

AL0200 – CONSENT – PERSONS UNDER 19 YEARS OF AGE

Interior Health would like to recognize and acknowledge the traditional, ancestral, and unceded territories of the Däkelh Dené, Ktunaxa, Nlaka'pamux, Secwépemc, St'át'imc, syilx, and Tšilhqot'in Nations, where we live, learn, collaborate and work together.

Interior Health recognizes that diversity in the workplace shapes values, attitudes, expectations, perception of self and others and in turn impacts behaviors in the workplace. The dimensions of a diverse workplace includes the protected characteristics under the human rights code of: race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical disability, mental disability, sex, sexual orientation, gender identity or expression, age, criminal or summary conviction unrelated to employment.

1.0 PURPOSE

To provide organizational direction when obtaining consent for health care for Minors, in compliance with provincial legislation ([BC Infants Act Part 2, Section 17](#)), regulations and standards of professional and ethical practice.

To respect the legal rights of Minors to make informed decisions about their health care.

2.0 DEFINITIONS

TERM	DEFINITION
<i>Best Interest</i>	<i>The expectation that the health care to be given will improve (or prevent deterioration or impairment of) physical or psychological health.</i>
<i>Capacity</i>	<i>The extent to which a Minor's mental and emotional development will allow for full appreciation of the nature, risks, benefits and consequences of the proposed healthcare, including the refusal of such treatment(s).</i>
<i>Emergency Health Care</i>	<i>Treatment required to preserve life or prevent serious physical/mental harm or alleviate severe pain.</i>
<i>Employee</i>	<i>A person currently employed by Interior Health in a full-time, part-time, casual, and/or terms-specific position, including managers, medical staff and other health care professionals, researchers and students</i>
<i>Guardian</i>	<i>A person who has legal authority to make decisions on behalf of a person under 19 years of age and includes a parent of the person under 19 years of age.</i>
<i>Implied Consent</i>	<i>When a person under 19 years of age presents themselves for routine diagnostic and treatment/service measures in emergency, out-patient, and clinic settings, or when they</i>

Policy Sponsor: VP Corporate Services and Chief Financial Officer	1 of 6
Policy Steward: Director, Policy and Risk Management	
Date Approved: June 2005	Date(s) Reviewed-r/Revised-R: April 2025 (R)
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AL0200 – CONSENT – PERSONS UNDER 19 YEARS OF AGE

	<i>accept health care services, or by conduct (nodding the head, cooperating with examination, etc.)</i>
<i>Mature Minor</i>	<i>A person under the age of 19 who has been assessed by a Regulated Health Care Professional as having the Capacity to consent to health care.</i>
<i>Minor</i>	<i>Any person who has not yet reached the age of 19 years.</i>
<i>Minor Health Care</i>	<i>All health care not considered to be essential and includes routine tests to determine if health care is necessary, routine dental treatment that prevents a condition or injury caused by disease or trauma and preventative health care including immunizations.</i>
<i>Necessary Health Care</i>	<i>Treatment required to prevent serious or permanent impairment to health.</i>
<i>Regulated Health Care Professional</i>	<i>A person who practices a designated health profession and is governed by a regulatory college under the Health Professions Act.</i>
<i>Valid Consent</i>	<i>For consent to be valid it must be in the Minor's best interests; it must be voluntary; the Minor must have the Capacity to consent; and the Minor must be informed of the nature, risks and benefits of the proposed health care and alternative courses of health care.</i>

3.0 POLICY

- 3.1 Provision of health care requires both:
 - 3.1.1 A Valid Consent, and
 - 3.1.2 The proposed health care to be in the Best Interest of the Minor.
- 3.2 Consent to health care may be expressed orally, in writing or by Implied Consent.

