediate threat to life or health. The consulting physician's role is to verify the existence of the emergency.
 - A physician may provide any treatment or perform any procedure immediately required to prevent serious disability or death, or to alleviate great pain and suffering.
 - In proceeding with the treatment or procedure, caution should be undertaken to ensure that only the emergency condition is treated (for example, treatment may include first aide, temporary medical care in lieu of surgery, or the performance of surgical procedures as deemed necessary by the treating physician.
 - A physician may provide any treatment or perform any procedure that becomes necessary because of a condition discovered or arising during an operation that presents an immediate threat to the life or health of the patient.
 - The emergency exception to the requirement of informed consent does not extend to a conscious, competent adult patient, otherwise able to give his or her own informed consent to a treatment or procedure.
 - The need for immediate treatment should be documented in the patient's medical record. The documentation should include all information establishing the nature, immediacy, and magnitude of the problem, and the impossibility of

obtaining consent under the circumstances. If the physician has obtained a consultation, the consulting physician should similarly document his or her opinion in the medical record. All notes should also show the date and time that these determinations were made.

- Refusal to Accept Treatment
 - Competent adult patients, or their legally empowered representatives, have the right to refuse proposed medical treatment. Faced with such a refusal, the physician must disclose any foreseeable risks or consequences to the patient's health that could be expected to result from such refusal as well as the identity and nature of reasonable therapeutic alternatives. The progress notes should reflect, in detail, the reason for the patient's refusal as well as any information provided to the patient or the patient's representative.
 - In many cases, a patient's refusal of medical treatment may be based on a misunderstanding of the nature of the treatment, anxiety, or other factors. As such, the physician should attempt to explore the reason for the patient's or representative's refusal and attempt to resolve such concerns, if possible. In any event, the patient should continue to be provided the most beneficial level of care allowable within the limits imposed by the refusal.
 - In circumstances that involve the treatment of minors, a parent or guardian's refusal of treatment should be respected to the point at which the child's general health may be jeopardized. An attempt should be made to determine the reasons for the refusal and to resolve whatever conflicts may exist. Reasonable alternatives to the proposed treatment, including risks, benefits, and alternatives, should be discussed with the parents or guardians, and the discussion should be documented within the minor's medical record. Where medical treatment is clearly indicated to prevent physical impairment or death, risk management should be immediately contacted. (Please see guidelines regarding emergency treatment, above.)

Consent by Telephone, Telegram, Facsimile, or Letter

- Consent for medical or surgical treatment should be obtained by telephone, telegram, facsimile, or letter only if the person(s) having legal capacity to consent for the patient is not otherwise available.
- Two other persons must witness consent by telephone by remaining on the line during the consent conversation. The physician obtaining consent must indicate on the consent form the exact time and nature of the consent given, with the witness countersigning and dating this record. This form must be placed in the patient's medical record.
- In situations in which the consent is granted either by telephone, letter, facsimile, or telegram, the documentation in the medical record must be sufficiently extensive to explain why consent was obtained in this manner, as well as indicating that the informed consent discussion occurred in compliance with this policy.

Duration of Consent

- Consent is valid as long as the patient's condition does not change and the procedure remains the same. Special care should be taken to review those consents that were obtained more than one month prior to the proposed treatment or procedure. The exception to this involves patients desiring voluntary sterilization or those who are entering a course of therapy that does not change from visit to visit (for example, allergy patients undergoing hypo sensitization treatment, or patients receiving transfusions for anemia in ambulatory clinics).

Special Circumstances

Various laws and regulations impose special informed consent requirements under certain circumstances.

- Blood transfusions (Blood Components Administration Consent)
- Breast Tumor
 - Before a physician operates on a patient for a tumor of the breast the "Consent for Treatment of Breast Tumor" form shall be executed.
- HIV Testing
 - Prior to performing any testing for HIV, the subject shall be given an oral or written explanation of the meaning of the test.

