A practice must obtain authorization to treat minors from a parent or legal guardian. There are a variety of situations that may make it difficult to do so. For your information and to assist you in this process, outlined below are two scenarios that may occur in your practice.

**General Information**

The following information should be considered when treating a minor:

* Patients that are under the age of majority in your state (confirm your state’s age of majority and emancipation definitions), may not, unless legally emancipated, consent to treatment for themselves.
* Consent for treatment for minors must therefore be obtained from a parent or legal guardian prior to treatment.
* It is recommended that you request the parent or legal guardian be present and remain in the office during the course of treatment.

**Scenario 1: Obtaining Consent to Treatment in Absence of Parent/Guardian**

There are situations that may arise, for various reasons (i.e. work, travel, illness, family situations, or emergencies, etc.) where a minor’s parent or legal guardian cannot be present at the time of treatment, but has provided advanced consent for future treatments.  The following should be considered prior to treating the minor in this situation:

* Obtain written and verbal consent for treatment of minors from a parent or legal guardian prior to the procedure(s) and place in the minor’s record (see your state’s requirements for specific forms and information required).
* Determine if the parent/guardian has designated an individual to escort the minor for treatment.
* Determine if PHI can be shared with the designated escort. (see HIPAA requirements <http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/index.html>)



**Sample Office Form to use to “Designate Responsibility to a Non-Guardian”**

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** | **Relationship:** | **Share PHI (circle):** | **Signature** |
| Mrs. A | Grandmother | Yes No | Parent of Minor |
| Mr. B | Friend/Neighbor | Yes No | Guardian of Minor |
| Ms. C | Babysitter | Yes No | Parent of Minor |

**Scenario 2: Parent/Guardian Cannot Provide Prior Consent to Treatment:**

There are situations that may arise where a parent or guardian cannot provide consent prior to treatment (i.e. travel, emergencies, student exchange programs, parent is in substance abuse program, child is institutionalized and parent still has guardianship, the minor has been abandoned by parent and is a ward of the state). The following should be considered prior to treating the minor in this situation:

* Determine if the minor has a custodial guardian. This must be verified in accordance with state laws (i.e. state courthouse can provide proof if guardianship/custody)
* A minor’s custodial parents/guardians may authorize another adult designee to consent to treatment for the minor (see your state requirements for specific forms).
* If the treatment is for an Emergency situation vs. an Elective procedure, provider should follow standard emergency protocol (see state law regarding emergency care and exemptions to prior parent/guardian consent).
* Determine if PHI can be shared with custodial parent/guardian. (see HIPAA requirements <http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/index.html>)

DISCLAIMER: Because federal, state and local law varies by location and situation and changes over time, this information is not to serve as a valid consent form and is purely for educational purposes. You are recommended to contact a local attorney to determine what requirements your state mandates for granting such consent to treatment. Please note that standard emergency procedures should be followed in all emergency situations.