3.3 Mature Minor

- 3.3.1 A Mature Minor is able to legally provide a Valid Consent when they have been assessed by a Regulated Health Care Professional as having Capacity to consent.
- 3.3.2 Capacity to provide a Valid Consent must be reassessed and determined in an ongoing manner for each stage of health care, including but not limited to when proposed health care changes or if a new health care issue arises.
- 3.3.3 Capacity to provide a Valid Consent is not related to age. However, greater demonstration of Capacity to provide a Valid Consent must be made for:
 - 3.3.3.1 Minors under 14 years of age; or
 - 3.3.3.2 Procedures or treatments that carry significant risks and/or long-term consequences including surgery; blood transfusions;

Policy Sponsor: VP Corporate Services and Chief Financial Officer	2 of 6
Policy Steward: Director, Policy and Risk Management	
Date Approved: June 2005	Date(s) Reviewed-r/Revised-R: April 2025 (R)
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AL0200 – CONSENT – PERSONS UNDER 19 YEARS OF AGE

labour & delivery; or other procedures with appreciable risk of harm as determined by the prescribing practitioner (Form 826034 Appreciable Risk must be completed).

- 3.3.4 If a Mature Minor explicitly requests that their Guardian(s) not be contacted, uphold this decision.
- 3.3.5 A Guardian cannot override a Mature Minor's decision.
- 3.3.6 If a Minor is unconscious or otherwise unable to provide a Valid Consent and has previously expressed a wish for no Guardian contact, uphold this request unless:
 - 3.3.6.1 It is determined that due to age or other factors, the Minor would not have demonstrated Capacity to provide a Valid Consent even if fully conscious, or
 - 3.3.6.2 Emergency Health Care is necessary.

3.4 Guardian Consent

- 3.4.1 A Guardian must provide a Valid Consent on behalf of a Minor when that Minor is determined to not have Capacity.
- 3.4.2 Guardians that provide a Valid Consent include parents living together or separated.
- 3.4.3 Valid Consent is only required from one Guardian.
- 3.4.4 A parent who has never resided with their child is not the child's Guardian unless:
 - 3.4.4.1 The parent regularly cares for the child; or
 - 3.4.4.2 The parent and all the child's Guardians make an agreement providing that the parent is also a Guardian.
- 3.4.5 If separated parents have no reference to Guardianship or custody in court orders or a separation agreement, seek consent from the parent with day-to-day custody.
- 3.4.6 If the parents were not married and did not live together and do not share joint Guardianship, seek consent from the parent with whom the Minor resides, who is the sole Guardian.

3.5 Special Care Circumstances

- 3.5.1 **Temporary Care:** If the Minor is in the temporary custody of a teacher, babysitter, friend, etc., make reasonable efforts to contact and obtain a Valid Consent from the Minor's Guardian.
 - 3.5.1.1 If the person with temporary custody has written authorization from the Guardian to consent to healthcare, ensure the written authorization is not exceeded.
- 3.5.2 **Foster Care:** Foster parents are not considered legal Guardians and cannot provide consent, unless authorized for emergency purposes by the Director of Child Protection or specifically provided for in a court order.

Policy Sponsor: VP Corporate Services and Chief Financial Officer	3 of 6
Policy Steward: Director, Policy and Risk Management	
Date Approved: June 2005	Date(s) Reviewed-r/Revised-R: April 2025 (R)
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AL0200 – CONSENT – PERSONS UNDER 19 YEARS OF AGE

3.5.3 **Ministry of Children and Family Development: (MCFD):** When a Minor is in the care of the Director of Child Protection at the MCFD, contact the Director to authorize health care for the Minor, particularly if the health care should be provided without delay under section 32(2) of the Child, Family & Community Service Act (CFCSA).

3.5.4 **Parents who are Minors:** A parent under 19 years of age who has the Capacity to provide a Valid Consent is permitted to provide a Valid Consent for health care for their child.

3.6 Emergency Health Care

If a Minor is unable to consent to Emergency Health Care due to their illness/injury or impairment, proceed with providing Emergency Health Care without consent after:

3.6.1 Confirming the necessity of immediate treatment with a second Regulated Health Care Professional; and

3.6.2 Making reasonable efforts to locate the Minor's Guardian(s) (see section 3.4 of this policy).

3.7 Necessary Health Care

If a Mature Minor or a Guardian refuses to give a Valid Consent to a Health Care treatment that, in the opinion of two Regulated Health Care Professionals, is necessary to preserve the Minor's life or to prevent serious or permanent impairment of the Minor's health, there is a duty to protect the Minor and report to the MCFD. Contact the Director of Child Protection at the MCFD, who may apply to the court for an order to authorize provision of the Necessary Health Care. (as per section 29 (1) of the CFCSA)

3.8 Distinct Consent Situations:

3.8.1 **Involuntary Psychiatric Treatment:** Follow involuntary psychiatric treatment for a Minor certified under the [Mental Health Act](#).

