

## CHAPTER 260

### CONSENT OF MINORS FOR HEALTH SERVICES

#### §1501. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1995, c. 694, Pt. C, §8 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**1. Health care practitioner.** "Health care practitioner" has the same meaning as set forth in Title 24, section 2502, subsection 1-A.

[PL 1995, c. 694, Pt. C, §8 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**1-A. Health care.** "Health care" means any care, treatment, service or procedure to maintain, diagnose or otherwise affect an individual's physical or mental condition.

[PL 2015, c. 444, §1 (NEW).]

**2. Health care provider.** "Health care provider" has the same meaning as set forth in Title 24, section 2502, subsection 2.

[PL 1995, c. 694, Pt. C, §8 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**3. Minor.** "Minor" means a person under 18 years of age.

[PL 1995, c. 694, Pt. C, §8 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**4. Surrogate.** "Surrogate" means:

A. An adult who is not a parent or legal guardian but who is related to a minor by blood, marriage or adoption and with whom the minor resides and from whom the minor receives the ongoing care and support expected of a parent. "Surrogate" does not include a person to whom a parent has delegated parental authority to consent to the minor's medical treatment through a power of attorney or other written instrument; or [PL 2015, c. 444, §1 (NEW).]

B. If an adult relative described in paragraph A does not exist, an adult to whom a parent or legal guardian has not delegated parental authority through a power of attorney or other written instrument with whom the minor resides and from whom the minor receives the ongoing care and support expected of a parent. [PL 2015, c. 444, §1 (NEW).]

[PL 2015, c. 444, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 694, §C8 (NEW). PL 1995, c. 694, §E2 (AFF). PL 2015, c. 444, §1 (AMD).

#### §1502. Consent

In addition to the ability to consent to treatment for health services as provided in sections 1823 and 1908 and Title 32, sections 2595, 3292, 3817, 6221 and 7004, a minor may consent to treatment for substance use disorder or for emotional or psychological problems. [PL 2017, c. 407, Pt. A, §70 (AMD).]

#### SECTION HISTORY

PL 1995, c. 694, §C8 (NEW). PL 1995, c. 694, §E2 (AFF). PL 2017, c. 407, Pt. A, §70 (AMD).

#### §1502-A. Consent to give blood

A minor may consent to give blood if the minor is at least 17 years of age, notwithstanding any other provision of law. [PL 1999, c. 10, §1 (NEW).]

#### SECTION HISTORY

PL 1999, c. 10, §1 (NEW).

**§1503. Authority**

A minor may give consent to all medical, mental, dental and other health counseling and services if the minor: [PL 1995, c. 694, Pt. C, §8 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**1. Living separately; independent of parental support.** Is living separately from parents or a legal guardian and is independent of parental support. A minor may prove that the minor meets the requirements of this subsection with documentation including, but not limited to:

A. A written statement affirming that the minor is living separately from parents or a legal guardian and is independent of parental support signed by:

- (1) A director or designee of a governmental or nonprofit agency that receives public or private funding to provide services to homeless persons;
- (2) A local education agency liaison for homeless children and youth designated pursuant to 42 United States Code, Section 11432(g)(1)(J)(ii) or a school social worker or counselor; or
- (3) An attorney representing the minor in any legal matter; [PL 2019, c. 206, §1 (NEW).]

B. A copy of a protection from abuse complaint or a temporary order or final order of protection against the minor's parent or legal guardian; or [PL 2019, c. 206, §1 (NEW).]

C. Proof of filing a petition for emancipation pursuant to Title 15, section 3506-A; [PL 2019, c. 206, §1 (NEW).]

[PL 2019, c. 206, §1 (RPR).]

**2. Married.** Is or was legally married;

[PL 1995, c. 694, Pt. C, §8 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**3. Armed Forces.** Is or was a member of the Armed Forces of the United States; or

[PL 1995, c. 694, Pt. C, §8 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**4. Emancipated.** Has been emancipated by the court pursuant to Title 15, section 3506-A.

[PL 1995, c. 694, Pt. C, §8 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

A health care practitioner who obtains documentation that meets the requirements of this section prior to providing medical, mental, dental or other health counseling or services to a minor pursuant to this section is immune from any civil or criminal liability based on the health care practitioner's determination to provide services, except that a health care practitioner may be held liable for the health care practitioner's gross negligence or willful or wanton acts or omissions. [PL 2019, c. 206, §2 (NEW).]

**SECTION HISTORY**

PL 1995, c. 694, §C8 (NEW). PL 1995, c. 694, §E2 (AFF). PL 2019, c. 206, §§1, 2 (AMD).

