



College of Physicians and Surgeons of British Columbia

# Legislative Guidance

## Consent of “Minors”: *Infants Act*

<b>Effective:</b>	May 2008
<b>Last reviewed:</b>	July 2018
<b>Version:</b>	3.0
<b>Next review:</b>	July 2021
<b>Related topic(s):</b>	<a href="#">Infants Act</a>

**Legislative Guidance** provides physicians with assistance in navigating legislation applicable to the medical profession. The information provided in this document is meant to be used as a helpful resource, and should be read in conjunction with the legislation it refers to.

**Registrants may seek advice on these issues by contacting the College and asking to speak with a member of the registrar staff, or by seeking medical legal advice from the CMPA.**

## PREAMBLE

This guidance has been developed to assist physicians with respect to obtaining the consent of a minor for his or her medical treatment. For the purposes of this Act, “infant” means any person who is under 19.

## GUIDANCE

Physicians often approach the College for guidance on when a minor, often a teenager, may give consent or withhold consent for medical treatment. In British Columbia, a minor means any person who has not reached the age of 19 (Age of Majority Act, RSBC 1996, c.7).

A patient need not be 19 in order to give consent to medical treatment. The concept of maturity has become the principal factor in determining a minor’s capacity to consent to his or her medical treatment. The capacity of a minor is determined by assessing the extent to which the minor’s physical, mental, and emotional development will allow for a full appreciation of the nature and consequences of the proposed treatment, including the refusal of such treatment.

In British Columbia, section 17 of the Infants Act, RSBC 1996, c.223 (see below) sets out the circumstances within which the consent of a minor to his or her medical treatment is deemed to be valid and effective.

### ***Infants Act, RSBC 1996, c.223***

#### *Consent of infant to medical treatment*

- 17 (1) in this section:  
“**health care**” means anything that is done for therapeutic, preventive, palliative, diagnostic, cosmetic or other health related purpose, and includes a course of health care;
- (2) Subject to subsection (3), an infant may consent to health care whether or not that health care would, in the absence of consent, constitute a trespass to the infant’s person, and if an infant provides that consent, the consent is effective and it is not necessary to obtain a consent to the health care from the infant’s parent or guardian.
- (3) A request for or consent, agreement or acquiescence to health care by an infant does not constitute consent to the health care for the purposes of subsection (2) unless the health care provider providing the health care
- (a) has explained to the infant and has been satisfied that the infant understands the nature and consequences and the reasonably foreseeable benefits and risks of the health care, and
  - (b) has made reasonable efforts to determine and has concluded that the health care is in the infant’s best interests.