3.8.2 **Communicable Disease Treatment:** Follow a Minor's treatment for a reportable communicable disease (under the authority of the [Health Act](#), [Communicable Disease Regulations](#) and [Venereal Diseases Act](#)).

3.8.3 **Immunization:** Follow the BC Centre for Disease Control's Manual, [Appendix A – Informed Consent for Immunization](#).

3.8.4 **Consent for Research:** Follow IH policy [RR0700 – Obtaining Consent for Research](#).

3.8.5 **Medical Assistance in Dying (MAiD):** A Minor must be at least 18 years of age to consent to medical assistance in dying. A Minor's Guardian cannot consent to MAiD on a Minor's behalf.

3.9 Documentation

Policy Sponsor: VP Corporate Services and Chief Financial Officer	4 of 6
Policy Steward: Director, Policy and Risk Management	
Date Approved: June 2005	Date(s) Reviewed-r/Revised-R: April 2025 (R)
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AL0200 – CONSENT – PERSONS UNDER 19 YEARS OF AGE

Document the assessment of Capacity and the process of obtaining a Valid Consent, including:

- 3.9.1 The basis for determining the Minor's Capacity to consent;
- 3.9.2 The details and outcome of the discussion(s) with the Minor and/or Guardian(s), including refusal or revocation of consent;
- 3.9.3 Any efforts made to involve the Minor's Guardian(s);
- 3.9.4 The nature of the legal arrangement between the consenting person and the Minor, if applicable; and
- 3.9.5 The rationale for proceeding with or withholding treatment in cases where consent was not obtained.

4.0 PROCEDURES

4.1 Regulated Health Care Professionals

- 4.1.1 Develop a plan for providing healthcare, involving the Minor/Guardian(s);
- 4.1.2 Assess a Minor to determine if they have Capacity to provide a Valid Consent;
- 4.1.3 If applicable, determine the Minor's Guardian(s) (see Section 3.4 of this policy);
- 4.1.4 Explain to the Minor / Guardian(s) the risks, benefits and alternatives to the proposed treatment(s);
- 4.1.5 Verify that the Minor / Guardian(s) agrees with the health care / service / Minor Health Care plan;
- 4.1.6 Carry out the care/service if consent is given; and
- 4.1.7 Document the consent process in the Minor's health care record (see section 3.9 of this policy).

5.0 REFERENCES

5.1 Related Policies

- [AL0100 Consent - Adults Policy](#)
- [A10400 – Organ, eye, and tissue donation](#)
- [AL0600 – Duty to Report Suspected Child Abuse and Neglect](#)
- [RR0700 – Obtaining Consent for Research](#)
- [ROIA0600 – Access for Minors and Incapable Adults \(MyHealthPortal\)](#)

5.2 References

1. [Appendix A – Informed Consent for Immunization](#) BC Centre for Disease Control's Manual.
2. [Can a child provide consent?](#) Canadian Medical Protective Association (CMPA).
3. [Child Family and Community Service Act](#) of British Columbia
4. [Child Protection Response](#) Policies: Obtaining Necessary Health Care by Court Order (Section 3.5 – Page 59) BC Ministry of Children & Family Development.

Policy Sponsor: VP Corporate Services and Chief Financial Officer	5 of 6
Policy Steward: Director, Policy and Risk Management	
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AL0200 – CONSENT – PERSONS UNDER 19 YEARS OF AGE

5. [Children and Consent to Health Care](#) – Dial-A- Law (A service of People's Law School, BC)
6. [Consent: Practice Standard for Nurses](#) British Columbia College of Nurses & Midwives.
7. [Family Law Act](#) of British Columbia
8. [Health Professions Act](#) of British Columbia.
9. [Infants Act](#) of British Columbia.
10. [Health Care \(Consent\) and Care Facility \(Admission\) Act](#) of British Columbia.

Policy Sponsor: VP Corporate Services and Chief Financial Officer		6 of 6
Policy Steward: Director, Policy and Risk Management		
Date Approved: June 2005	Date(s) Reviewed-r/Revised-R: April 2025 (R))	
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