

link to statute



State of North Carolina

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REPLY TO:  
John P. Barkley  
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June 16, 1994

Ms. Annette Byrd, R.N., M.P.H.  
Immunization Branch Head  
Division of Epidemiology  
Department of Environment, Health  
and Natural Resources  
PO Box 27687  
Raleigh, NC 27611-7687

Re: Minor's Consent for Immunization

Dear Ms. Byrd:

This letter is in response to your May 25, 1994 letter which asks "Can a minor consent for their own immunizations?" Pursuant to G.S. 90-21.5, "any minor may give effective consent to a physician licensed to practice medicine in North Carolina for medical health services for the prevention, diagnosis and treatment of ... venereal disease and other diseases reportable under G.S. 130A-135 ..." as well as other conditions listed in G.S. 90-21.5. 15A NCAC 19A .0101 lists the diseases reportable pursuant to G.S. 130A-135. Immunizations for any of the diseases listed in 15A NCAC 19A .0101 would be medical health services for the prevention of diseases reportable under G.S. 130A-135, and therefore minors may consent to immunizations for those diseases. However, if an immunization is for a disease that it is not a reportable disease, the minor cannot consent for such an immunization.

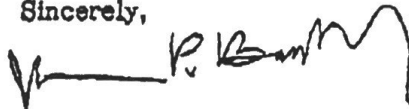
Also, an emancipated minor "may consent to any medical, dental and health services for himself or for his child" pursuant to G.S. 90-21.5(b). Emancipation requires a court order, except that married juveniles are emancipated pursuant to G.S. 7A-726.

The statute does not specifically address the question of whether an unemancipated minor who has a child can consent to medical health services for their child. We usually advise our clients that we can defend accepting an unemancipated minor's consent to such services for their child. Without such authority, the minor could be subject to neglect charges for not providing necessary medical care for their child. Placing a parent in such an impossible situation is inconsistent with the intent of the statute, which is to make certain types of medical health services more accessible to minors. However, since this is not specifically addressed in the statute, individual physicians may wish to consult their own attorneys on this issue.

Also, there are no specific age criteria set out in the statutes that provide guidance as to how old a minor must be in order to give effective consent. Therefore, as with any other consent, the standard used to determine whether a minor's consent is valid is whether the minor has a general understanding of the procedures or treatments and of the usual and most frequent risks and hazards inherent in the proposed procedures or treatments, and whether the minor has agreed to the procedure or treatment of their own free will. This determination must be made on a case-by-case basis.

If I can be of further assistance, please feel free to call me at the above referenced number.

Sincerely,



John P. Barkley  
Assistant Attorney General

PLEASE NOTE THAT THIS LETTER DOES NOT CONSTITUTE A FORMAL OPINION OR AN ADVISORY OPINION FROM THE DEPARTMENT OF JUSTICE. THIS IS AN ADVISORY LETTER. IT HAS NOT BEEN REVIEWED AND APPROVED IN ACCORDANCE WITH PROCEDURES FOR ISSUING AN ATTORNEY GENERAL'S OPINION.