



# McLean County Area EMS System

**TITLE:** CONSENT FOR TREATMENT OF MINORS (Under 18 years old)

**POLICY STATEMENT:**

EMS personnel must take special care in dealing with minors. As a matter of law, minors DO NOT have the ability to consent or refuse consent. It does not matter how rational or intelligent the minor may be-the minor's inability to consent always exists. Only a minor's parent or legal guardian has the legal authority to give consent. In cases of an emergency and/or consent from another party cannot be quickly obtained, the EMS provider in either situation must provide treatment and transport to the nearest emergency department.

**GOAL/PURPOSE:**

To assure EMS personnel do not accept a minor's consent or refusal for consent in emergency situations and when a consent or refusal from a parent or legal guardian cannot be quickly obtained, it is understood implied consent is given as the legal basis to provide pre-hospital care and transportation to the hospital.

**POLICY:**

**DEFINITIONS:**

**EMERGENCY:** A medical condition of recent onset and severity that would lead a prudent lay person, possessing an average knowledge of medicine and health, to believe that urgent or unscheduled medical care is required. (Illinois EMS Systems Act [210 ILCS 50] Section 3.5)

**MINOR:** A minor is anyone under the age of 18. The parent or legal guardian of a minor may consent to treatment on the minor. The parent or guardian need not be 18 years of age or older to consent. (Illinois Revised Statutes Chapter 111, Section 4502)

**IMPLIED CONSENT:** Situation involving an unconscious patient where care is initiated under the premise that the patient would desire such care if they were conscious and able to make the decision. In the case of a minor, if a parent or legal guardian is not present, care and transportation is given on a basis of Implied Consent.

- A. Minors DO NOT have the ability to consent or refuse consent. It does not matter how rational or intelligent the minor may be-the minor's inability to consent always exists.
- B. Only a minor's parent or legal guardian has the legal authority to give consent. In cases of an emergency and/or consent from a parent or legal guardian cannot be quickly obtained, the EMS provider in either situation must provide treatment and transport to the nearest emergency department.
- C. If the minor's parent or legal guardian is present at the scene, consent or refusal of care must be obtained from the parent or legal guardian.



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- D. In the situation of a minor requiring emergency treatment but the parent or legal guardian do not consent due to religious beliefs, then the EMS provider should advise the parent or guardians of the risks involved and follow the Patient Right of Refusal policy.
- E. When faced with a questionable consent problem, in all cases, contact Medical Control.
- F. Exceptions based on minor's legal status are as follows:
1. **Emancipated** <sup>(1)</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>(2)</sup>
  2. **Minors who are parents may consent for their own treatment:** A minor who is a parent may lawfully consent to his or her own health care treatment. <sup>(3)</sup> But, if the minor's status as a parent ends, for example, if the minor gives up his or her child for adoption, then it would appear the minor no longer has authority to consent to his or her own treatment.
  3. **Minors who are parents may consent for their child's treatment:** Any parent, including a parent who is a minor, regardless of age, may consent to health care on behalf of his or her child. <sup>(4)</sup> This provision applies to parents who are divorced or separated; either parent may consent for the child, so long as the divorce decree or custody order does not state otherwise. The hospital does not have an obligation to investigate the terms of the divorce decree or custody order. In most cases, it is sufficient if a parent is present and seeking care for his or her child.
  4. **Inpatient Mental Health Services:** A minor 16 of age or older may consent to admission to a mental health facility for inpatient services if the minor himself executes the application for voluntary admission. Unlike outpatient services, providers must immediately inform the minor's parent, guardian or person in *loco parentis* <sup>(5)</sup> of the admission, even if the minor does not consent to the disclosure. <sup>(6)</sup>
  5. **Birth Control Services:** <sup>(7)</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 his parent or legal guardian; or (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.
  6. **Temporary Custody:** If a physician has taken temporary protective custody of an abused or neglected child at a hospital, he/she shall immediately notify DCFS and make every reasonable effort to notify the person responsible for the child's welfare. He/she shall also notify the person in charge of the hospital and shall become responsible for the further care of the child in the hospital or similar institution under the direction of DCFS.
  7. **Emancipated Minors:** Emancipation does not arise solely because a minor is living or acting independently of his/her parent; this is a legal procedure requiring a court petition. A minor may be completely or partially emancipated; a copy of the court emancipation order must be reviewed to determine if the minor has authority to consent to his/her own treatment.
- G. Exceptions based on minor's medical treatment are as follows:
1. 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



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circumstances without adversely affecting the condition of the minor's health." A "provider" includes a physician, dentist, hospital, physician assistant or advanced practice nurse.

2. Any minor who is a 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 offence."
3. A minor 12 years 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. On the other hand, providers *may, but are not obligated to*, inform parents or guardians about treatment or counseling provided to a minor with any sexually transmitted disease.
4. A minor 12 years of age or older may consent to outpatient mental health services 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.

## H. Refusal of Transport after Emergency Treatment

1. Some patients will refuse care after emergency treatment, i.e., hypoglycemia in diabetic patients.
2. If the patient meets the criteria for competency and the patient has received any medication or had a sign or symptom considered "High Risk", follow the policy for "Patient Right of Refusal" and treat it as a "High Risk" refusal. After contact with Medical Control, obtain the patient's refusal signature.

If the patient meets the criteria for competency, has not received any medication or had a sign or symptom considered "High Risk", follow the policy for "Patient Right of Refusal" and treat it as a "Low Risk" refusal. Obtain the patient's refusal signature.

**Note: False calls or other "third party" calls where the person states they did not call for EMS assistance, the EMS provider does not need to obtain a written refusal. An EMS report still needs to be completed by the EMS provider for the emergency response.**

- (1) 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.*)
- (2) Consent by Minors to Medical Procedures Act, 410 ILCS 210/1, *et. Seq.*
- (3) 410 ILCS 210/1
- (4) 410 ILCS 210/2
- (5) 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.
- (6) 405 ILCS 5/3-502
- (7) Birth Control Services for Minors Act, 325 ILCS 10/1  
(policy revised 5/10)