

## **Santa Fe Recovery Center Policies and Procedures**

Policy Number: CCBHC      Effective Date: 01AUG2024      Revision Date:

1.d Informed Consent

### **Policy and Procedure: Informed Consent**

#### **Purpose:**

The Santa Fe Recovery Center provides patients with a setting that allows for privacy while in the clinic.

#### **Policy:**

Educating the Client to the Treatment Process: Informed consent is an education process as well as the beginning of establishing the treatment relationship. The intake provider will give the client an explanation in simple, understandable language prior to undertaking the assessment and treatment process. Prior to signing the consent for treatment, the client needs to understand what they are consenting to and how and why it might help them. Informed consent is defined by informing the client about the nature of the assessment and treatment process they are about to enter. The explanation will cover the following areas and is included in the Client Rights and Responsibility Form.

#### **Staff Responsible for the Implementation of This Policy and Procedure (in part or in whole) Include:**

All direct care staff

#### **Procedure:**

##### **1. Informed Consent**

- a. Individuals seeking help from Santa Fe Recovery Center are first given a comprehensive assessment by a clinical provider after the consent for treat is completed. This will take one or more sessions.
- b. Treatment recommendations are derived from the assessment.
- c. If the treatment recommendation can be provided by Clinical Services an appointment with the appropriate provider will be made.
- d. Possible alternative treatment options including care provided by other resources where clinically indicated.
- e. The Consent should include the following information:
  - i. The full legal name of the patient.
  - ii. The full legal name of the practitioner.
  - iii. The procedure to be performed, written out completely and without abbreviations.
  - iv. The risks involved in both the proposed and alternative procedures.
  - v. The possibility and nature of any complications which might arise including expected emotional distress.
  - vi. The relative chances of success or failure of the proposed and alternative procedures.
  - vii. Expectations about treatment process and Behavioral and/or Mental Health services including;
    1. Client motivation for treatment.
    2. Purpose of the treatment plan.
    3. Compliance with treatment planning.
    4. Right to refuse or withdrawal from treatment.

**Santa Fe Recovery Center  
Policies and Procedures**

5. Treatment referrals to outside providers.
- f. The client's consent for assessment will be documented by having the client (or their parent, legal guardian or other representative, if applicable) sign the Client's Rights and Responsibilities witnessed and countersigned by the Clinical Services provider. The client's consent for treatment will be documented by having the client sign the "Treatment Plan" witnessed/countersigned by the Clinical Services provider. The Client Treatment Plan will clearly indicate the nature of the treatment to be provided.
  - i. The patient, or a person legally authorized to consent for the client, must sign all consents, permits and releases. Consents must be witnessed and signed by the appropriate person. Consents may be obtained over the telephone if the need exists.
    1. Appropriate documentation in the EHR.
    2. The client's condition, treatment plan, complications, risks and benefits of the treatment, as well as any alternative treatment should be outlined and all questions answered.
      - a. To the extent reasonably possible, telephone consent should be substantively the same as the written consent, the consent form is read to the client as if the client was present in clinic.
      - b. It should be explained to the individual providing consent that any consent decision should be made in accordance with what the client wants.
      - c. Once all questions have been answered, there must be a specific request for consent to the treatment or procedure.
      - d. Consent (or refusal) should be reduced to writing in the client's medical record and signed by the staff member(s) receiving consent. An informed consent form should also be signed by the person providing consent on behalf of the client if possible, and the form then scanned into the client's EHR thereafter.
    - ii. All signatures on permits, consents, and releases must be in ink.
      1. The patient/person signing should:
        - a. Be of sound mind: a person is considered mentally competent until such time that evidence to the contrary becomes obvious or known.
        - b. Show no signs of being under duress.
        - c. At the time of explanation and signing, the client must not be under the influence of AOD as well as anesthetic or sedation of any kind.
      2. Have read the consent or have it read to him/her and know what he/she is signing;

