

Uniform Medical Consent of Minors Act

(1975 Proceedings, pages 30, 162)

1. In this Act "medical treatment" includes

Interpretation

- (a) surgical and dental treatment;
- (b) any procedure undertaken for the purpose of diagnosis;
- (c) any procedure undertaken for the purpose of preventing any disease or ailment;
- (d) any procedure undertaken for the purpose of preventing pregnancy; and
- (e) any procedure that is ancillary to any treatment as it applies to that treatment.

2. The law respecting consent to medical treatment of persons who have attained the age of majority applies in all respects to minors who have attained the age of sixteen years in the same manner as if they had attained the age of majority.

Minors over 16

3. (1) The consent to medical treatment of a minor who has not attained the age of sixteen years is as effective as it would be if he had attained the age of majority where, in the opinion of a legally qualified medical practitioner or dentist attending the minor, supported by the written opinion of one other legally qualified medical practitioner or dentist, as the case may be,

Minors under 16

- (a) the minor is capable of understanding the nature and consequences of the medical treatment; and
- (b) the medical treatment and the procedure to be used is in the best interests of the minor and his continuing health and well-being.

(2) The consent of a minor who has not attained the age of sixteen years or of his parent or guardian is not required in relation to medical treatment performed with respect to that minor where

Idem

- (a) the minor is incapable of understanding the nature and consequences of the medical treatment or, being capable of understanding the nature and conse-

quences of the medical treatment, is incapable of communicating his consent to the medical treatment; and

- (b) a legally qualified medical practitioner or dentist attending the minor is of the opinion that the medical treatment is necessary in an emergency to meet imminent risk to the minor's life or health.

Dispensing with consent by court

4. (1) Where the consent of a parent or guardian to medical treatment of a minor is required by law and is refused or otherwise not obtainable, any person may apply to (*insert court as appropriate to the jurisdiction*) for an order dispensing with the consent.

Idem

(2) The court shall hear the application in a summary manner and may proceed *ex parte* or otherwise and, where it is satisfied that the withholding of the medical treatment would endanger the life or seriously impair the health of the minor, may by order dispense with the consent of the parent or guardian to such medical treatment as is specified in the order.

Where no trespass

5. Where by this Act the consent of the parent or guardian of a minor to his medical treatment is not required or is dispensed with, the medical treatment does not for the reason that the consent of the parent or guardian was not obtained, constitute a trespass to the person of the minor.

(NOTE: 1. A jurisdiction considering enactment of this Act may wish to exclude particular kinds of procedures from its scope, e.g., contraception, sterilization, or procurement of miscarriage. In the case of any exclusion, however, consideration must also be given as to whether or not the exclusion is to apply generally or only with respect to section 3.

2. Additional sections may be added in a jurisdiction to reserve the special provisions in the Uniform Human Tissue Gift Act concerning consent to inter vivos human organ transplant.

3. A jurisdiction considering the enactment of this Act should also consider what changes, if any, are required in relation to the provisions in its Child Welfare Act dealing with children who are neglected by reason of lack of medical care and with the procedures for making those children wards of the government for the purpose of enabling medical care to be provided to them.)