

RELATIVES AS PARENTS:

Answers to Basic Concerns

Medical Consent

Many relative caregivers are concerned about getting health care for the children in their care. This is a bigger concern for relatives who do not have legal custody or guardianship. However, in Indiana, there are ways that these relative caregivers can get health care for a child. This is known as giving medical consent.

The state of Indiana defines "health care" as "any care, treatment, service or procedure to maintain, diagnose or treat an individual's physical or mental condition" (IC 16-36-1-1). Children under the age of 18 cannot give consent for medical treatment. To get medical treatment, permission (consent) has to be given by the child's mother or father, by a legal guardian or by someone who is acting as a parent (*in loco parentis*). Someone who is serving *in loco parentis* for a child may act as a parent for the child when making decisions about medical treatment. That person is required to act in the best interest of the child.

Who can give consent for a minor?

1. The child's medical guardian provides consent. The medical guardian is usually the child's parent.
2. An individual is *in loco parentis* if:
 - There is no medical guardian.
 - The medical guardian is not available or does not act when the child is in need of medical help.
 - The doctor does not know who the medical guardian is.

3. An adult sibling of the minor if:
 - There is no medical guardian.
 - The medical guardian is not available or does not act when the child is in need of medical help.
 - The doctor does not know who the medical guardian is.

Can the medical guardian give someone else the power to make medical decisions for a minor?

Yes. The medical guardian can allow someone who is acting as a parent to make medical decisions for a child. In order to do this:

1. Permission must be given in a written permission document.
2. The written permission document must be signed by the person who will make the child's medical decisions.
3. Another adult must witness and sign the written permission document.
4. The written permission document should state how much power the other person can have in making medical decisions. (For example, can the person decide that the child may have surgery?).

The medical guardian can take back the appointee's responsibilities by telling the person who was acting as the medical guardian and the doctor. This can be done by word-of-mouth or in a written document.

Can a relative caregiver become a child's medical guardian?

The child's medical guardian(s) can give medical consent. In most cases, the child's parents serve as the medical guardians.

However, if another person has been chosen to be the medical guardian, that person can give consent (permission) for medical treatment. If the child's parents will not give permission for the relative caregiver to be the medical guardian, the relative caregiver can ask the court to make him or her the child's medical guardian. In this situation, the court would tell the parents of the child (or anyone else who has legal custody) of the hearing.

When can minors give their own medical consent?

In Indiana a minor (someone under the age of 18) can consent to medical treatment if he or she:

1. Is emancipated.
2. Is at least 14 years of age, does not depend on a parent for support, lives away from parents/guardians and manages his/her own affairs.
3. Is or has been married.
4. Is serving in the United States military.
5. Thinks that he or she has been exposed to a sexually transmitted disease such as AIDS (Acquired Immune Deficiency Syndrome).

Produced by the Indiana Family & Social Services Administration, The Bureau of Aging and In-Home Services through a grant from the Brookdale Foundation

Dev. 4-05