- Informed consent shall be deemed to have been obtained when a health care worker is exposed to blood/body fluids. The patient shall have deemed to consent to the release of testing for HIV, Hepatitis B or C viruses and to consent for the release of results to the exposed individual. The patient is informed of this at the time of admission (Patient Authorization Form)
- Incompetent Adults: See section Who May Give an Informed Consent
- Minors: See section Who May Give an Informed Consent Policy
- Photography / interviews; See Photograph Consent Form
- Research Subjects: All research, development, and related activities that involve human subjects, including informed consent requirements, must be approved by an IRB prior to initiation of the activity. See Investigational Protocols and Studies Policy
- Sterilization
 - Any type of sterilization procedure may be performed on an individual eighteen (18) years of age or older after obtaining informed consent. A full and reasonable and comprehensible medical explanation as to the meaning and consequences of the operation and alternative methods of contraception shall be given by the physician to the person requesting the operation. The operation may not be performed prior to thirty (30) days from the date of the written request upon a person who has not previously become the natural or adoptive parent of a child.
 - Any type of sterilization procedure may be performed on an individual from fourteen (14) to eighteen (18) of age when a court has issued an order for the operation.
 - Any type of sterilization procedure may be performed on an individual over the age of eighteen (18) not capable of giving informed consent when the court has issued an order for the procedure.
- Telemedicine
- Use of organs, tissues, and fluids for research and commercial purposes: Prior to consenting to treatments, patients have the right to be informed of any potentially conflicting interests (for example, medical research or economic interest) that a physician may have related to the treatment. Thus, the physician must disclose such interests to the patient where the treatment or procedures involves a research and / or financial or economic interest of the physician.
- Medical Services for prisoners incapable of giving consent

- When a resident of a correctional facility (prisoner) presents for treatment, who is incapable, either mentally or physically of giving informed consent to treatment and the proposed treatment is in the best interest of the prisoner, the Director or his designee of the correctional facility shall petition the court for authorization to treat.
- The authorization to treat shall describe the treatment authorized and the authorization generally of such examinations, tests, medication and other treatment as are in the best interest of the prisoner but may not authorize non-therapeutic sterilization, abortion or psycho surgery.
- The above order requires the licensed physician, psychiatrist or clinical psychologist acting within their area of expertise who is treating the prisoner to report to the court and the prisoners attorney any change in the prisoner's condition resulting in the prisoner's capability to consent prior to completion of the authorized treatment and related services.
- In the event that the licensed physician, psychiatrist or clinical psychologist acting within his area of expertise who has attempted to obtain consent, finds probable cause to believe the prisoner is incapable of giving consent and the medical standard of care calls for testing, observation or other treatment within twelve (12) hours to prevent death, disability or a serious irreversible condition, the court or, if the court is unavailable, a magistrate may issue an order authorizing temporary admission and authorizing testing, treatment or observation. This order shall expire after twelve (12) hours unless extended by a court order. (For assistance in obtaining court or magistrate order contact Case Management)

Who May Give an Informed Consent

- Legal Capacity
 - If the person is competent, the patient has the right to consent to, or refuse, the treatment. Generally, it is assumed that an adult patient presenting for treatment is competent, unless there is evidence to the contrary. If the patient is incompetent, either "by statute"(e.g. because the patient is a minor), or by reason of the patient's condition (e.g. the patient is unconscious or

senile), the determination of who is able to consent on behalf of the patient depends upon whether a third person has the legal capacity to consent to treatment on behalf of the patient.

