



## CONSENT BY MINORS FOR MEDICAL TREATMENT

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### General Rule

Under Illinois law, a minor is a person who has not attained the age of 18 years.<sup>1</sup> In general, only a parent or guardian may consent for medical treatment of a minor child. However, there are several exceptions that permit a minor to consent for him or herself, and these exceptions depend upon either the minor's legal status or type of medical care sought.

### Exceptions Based on Minor's Legal Status

**Emancipated<sup>2</sup>, pregnant or married minors may consent for their own treatment.** A minor between the age of 16 and 18 years old who presents a court order declaring him or her emancipated, or a pregnant or married minor of any age, may lawfully consent to the performance of any medical or surgical procedure.<sup>3</sup>

**Minors who are parents may consent for their own treatment.** A minor who is a parent may consent to his or her own health care treatment.<sup>4</sup> However, if the minor's status as a parent ends, then it appears that the minor no longer has authority to consent to his or her own treatment. This could occur if the minor's parental rights were terminated as part of an adoption proceeding.

**Minors who are parents may consent for their child's treatment.** A minor who is a parent may consent to health care on behalf of his or her child.<sup>5</sup>

### Exceptions Based on Medical Treatment

**Medical Emergencies.** Emergency medical treatment may be provided to a minor without parental consent when, in the opinion of the provider, obtaining consent is not "reasonably feasible under the circumstances without adversely affecting the condition of

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<sup>1</sup> Probate Act of 1975 ([755 ILCS 5/11-1](#))

<sup>2</sup> Emancipated minors are minors between the ages of 16 and 18 who have obtained a court order which states that they are legally emancipated. (Emancipation of Minor's Act, [750 ILCS 30/1](#), *et. seq.*). The minor claiming to be emancipated should present the court order before nonemergency services are provided, both to verify the minor's status and to ascertain whether there are restrictions on the emancipation, which might limit the minor's ability to consent to medical care.

<sup>3</sup> Consent by Minors to Medical Procedures Act, [410 ILCS 210/1](#), *et. seq.*

<sup>4</sup> [410 ILCS 210/1](#)

<sup>5</sup> [410 ILCS 210/2](#)

the minor's health.”<sup>6</sup> A “provider” includes a physician, dentist, hospital, physician assistant or advanced practice nurse.

**Medical Treatment/Counseling for Criminal Sexual Assault or Abuse.** A minor 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.”<sup>7</sup>

**Sexually Transmitted Disease.** A minor 12 years of age or older may consent to treatment or counseling related to the diagnosis and treatment of a sexually transmitted disease. Unless the minor consents, providers cannot seek the family's *involvement* in the minor's treatment.<sup>8</sup> On the other hand, providers may, but are not obligated to, *inform* parents or guardians about treatment or counseling provided to a minor with a sexually transmitted disease.<sup>9</sup>

**Drug Use or Alcohol Consumption.** A minor 12 years of age or older may consent to treatment or counseling related to drug use or alcohol consumption by the minor or the effects on the minor of drug or alcohol abuse by a member of the minor's family. Unless the minor consents, providers cannot seek the family's involvement in the minor's treatment or inform the parents, unless necessary to protect the safety of the minor, a family member, or another individual.<sup>10</sup>

**Outpatient Mental Health Services.** A minor 12 years of age or older may consent to outpatient mental health services for up to 5 sessions of no more than 45 minutes each for the treatment of mental illness or emotional disturbance. The minor's parent or guardian cannot be informed of 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. A minor's parent is not responsible for the cost of the sessions, unless he or she has consented to the treatment.<sup>11</sup>

**Inpatient Mental Health Services.** A minor 16 years of age or older may consent to admission to a mental health facility for inpatient services if the minor executes the application for voluntary admission. Unlike outpatient services, providers must immediately inform the minor's parent, guardian, or person *in loco parentis*<sup>12</sup> of the admission, even if the minor does not consent to the disclosure.<sup>13</sup>

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<sup>6</sup> [410 ILCS 210/3 \(a\)](#)

<sup>7</sup> [410 ILCS 210/3\(b\)](#); Sexual Assault Survivors Emergency Treatment Act, [410 ILCS 70/5\(b\)](#)

<sup>8</sup> [410 ILCS 210/4](#)

<sup>9</sup> [410 ILCS 210/5](#)

<sup>10</sup> [410 ILCS 210/5](#)

<sup>11</sup> Illinois Mental Health and Developmental Disabilities Code, [405 ILCS 5/3-501](#)

<sup>12</sup> The term “in loco parentis” might include an aunt or uncle or some other adult who does not have legal guardianship but who otherwise stands in the shoes of a parent.

<sup>13</sup> [405 ILCS 5/3-502](#)

**Birth Control Services.**<sup>14</sup> Birth control services and information may be rendered by doctors licensed in Illinois to any minor:

1. Who is married;
2. Who is a parent;
3. Who is pregnant;
4. Who has the consent of a parent or guardian;
5. If the failure to provide such services creates a serious health hazard; or
6. If the minor is referred for such services by a physician, clergyman or a Planned Parenthood agency.

**Abortion.** Although Illinois has a parental notice law<sup>15</sup> for any person under 18 years of age seeking an abortion, there is current litigation challenging its constitutionality and the Cook County Circuit Court has barred implementation of the law. The status of this law and/or legal counsel should be sought to determine if parental notice is required when an abortion is sought by a person under age 18.

**Blood Donation.** Though technically not medical treatment, state law provides that any person 17 years of age or older may donate blood without permission from a parent or guardian, and any person 16 years of age may donate blood with written permission.<sup>16</sup>

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<sup>14</sup> Birth Control Services for Minors Act, [325 ILCS 10/1](#)

<sup>15</sup> Parental Notice of Abortion Act of 1995, [750 ILCS 70/1](#), et.seq.

<sup>16</sup> Blood Donation Act [210 ILCS 15/1](#)