

General Consent for Ordinary Medical Care and Treatment vs. Written Informed Consent

- UF Health Shands Core Policy 02.010, Informed Consent for Treatment:
 - In general, consent should be obtained prior to any treatment or procedure. The UF Health Shands Consent and Authorization form provides **general consent** for diagnostic procedures and medical treatment. Nevertheless, specific **written Informed Consent** must be obtained by the Patient's Attending Physician or her/his Physician-designee prior to any medical/surgical, diagnostic, or therapeutic procedure or treatment: (1) that entails **Significant Risk** to the patient or (2) for which Informed Consent is otherwise required by law, regulation or this policy.

Definitions

- **Informed Consent** – Means consent voluntarily given by a person after sufficient explanation and disclosure of the subject matter involved to enable that person to: 1) have a general understanding of the treatment or procedure and the medically acceptable alternatives (including non-treatment), including the substantial risks and hazards inherent in the proposed treatment or procedures; and 2) make a knowing health care decision, including the refusal of treatment, without coercion or undue influence.
- **Incapacitated or Incompetent** – Means the physical or mental inability to communicate a knowing health care decision, as determined and documented by the Patient's Attending Physician. An adult patient is presumed to be capacitated unless there is written Physician (M.D. or D.O.) documentation to the contrary in the medical record.
- **Significant Risk** – A procedure is a Significant Risk procedure if it entails more than a minimal risk to the patient. In determining whether a procedure entails Significant Risk, the Physician should give consideration to the frequency of any potential associated poor outcome and the severity of any such outcome. Blood transfusions, as well as any procedures requiring anesthesia (general or regional) or sedation are considered to entail Significant Risk for the purposes of this policy.
- **Proxy** – A competent adult who has not been expressly designated to make health care decisions for a particular Incapacitated individual, but who is authorized pursuant to state statute to make health care decisions for such Incapacitated individual.
- **Surrogate** - A competent adult who has been expressly designated in an advance directive to make health care decisions for a particular individual.

Minors vs. Incapacitated Adults (Rules are very different)

Minors – Informed Consent

Who may provide Informed Consent? (In Order of Priority)	Notes
Natural or Adoptive Parent, Legal Guardian or Legal Custodian	For Legal Guardian and Legal Custodian, there must be a court order. We do not require a court order for an adoptive parent.
A person who possesses a power of attorney OR a health care surrogate designated after September 30, 2015, granting authority to provide medical consent for the Minor.	<ul style="list-style-type: none"> • Power of Attorney must have 2 witnesses, be notarized, and specifically authorize health care decision-making (a general financial POA is not sufficient). • Health Care Surrogate provision is new to the Florida Statutes. A parent can now designate a health care surrogate for their child. • POA or Surrogate only has power to consent when a parent, legal guardian or legal custodian is unreachable.
A relative who has been awarded a Court Order for Temporary Custody by Extended Family.	Requires a court order

Minors – Ordinary Medical Care and Treatment (NOT informed consent for significant risk procedures)

Who may provide Consent for Ordinary Medical Care and Treatment? (In Order of Priority)	Notes
Any of the persons listed above	For Legal Guardian and Legal Custodian, there must be a court order. We do not require a court order for an adoptive parent.
If any of the persons listed above are unreachable: <ol style="list-style-type: none"> 1. Stepparent 2. Grandparent 3. Adult Brother or Sister 4. Adult Aunt Or Uncle 	As long as Minor is not committed to Department of Children and Family Services (DCF) or Department of Juvenile Justice (DJJ)
DCF or DJJ	DCF and DJJ have the authority to consent to Ordinary Medical Care and Treatment if a parent, guardian or legal custodian is not available. DCF and DJJ must get a court order for anything requiring Informed Consent.

Emancipated Minors

A Minor patient may give consent for her/himself if:

1. Married or previously married;
2. Seeking care or service related to her pregnancy, including termination;
3. Seeking consultation or care for a sexually transmitted disease, including HIV; or
4. Voluntarily seeking treatment for drug/alcohol dependency (this does not include Emergency medical treatment for drug overdose).

Incapacitated Adults

Who may provide Informed Consent? (In Order of Priority)	Notes
Health Care Surrogate/Durable Power of Attorney for Health Care (unless limited by Guardianship order)	Must be expressly designated by patient in an advance directive
Court Appointed Guardian	There must be a valid court order authorizing the guardian to make medical decisions
Spouse	
An adult child of the patient, or if the patient has more than one adult child, a majority of the adult children who are reasonably available for consultation	
A parent of the patient	
The adult sibling of the patient or, if the patient has more than one sibling, a majority of the adult siblings who are reasonably available for consultation	
An adult relative of the patient who has exhibited special care and concern for the patient and who has maintained regular contact with the patient and who is familiar with the patient's activities, health, and religious or moral beliefs	
A close friend of the patient	Requires close friend affidavit
Social Work Proxy	Such a proxy must be selected by ethics committee and must not be employed by UF Health Shands

Terminology We Encounter – Definitions and Consent Authority

Term	Definition	Provide Informed Consent for Medical Treatment?
Guardian of the Person	A person who has been appointed by the court to act as guardian over a (incapacitated person's) person.	Yes – unless limited by court order.
Guardian of the Property	A person who has been appointed by the court to act as guardian over a (incapacitated person's) property.	No.
Plenary Guardian	A person who has been appointed by the court to exercise all delegable legal rights and powers of person after the court has found that the person lacks the capacity to perform all of the tasks necessary to care for his or her person or property.	Yes.
Guardian Advocate of Baker Acted Patient (Chapter 394, Florida Statutes)	A person appointed by a court to make decisions regarding mental health treatment on behalf of a patient who has been found incompetent to consent to treatment under the Baker Act. The guardian advocate may be granted specific additional powers by written order of the court.	Not typically. A guardian advocate makes mental health decisions and the judge appointing a guardian advocate does not usually grant them the authority to make medical decisions. But if the court order specifically authorizes, the guardian advocate may provide informed consent for medical treatment.
Guardian Advocate of Developmentally Disabled Patient (Chapter 393, Florida Statutes)	A person appointed by a court to make decisions on behalf of a developmentally disabled patient.	It depends on the powers granted in the court order.
Guardian Ad Litem	A person who is appointed by the court in which a particular legal matter is pending to represent a person, usually a minor, in that proceeding.	No – this person represents the ward for legal proceedings only.
Power of Attorney	A writing that grants authority to an agent to act in the place of the principal, whether or not the term is used in that writing. It is terminated by the principal's incapacity.	Only for a minor and only if health care is specified in the document.
Durable Power of Attorney	A power of attorney that is not terminated by the principal's incapacity.	Only if health care is specified in the document.
Health Care Surrogate	A competent adult who has been expressly designated in an advance directive to make health care decisions for a particular individual.	Yes.
Health Care Proxy	A competent adult who has not been expressly designated to make health care decisions for a particular Incapacitated individual, but who is authorized pursuant to state statute to make health care decisions for such Incapacitated individual.	Yes.