- The physician responsible for obtaining informed consent should ascertain that the patient's ability to understand the nature of the consent is not impaired at the time the consent is obtained. A patient may be considered incompetent in the following situation:
 - He or she is incapable of understanding the risks, benefits, or nature of the proposed treatment or protocol due to impaired consciousness or impaired mental capacity, as a result of injury, physical or mental illness or the use of alcohol, narcotics, hallucinogens, sedatives, or other medication.
 - Competency is required at the time consent is given. If consent or refusal was given by the patient during a period of competency, then that consent remains valid even if the patient later lapses into incompetence.
 - "Incompetence" is not limited to persons who have been legally declared incompetent. It includes persons who, in the opinion of the attending physician, are either permanently or temporarily incapable of giving consent. If a patient is assessed to be incompetent, the basis for this must be documented in the patient's medical record.
 - If the patient is not competent to give informed consent, then another authorized party must approve the proposed treatment on the patient's behalf.
- Incompetent adults – When non-emergent medical or surgical treatment is required for an incompetent, informed consent should be obtained from the following persons (in this order)
 - Legal representative, such as
 - Durable power of attorney for health care. Individuals may execute a durable power of attorney for health care authorizing another person to act as an attorney – in – fact to make health care decisions on their behalf (see advance directive policy)
 - Conservator. A conservator of the patient's person may be authorized to consent to care on behalf of the patient. The conservatorship papers must expressly grant this

- authority. (a copy of any papers authorizing a legal representative to consent to treatment on behalf of the patient should be filed in the patient's medical record).
- Family Members; If a patient has neither a duly authorized conservator nor an agent, consent for treatment may be obtained from the patient's closest available relative in the following order or priority and limited to spouse, adult child, parents, adult brother/sisters, and adult grandchildren or any other relative of the patient in order of blood relationship. Such consent may be accepted under the following conditions based upon the information available to the treating physician:
 - There is no substantial questions as to whether the patient, if competent, would object to the treatment or procedure
 - The competence or motive of the closest relative is not suspect or questionable
 - No other close relative of equal rank objects to the treatment or procedure
 - If the closest available relative declines to participate in the consent process or arrives at a decision that is not apparently in the best interest of the patient, the risk management department should be contacted.
 - Exceptions: Under no circumstances may a conservator, agent or relative consent on behalf of the patient to the following:
 - Sterilization
 - Electro convulsive therapy
 - Participation in a research study or use of an experimental drug
 - Admission to a psychiatric facility
 - Psychosurgery
 - Court Order
 - When a patient requiring nonemergent medical treatment is determined to be incompetent to give informed consent, and there is no legal representative or close available relative, it may be appropriate to seek a court order as permitted under state law. However, an order should only be sought in cases where, if the patient's condition is not treated, there is a probability that the

condition will become life endangering or result in a serious threat to the patient's physical health.

- The Case Management Department should be contacted for further information and assistance under these circumstances.
- Emergency Treatment
 - In a medical emergency, where prompt treatment appears to be necessary to prevent deterioration or aggravation of the patient's condition, treatment can be provided even if the patient or his or her legal guardian or conservator is unable to give consent. However, the nature of the emergency and the need for treatment must be clearly documented in the progress note. Only the emergency condition may be treated. Once the patient's condition has stabilized, informed consent or a court order for additional treatment must be obtained.
- Procedure/responsibility of attending physician
 - Determine the patient's capacity to give informed consent. If a second opinion is desired regarding a patient's capacity to consent to medical or surgical treatment, request a consultation from a licensed psychiatrist or other qualified health care practitioner.
 - If a court order is appropriate, the physician will need to complete a declaration to be submitted to the court with the application for the order. (Please contact the Case Management Department for further information and assistance.)
 - Since the completed declaration substitutes for the informed consent discussion with the patient, the declaration must establish a record upon which a court may conclude that it has been fully informed of the risks and alternatives of the proposed treatment and upon which an order authorizing such treatment may be issued. These forms must be completed in language that is clear, concise, and comprehensible to a layperson (the surgical or medical treatment must not be scheduled or performed until the hospital has received official authorization from the court)