**§1503-A. Authority for consent by a surrogate**

**1. Consent by a surrogate; notice of need for health care.** A surrogate may give consent for health care for a minor except that a surrogate may not withhold or withdraw life-sustaining treatment or deny surgery, procedures or other interventions that are life-saving and medically necessary. The existence of a surrogate does not affect the ability of a minor to give consent as otherwise provided by law. Before the surrogate may give consent, the surrogate must make a reasonable good faith attempt to inform the minor's parents or legal guardian of the minor's need for health care and the parents' right to make those decisions. If parental notification is not required by other provisions of law, the surrogate is not required to inform or attempt to inform the minor's parents or legal guardian.

[PL 2015, c. 444, §2 (NEW).]

**2. Notice of health care received.** Unless parental notification is not required by other provisions of law, a surrogate giving consent pursuant to subsection 1 shall make a reasonable good faith attempt to inform the minor's parents or legal guardian of the health care that the minor received. A health care practitioner or health care provider who provides health care pursuant to this section shall inform the minor's surrogate of this obligation. The sending of correspondence by regular mail, e-mail, texting, posting to a personal website or other written means of communication to the last known address or contacting by telephone using the last known telephone number of the minor's parents or legal guardian, whichever means the surrogate believes to be the most effective way to ensure actual notification, is deemed a reasonable good faith attempt to provide notice for purposes of this subsection. [PL 2015, c. 444, §2 (NEW).]

**3. Penalties.** The following penalties apply to violations of this section.

A. A surrogate who makes decisions for a minor knowing that the decisions are prohibited by subsection 1 commits a Class E crime. [PL 2015, c. 444, §2 (NEW).]

B. A person who knowingly acts as a surrogate for a minor without meeting the definition of "surrogate" in section 1501, subsection 4 commits a Class E crime. [PL 2015, c. 444, §2 (NEW).]

C. A surrogate who fails to attempt to give notice as required in subsection 1 or 2 commits a Class E crime. [PL 2015, c. 444, §2 (NEW).]

[PL 2015, c. 444, §2 (NEW).]

#### SECTION HISTORY

PL 2015, c. 444, §2 (NEW).

#### §1504. Good faith reliance on consent

**1. Reliance on minor's consent.** A health care practitioner or health care provider who takes reasonable steps to ascertain that a minor is authorized to consent to health care as authorized in section 1503 and who subsequently renders health care in reliance on that consent is not liable for failing to have secured consent of the minor's parents or legal guardian prior to providing health care to the minor. [PL 2015, c. 444, §3 (NEW).]

**2. Reliance on surrogate's consent.** Recovery is not allowed against any health care practitioner or health care provider upon the grounds that the health care was rendered without informed consent if consent is given by the minor's surrogate pursuant to section 1503-A and the health care practitioner or provider acts with good faith reliance on that consent. [PL 2015, c. 444, §3 (NEW).]

#### SECTION HISTORY

PL 1995, c. 694, §C8 (NEW). PL 1995, c. 694, §E2 (AFF). PL 2015, c. 444, §3 (RPR).

#### §1505. Confidentiality; notification

**1. Confidentiality.** Except as otherwise provided by law, a minor who may consent to health care services, as provided in this chapter or by other provision of law, is entitled to the same confidentiality afforded to adults.

[PL 1995, c. 694, Pt. C, §8 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**2. Parental notification.** A health care practitioner or health care provider may notify the parent or guardian of a minor who has sought health care under this chapter if, in the judgment of the practitioner or provider, failure to inform the parent or guardian would seriously jeopardize the health of the minor or would seriously limit the practitioner's or provider's ability to provide treatment.

[PL 1995, c. 694, Pt. C, §8 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

#### SECTION HISTORY

PL 1995, c. 694, §C8 (NEW). PL 1995, c. 694, §E2 (AFF).

**§1506. Financial responsibility**

Unless the parent or guardian expressly agrees to assume full or partial responsibility, a minor who consents to health care services as provided in this chapter is responsible for the costs of those services. A minor may not be denied benefits or services to which the minor is entitled from a health care practitioner, health care provider, insurer or public agency because the minor has given the consent for those services as provided in this chapter. [PL 1995, c. 694, Pt. C, §8 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

PL 1995, c. 694, §C8 (NEW). PL 1995, c. 694, §E2 (AFF).

**§1507. Consent for sexual assault forensic examination**

Notwithstanding the limitations set forth in section 1503 or the existence of a surrogate described in section 1503-A, a minor may consent to health services associated with a sexual assault forensic examination to collect evidence after an alleged sexual assault. [PL 2015, c. 444, §4 (AMD).]

SECTION HISTORY

PL 1999, c. 90, §1 (NEW). PL 2015, c. 444, §4 (AMD).

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