

Contact your on-site risk management designee whenever you have questions about clinical issues that are risk management related.

Shands at AGH.....(352)733-0115 or 733-0111 x71113

Shands at Lake Shore (386) 754-8128

Shands at Live Oak (386) 362-0800

Shands at Starke (904) 368-2300

Shands at Vista/Rehab.....(352) 265-5491 x70022

Shands at the University of Florida . (352) 265-0002

Shands Jacksonville (904) 244-3477

Shands Clinics/Gainesville (352) 265-0002

Shands Clinics/Jacksonville (904) 244-3477

UF Clinics/Gainesville..... (352) 265-8067

UF Clinics/Jacksonville..... (904) 244-4094

UF Dental Clinics (352) 392-2911

Please refer patients with concerns to your facility Patient Representative.

Additional educational programs can be obtained through the Gainesville UF Self-Insurance Program office.

- Basics in Risk Management
- Informed Consent
- Good Care, Bad Documentation
- Capacity to Consent
- Credentialing, Peer Review and Medical Staff Monitoring
- Wrong Site Surgery
- Retained Foreign Bodies: Reducing the Risks
- Emergency Medical Treatment and Labor Act (EMTALA)
- Pressure Ulcer Prevention
- Disclosure of Adverse Events
- Florida's Baker Act



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Self-Insurance Program
Risk Management and Loss Prevention
P. O. Box 112735
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Essentials of Obtaining Proper Consent



Who can obtain consent?

Based on Florida Statute, consent can be obtained by a physician chiropractor, podiatrist, dentist, ARNP or PA. However, the Florida Board of Medicine views obtaining consent as a non-delegable physician duty regardless of what other regulatory boards deem appropriate for their own professionals. **Irrespective of what is included on a standardized consent template, it is critical that the physician has a discussion with the patient and then confirm in his/her own mind that the patient understands.**

Who may give consent?

A **competent** person who is:

- Over the age of 18.
- Under the age of 18 but married.
- Under the age of 18 and consenting for care or a service related to her pregnancy or child.
- Under the age of 18 and consenting to care for a sexually transmitted disease or alcohol or drug dependency.

Who may consent for minors? (under age 18)

- Either parent.
- Court appointed guardian.
- Person specifically designated by court order as having the capacity to consent to non-routine medical surgical care.
- Person with a power of attorney from parent, dated after July 1, 2001, granting authority to consent to medical treatment of the minor.
- A relative who has been awarded a Court Order for Temporary or Permanent Custody.
- DCF for routine medical care, but only if the child is permanently committed as a ward of the state, i.e., all parental rights have been terminated.

NOTE: A grandparent or other relative who has custody of a child due to an informal arrangement **MAY NOT** give consent for **surgery or general anesthesia**, or any other procedure or treatment requiring informed medical consent.

Who determines capacity?

If the patient's capacity to provide informed consent is in question, the **attending physician (M.D. or D.O.)** shall evaluate and determine whether the patient has the capacity to provide informed consent. If the patient is deemed to be incapacitated, the physician shall document it in the medical record. If the attending physician has a question as to the patient's capacity to consent, an opinion from a second physician will also be obtained and documented in the medical record.

If an adult patient is incapacitated, who can grant consent on his/her behalf?

- A court appointed guardian authorized to consent to non-routine medical/surgical care, after presentation of valid guardianship papers.
- A health care surrogate designated by the patient prior to his/her incapacity.
- If the patient has no guardian and does not have a designated health care surrogate, consent may be granted by a proxy in the following descending order:
 - A. Patient's spouse.
 - B. An adult child of the patient or, if the patient has more than one child, a majority of the adult children who are reasonably available for consultation.
 - C. A parent of the patient.
 - D. An 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.
 - E. An adult relative.
 - F. A friend of the patient who is 18 years of age or older and has signed a Close Friend Affidavit.
 - G. A licensed clinical social worker selected by the Ethics Committee who is not employed by the hospital.

What if the adult is developmentally disabled?

If the patient does not have a court appointed guardian, guardian advocate, or designated health care surrogate, then consent may be granted by a proxy as with any other incapacitated adult.

What if the patient cannot write?

A patient, or the patient's representative, who is unable to write may make a "mark" as his or her signature. The witness(es) to the signing shall use their full signature.

What do you do when a patient requiring emergency care is unable to consent and there is no one else available to give consent?

When the patient is unable to consent because of an emergency condition and there is not an appropriate individual readily available to give consent, the attending physician must document in the medical record the existence of the emergency and that the proposed procedure is necessary to preserve the life or health of the patient. Notification of the appropriate individual shall be accomplished as soon as possible.

For more detailed information refer to Shands policies on informed consent.

<http://intranet.shands.org/licacc/Intranet/Patient%20Care/cp2.10.pdf>