

CONSENT FOR MEDICAL TREATMENT

Policy: Consent for medical treatment is defined by Louisiana state law and will determine how we obtain consent at the time of service.

“In addition to such other persons as may be authorized and empowered, any one of the following persons in the following order of priority, if there is no person in a prior class who is reasonably available, willing, and competent to act, is authorized and empowered to consent, either orally or otherwise, to any surgical or medical treatment or procedures ...not prohibited by law which may be suggested, recommended, prescribed or directed by a duly licensed physician:

- Any adult, for himself. An adult is someone 18 years of age or older.
- The judicially appointed Tutor or curator of the patient, if one has been appointed.
- An agent acting pursuant to a valid mandate, specifically authorizing the agent to make health care decisions.
- The patient’s spouse not judicially separated.
- An adult child of the patient.
- Any parent, whether adult or minor, for his minor child.
- The patient’s sibling.
- The patient’s other ascendants or descendants.
- Any person temporarily standing in loco parentis, whether formally serving or not, for the minor under his care and any guardian for his ward.

Consent is excused or implied in emergency situations where a person transported to a hospital to a licensed health care facility is not in a condition to give consent; a person authorized is not readily available; and any delay would be injurious to the health and well being of such person.”¹

LA RS 1299.53 does not list a minor as a person who is allowed to give consent for himself or on behalf of someone else. However, LA R.S. 40: 1095 entitled “Medical Treatment” states in relevant part:

Consent to the provision of medical or surgical care or services by a hospital or public clinic, of to the performance of medical or surgical care or services by a physician, licensed to practice medicine in this state, when executed by a minor who believes himself to be afflicted with an illness or disease, shall be valid and binding as if the minor had achieved his majority. Any such consent shall not be subject to a later disaffirmance by reason of his minority.

The consent of a spouse, parent, guardian or any other person standing in a fiduciary capacity to the minor shall not be necessary in order to authorize such hospital care or services or medical or surgical care or services to be provided by a physician licensed to practice medicine to such a minor.

¹ LA Revised Statute 40:1299.53: “Persons who may consent to surgical or medical treatment”

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Noting that according to Attorney General Opinion No-88-232 this does not give a minor the right to refuse medical treatment when that treatment is consented to by his parents and proposed by a licensed physician.

Where a minor refuses treatment and no parent or authorized representative is present, the treatment and transport of the patient will proceed during an emergency.