**Santa Fe Recovery Center  
Policies and Procedures**

- a. Patients who do not speak English will be provided an interpreter, as indicated per policy.
- b. When an interpreter is used, the consent must be interpreted and signed by the interpreter, verifying that the document was interpreted in the language spoken by the patient.
- 3. Be informed. A patient may be considered to give an informed consent when the following conditions are fulfilled:
  - a. Consents must be freely provided.
  - b. Patient must understand the chances for success of the proposed and alternate treatments.
- g. Consents are considered to be valid for 1 year. They need to be signed to provide further consent if necessary.

**2. Authorized signature**

- a. Adults:
  - i. Any person, male or female, who has reached the age of 14 or older per New Mexico legal requirements as documented in the website information at the end of this policy and procedure.
  - ii. In the event the person required to sign a permit is unable to write his/her name, two persons must witness the informed consent process, each must then sign.
  - iii. All persons under legal custody of a guardian or conservator or who have a person who has been granted Power of Attorney or Durable Power of Attorney, will have permits signed by the legal guardian with a certified copy of official letters of guardianship. Guardianship, Power of Attorney, or Durable Power of Attorney documents should be validated by the Health Center. All pertinent documents must be placed in and become part of the patient's permanent record prior to treatment.
- b. Mentally Incompetent
  - i. Legal -- if a person has been declared incompetent by a court of law, the person appointed by the court as personal representative must sign.
  - ii. Medical -- if, in the judgment of the attending physician, the patient is not considered to be of sound mind or mentally competent, the next of kin should sign and document relationship.
- c. Physically handicapped, (i.e., paralysis, CVA):
  - i. In the event that patient is unable to sign or make his/her mark due to physical disability, the next of kin should be requested to sign. The nature of the disability should be documented on the patient release, etc.
- d. Consents by minors for their own treatment
  - i. Under 14 years of age
    - 1. Limited to initial assessment and verbal therapy for no more than two weeks.

**Santa Fe Recovery Center  
Policies and Procedures**

2. After two weeks a consent for minors must be followed.
  - ii. Over 14 years of age
    1. Has the right to psychotherapy, group psychotherapy, guidance counseling or other forms of verbal therapy.
    2. Has the right to disclose information; all records require their consent to disclose.
    3. Right to consent to psychotropic medication with notice to the parent/legal guardian
  - e. Consents for Minors
    - i. Any person under the legal age for consent (See website information at the end of this policy for New Mexico requirements) must have parental consent for medical and surgical treatment, unless State regulations stipulate differently.
    - ii. If parents are deceased, legal guardian must sign.
    - iii. If parents are divorced, the one having legal custody must sign consent.
  - f. Witness to the Signature
    - i. The client's (or authorized person's) signature on the consent, permit, or release form must be witnessed.
    - ii. All consents may be witnessed by the provider.
3. Client Rights
  - a. Informed Consent: Each client or their guardian or parent will receive from the provider such information necessary for them to understand the nature of the treatment planned, the benefits expected, any risks that may be involved, and the expected outcome to enable the client to make an informed choice about proceeding into a treatment relationship.
  - b. The client is always to be involved in treatment planning to the extent he or she is clinically and physically capable. Alternative treatment processes or options available should be discussed with the client, or explored when requested. Informed consent takes place in the intake process in the first meeting with the client and/or family.
  - c. Informed consent is valuable to the assessment and treatment process that the client understands their rights and responsibilities identified in the "Patient Rights and Responsibilities" Form. Expectations about treatment can be clarified in the discussion about their rights, Behavioral Health Services and the treatment process. Unspoken expectations about what treatment involves can avoid problems in treatment by reducing resistance, building alliance while increasing compliance to treatment objectives.
  - d. Once agreement is reached regarding the nature and severity of the problem, then the treatment process, the duration and frequency of treatment and the expected outcome of the treatment process are to be explored and agreed upon by the provider and the client, and documented in the client's Individual Treatment Plan.

