



College of Physicians and Surgeons of British Columbia

Legislative Guidance

Consent of “Minors”: *Infants Act*

Preamble

Registrants are expected to be aware of and comply with their legal, professional and ethical obligations and are encouraged to seek the guidance of legal counsel or the Canadian Medical Protective Association (CMPA). Registrants may also contact a member of registrar staff at the College to discuss professional and ethical obligations.

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.

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