- The physician must be prepared to attest to the facts and professional opinions expressed in the declaration.
- Minors
 - Consent by parent, legal guardian, or qualified relative: A parent, legal guardian, or qualified relative must consent for medical treatment of minors except in situations as described below. If the parent(s), legal guardian(s), or qualified relative are unable or refuse to consent to treatment, and none of the situations described in the following sections exist, special procedures must be followed to obtain consent.
 - Minors with legal capacity to consent to medical treatment: Certain minors may consent to medical or surgical care on their own behalf without parental consent. These include patients who are:
 - Except for the purposes of sexual sterilization, any minor, which is or has been married shall be deemed an adult for the purpose of giving consent to surgical and medical treatment.
 - A pregnant minor shall be deemed an adult for the sole purpose of giving consent for herself and her child to surgical and medical treatment relating to the delivery of her child when such surgical or medical treatment is provided during the delivery of the child or the duration of the hospital admission for such delivery; thereafter, the minor mother of such child shall also be deemed an adult for the purpose of giving consent to surgical and medical treatment for her child.
 - Any minor seventeen years of age may, with the consent of a parent or legal guardian, consent to donate blood and may donate blood if such minor meets donor eligibility requirements. However, parental consent to donate blood by any minor seventeen years of age shall not be required if such minor receives no consideration for his blood donation and the procurer of the blood is a non profit, voluntary organization.
 - Circumstances under which a minor may deemed an adult for consenting to his/ her own medical treatment: Except where

otherwise indicated, Minors may consent to treatment for the following:

- Medical or health services needed to determine the presence of or to treat venereal disease or any infectious or contagious disease that the State Board of Health requires to be reported.
- Medical or health services required in case of birth, pregnancy or family planning except for the purposes of sexual sterilization.
- Medical or health services needed in the case of outpatient care, treatment or rehabilitation for substance abuse. (VAC 37.1-203)
- Medical or health services needed in the case of outpatient care, treatment or rehabilitation for mental illness or emotional disturbance.
- The release of medical records related to items one and two above
- Minor separated from the custody of parent or guardian
 - Judges with respect to minors whose custody is within control of their respective courts
 - Local Directors of social services or their designees with respect to
 - Minors who are committed to the care and custody of the local board by courts of
 - Minors taken into custody
 - Minors who are entrusted to local board by parent or guardian, when consent of parent or guardian cannot be obtained immediately and, in the absence of such consent, a court order for such treatment cannot be obtained.
 - Director of the Department of Corrections or the Director of the Department of Juvenile Justice or his designees with respect to any minor who is sentenced or committed to his custody
 - Principal Executive officers of state institutions with respect to wards of such institutions.
 - Principal executive officer of any institution or agency legally qualified to receive minors for care and

- maintenance, with respect to any minor who is within the control of such institution or agency
- Any person in loco parentis, or upon a conservator or custodian for his ward or other charge under disability.
- Emergency Treatment:
 - When a medical emergency exists, treatment may be provided and must be limited to the emergency medical condition, even if the patient or patient's parents or legal guardian is unable to provide consent. In such cases, the treating physician, whenever practical, may obtain clinical consultation with a least one other licensed physician to confirm the need for such intervention.
 - If the patient's parents, legal guardian, or qualified relative either object to or place significant conditions or restrictions upon the provision of such treatment, the risk management department should be consulted.
 - Non emergent Treatment: In cases where it is non-emergent, but necessary care is anticipated in order to prevent the deterioration or aggravation of the patient's condition, and patient's parents or legal guardian are unable or unwilling to consent to such treatment, the risk management department should be contacted. A court order for the patient's treatment may be applied for through the Case Management Department. In cases where child abuse or neglect is suspected, prompt reporting must be made as outlined in hospital policy.
 - Informed consent discussions with minors; Informed consent discussions with minors should be conducted at a level that can be understood by the minor.
 - Referral to risk management: Any questions about whether a minor can consent to his or her own treatment shall be directed to the risk management department
 - Procedure/responsibility of admissions and registration: When a minor comes to the hospital without a parent, legal guardian, or qualified record, staff should check for one of the following circumstances before admitting or registering the patient.
 - The minor is being admitted or registered for emergency treatment
 - The parents, legal guardian, or qualified relative has completed Consent to Treatment of Minor Form or a

similar document designating a person authorized to consent to treatment of the minor.