## **Santa Fe Recovery Center Policies and Procedures**

When the client is unable to participate in this process, or if the client is a child (a minor), the client's parent or guardian will be involved in the treatment planning process.

- e. Except in cases where the provider feels such knowledge would severely hinder the client's treatment process, the client will be involved in all decisions regarding their individual treatment plan.
- f. The client has the right to know the name of the provider who will be primarily responsible for treatment, the professional discipline and training of the provider, and the primary treatment philosophy and/or modality the provider will use in the client's treatment process.

### **4. Consent for Minors**

- a. A **minor** is any person younger than 17 years of age.
- b. An **emancipated minor** is a minor, 16 years of age or older who is living, separate, and apart from his parents or legal guardian and who is managing his own financial affairs and:
  - i. Who is lawfully married;
  - ii. Any minor who is on active duty with any of the armed services of the United States;
  - iii. Has received a declaration of emancipation pursuant to the Emancipation of Minors Act.
- c. All minors 14 years of age or older may give consent for Behavioral and/or Mental Health Services.
- d. The following categories of minors may give consent for Behavioral and/or Mental Health Services.
  - i. Any unmarried, pregnant minor;
  - ii. Any minor who is legally considered emancipated with legal documentation.
  - iii. Consent of the minor's parents or legal guardian is not required, if, in the opinion of the responsible professional provider, failure to provide treatment or counseling would result in short or long-term mental, emotional or behavioral problems for the client. Further judgment is additionally required that parental notification would jeopardize or terminate the possibility of providing needed counsel to the client.
- e. In all situations where treatment is provided without parental or legal guardian consent; the provider will document the following, in the client's Electronic Health Record:
  - i. Whether and when attempt was made to contact the parent, parents, or legal guardian of the minor;
  - ii. Whether such attempt to contact (if made) was successful or unsuccessful, or;

## **Santa Fe Recovery Center Policies and Procedures**

- iii. The reason why, in the provider's opinion, it would be inappropriate to contact the parent, parents, or legal guardian of the minor if attempt to contact them is not made.
- f. In custody cases involving clients who are minors, consent will be obtained from both parents (if both have custody) or from the parent or legal guardian having custody if the other parent cannot be located. Custody cannot be assumed. Verification of custody must be obtained in order to treat. If custody cannot be obtained, treatment cannot go forward. The parent is to be informed of this requirement.
  - i. Privilege and Confidentiality
    - 1. Privilege is a treatment term that refers to a client's right not to have confidential information revealed without the client's permission. Privilege is similar to the ethic of confidentiality but applies only to situations involving the court or other legal proceedings. The client is the holder of the privilege.
    - 2. Confidentiality is a much broader ethical concept. It protects the client from any unauthorized disclosure of information given in confidence to a therapist in the course of treatment.
    - 3. Exception to Privilege and Confidentiality
      - a. Child and Elder abuse
      - b. Client dangerous to self
      - c. Client dangerous to others
      - d. Specific exceptions and limits exist in court and legal processes to be dealt with on a case-by-case basis as they develop in treatment.
      - e. Subpoenaed by court order.
      - f. Client rights and responsibilities for assessment and treatment are identified in the Patient Rights and Responsibility form highlighted in 1.1 above.

### **5. References**

- a. New Mexico Consent for healthcare decisions –  
<https://hscethics.unm.edu/common/pdf/uniform-healthcare-decisions-act.pdf>
- b. 32A-6A-14, 15 NMSA 1978
- c. Failure to obtain consent-NMRA, rules of civil procedures for district courts, uniform jury instructions, chapter 11 medical malpractice.
- d. 24-7A-6.2 NMSA 1978

**Santa Fe Recovery Center  
Policies and Procedures**

**6. Attachments**

- a. Informed Consent

**Santa Fe Recovery Center  
Policies and Procedures**