HARDIN COUNTY GENERAL HOSPITAL
HOSPITAL-WIDE POLICY

Title: CONSENT BY A MINOR TO MEDICAL TREATMENT **Effective Date: 8/2006**
Policy Number: 147 **Med Staff:**
Regulation: Consent By Minors to Medical Procedures Act (410 ILCS 210/0.01 et seq.) **Admin:**

I. POLICY

Generally speaking, Illinois law provides that only the parent or guardian of a person under the age of 18 may consent to the provision of medical services to that minor. However, several exceptions to this general rule are contained in the Consent By Minors to Medical Procedures Act (410 ILCS 210/0.01 et seq.) and other Illinois laws.

II. DEFINITIONS

N/A

III. RESPONSIBILITY

All Healthcare professionals

IV. EQUIPMENT

N/A

V. PROCEDURES
INFECTION CONTROL: N/A

1. Medical Emergency. Emergency medical treatment may be provided to a minor without parental consent when obtaining such consent is not feasible under the circumstances without adversely affecting the condition of the minors health. (410 ILCS 210/3 (a)).

2. Minors Who Are Parents. A minor who is a parent may lawfully consent to his or her own health care even though he or she is under the age of 18. (410 ILCS 210/1). Apparently, if the minors status as a parent were to end, for example if the minors child were given up for adoption, the minor would no longer have authority to consent to her own health care.

Any parent, including a parent who is a minor, may consent to health care on behalf of his or her child. (410 ILCS 210/2). This provision applies to parents who are divorced or separated; either parent may consent to care for the child, so long as the divorce decree or custody order does not state otherwise. The hospital does not have an obligation to investigate the terms of the divorce decree or custody order. If a parent is present and seeking care for his or her child, typically, that is sufficient.

3. Emancipated, Pregnant or Married Minors. A minor who is considered emancipated, or who is pregnant or who is married may lawfully consent to the performance of any medical or surgical

procedure even though such minor is under age 18. (410 ILCS 210/1).

Emancipated minors are minors between the ages of 16 and 18 who have obtained a court order which states that they are legally emancipated. (750 ILCS 30/4). It is important for the minor claiming to be emancipated to present this order before nonemergency services are provided, both to verify the minors status as an emancipated minor and to ascertain whether there are restrictions on the emancipation which might limit the minors ability to consent to medical care.

4. Mental Health Services. A minor over age 12 may consent to outpatient mental health services. The minors parent or guardian shall not be informed of such counseling or psychotherapy without the consent of the minor unless the facility director believes such disclosure is necessary. If the director intends to disclose the fact of counseling, the minor must be informed. Until the minors parent consents, outpatient counseling for a minor under age 17 cannot exceed 5 sessions, with a session not exceeding 45 minutes. A minors parent is not responsible for the cost of the sessions, unless he or she has consented. (See Illinois Mental Health and Developmental Disabilities Code, 405 ILCS 5/3-501).

A minor over age 16 may consent to admission to a mental health facility for inpatient services. In an inpatient situation, the minors parent or guardian must be immediately informed of the admission. (See Illinois Mental Health and Developmental Disabilities Code, 405 ILCS 5/3-502).

5. Substance Abuse and Sexually Transmitted Disease Services. A minor between the ages of 12 and 18 may consent to treatment or counseling related to the diagnosis and treatment of substance abuse or sexually transmitted disease. This exception also permits the minor to consent to medical care or counseling related to the effects on the minor of drug or alcohol abuse by a member of the minors family. (410 ILCS 210/4).

A health care provider may, but is not obligated to inform the minors parents of treatment given or needed for a sexually transmitted disease. With respect to treatment provided for substance abuse by a minor or a minors family members, the provider shall not inform the parents without the minors consent, unless it is necessary to protect the safety of the minor, a family member, or another individual. (410 ILCS 210/5).

6. Sexual Assault Counseling, Diagnosis and Treatment. Any minor who is a victim of sexual assault or abuse may consent to medical care or counseling related to the diagnosis or treatment of any disease or injury arising from such offense. (410 ILCS 210/3 (b)).

7. Birth Control Services. Any minor who is pregnant, married or a parent, or a minor as to whom the failure to provide such services would create a serious health hazard or who is referred by a physician, clergyman or planned parenthood agency may obtain birth control services without parental consent. (See Birth Control Services for Minors Act, 325 ILCS 10/1).

8. Release of Minors Medical Records. Since the minors mentioned above are capable of giving valid consent for treatment, it is a logical extension of this principle to argue that the minor has the right to control the release of his or her medical record information. Most of the statutes referenced above either specify that the minors consent is needed or state that the minor may consent to such treatment as if the minor had reached the age of majority. Therefore, in these specific situations it is recommended that the hospital obtain the minors consent before releasing the minors medical information to the parents.

B. Consent by a Minor to Release of Sexual Assault Evidence and Information
(*Please note that this change became effective July 6, 2000*.)

The Sexual Assault Survivors Emergency Treatment Act (410 ILCS 70) provides that a sexual assault evidence collection kit may not be released by a hospital without the written consent of the sexual assault survivor. Until recently, if the victim were a minor, only a parent or legal guardian of the minor could sign for release of such evidence and information.

Effective July 6, 2000, Public Act 91-888 now provides that in the case of a minor sexual assault survivor, **13 years of age or older**, evidence and information concerning the alleged sexual assault may be released at the written request of the minor.

However, if the survivor is a minor **under 13 years of age**, evidence and information concerning the alleged sexual assault may be released at the written request of the parent, guardian, investigating law enforcement officer, or the Department of Children and Family Services.

Any health care professional or institution providing evidence or information to a law enforcement officer pursuant to a written request is immune from liability for those actions, with the exception of willful or wanton misconduct. The immunity provision applies only if all of the requirements of this section of the law are met. You may access the statutes referenced in this memo at the General Assembly's website: http://www.ilga.gov.

VI. DOCUMENTATION

N/A