- The minor is emancipated and has department of Motor Vehicles identification card identifying his or her as emancipated.
 - The minor is self sufficient
 - The minor is married or formerly married or is on active duty in the armed forces. In such cases, no forms are needed but evidence of marriage or active duty status must be in the medical record or provided at the time of admission or registration
 - The minor has come for treatment for one of the conditions listed above.
- **Communication Problems**
 - Language problems may necessitate the use of interpreters for informed consents. Whenever possible, an employee of the hospital should be used as an interpreter. An interpreter can be located by utilizing the ATT Interpreter service (see Translator Language Service Policy) The medical record should indicate who acted as interpreter and the language use.
 - Patients with Communication Handicaps a physician obtaining consent from a patient who may have difficulty with communication because of a physical handicap must arrange for consent discussions to take place using a communication modality in which the patient is fluent. For the blind, verbal translation in the appropriate language is normally sufficient. For the deaf, written communication or sign language may be used. Other handicap manifestations such as muteness or an extreme communication problem should be dealt with, when possible in consultation with another physician or other qualified health professional.(See Special Communication Needs Policy)

Obtaining Advice

Any question regarding the hospital's policy on informed consent, including requests for guidance in determining whether or not legal

requirements have been met, should be directed to the risk management department or to hospital legal counsel.

Forms

- Authorization for Surgery and Other Procedures
- Patient Authorization Form
- Specific Procedure Forms – Consent forms designed to document informed consent authorization for a specific surgery, diagnostic modality or medical treatment (i.e. anesthesia, contrast dye, blood transfusion) may be used. For this consent to be effective as proof of informed consent it must contain all of the same elements of informed consent.
 - Consent for Anesthesia Services
 - Contrast Media Administration
 - Blood Components Administration Consent
 - Consent for Treatment of Breast Tumor
 - Circumcision Consent Form
 - Informed Consent for Administration of Hepatitis B Vaccine
 - Information and Consent – Patient with Prior C-Section
 - Consent to Radiation Treatment
 - Informed Consent and Rights and Responsibilities for Exercise Rehab

References

- Joint Commission on Accreditation of Health care Organizations, Comprehensive Manual for Hospitals – Patients Rights and Responsibilities
- Code of Virginia 1999, Virginia Legislature: House Bill 2107, Effective July, 1, 1999
- Healthcare Facilities Forms, Checklist, and Guidelines, Aspen Publishers, 1998
- Emergency Department Compliance Manual, 2nd Ed. Aspen Publishers, 1999
- “Informed Consent” Risk Analysis: Laws, Regulations and Standards; Volume 2:4; March 2006

- Risk Management Handbook for Health Care Organizations; American Society for Healthcare Risk Management, 3rd Ed; 2001
- Title 54.1 Code of Virginia, Professions and Occupations; Subtitle III, Professions and Occupations Regulated by Boards within the Department of Health Professions; Chapter 29. Medicine and Healing Arts; Article 6, General Standards of Practice and Article * Health Care Decisions Act.
- Title 53.1 Code of Virginia, Prisons and Other Methods of Correction, Chapter 2. State Correctional Facilities; Article 2.1 Medical and Mental Health Care; Involuntary Admission and Treatment
- Code of Virginia 32.1-162.18 – Informed Consent
- Code of Virginia 54.1-2971 Informed Consent for Treatment of Breast Tumor
- Code of Virginia 54.1-2969 – Authority to Consent to Surgical and Medical Treatment of Certain Minors.
- Code of Virginia 54.1-2975-2976, Sterilization Operations for Certain Children Incapable of Informed Consent and Sterilization Operations for Certain Adults Incapable of Informed Consent
- Code of Virginia 32.1-37.2 Informed Consent for Testing for Human Immunodeficiency Virus
- Rozovsky,R and Wood,J. “Consent to Treatment as a Compliance Issue”, Healthcare Compliance Letter. November 15, 2004