

# 16 FAQs about Minor Patient Consent

As we have rolled out our new forms, we have had a variety of questions relating to minor patient consents. By having answers to these frequently asked questions, you will be better prepared for obtaining informed consent for minors. While the laws vary from state-to-state, here is a general approach to obtaining informed consent. This document is intended for staff only and should not be shared with patients.

It is critical to understand the definition of a Legal Guardian which is: A parent, an adoptive parent (not a stepparent), an individual with decision making authority through a power of attorney, or a court appointed guardian evidenced by a legal document.

**Q Does a parent or guardian need to be present at the first visit by a minor patient?**

Yes. A parent or guardian must be present at the first visit in all circumstances. The Minor Consent Form should be presented and completed at the first visit by the parent or guardian.

**Q Will each parent or guardian need to complete the form at the first visit to our practice?**

No. This form only needs to be completed by one parent or guardian unless a court order requires otherwise.

**Q Does the Minor Consent Form need to be updated annually?**

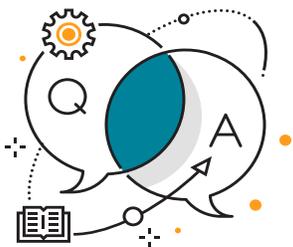
No. The Minor Consent Form does not need to be updated unless there is a change to any of the information on the form.

**Q Do minors who are undergoing a series of treatments need a signed parental consent each time they are seen at the office?**

No. You only need to receive informed consent once, so long as the diagnosis and treatment is not changing. If a minor patient needs a series of treatments or exams, it is strongly advised that the parent/legal guardian sign a consent form prior to the first treatment stating that the minor patient can be treated and examined by the dermatologist and staff even if the patient is not accompanied by a parent or guardian at the follow-up appointment. Of course, if the nature of the diagnosis, treatment or exam changes, new informed consent must be obtained.

**Q Do both parents of a minor have to agree to a proposed treatment/procedure?**

No, for most medical procedures, it is sufficient to obtain the consent of one parent. However, if treatment poses a significant risk to the minor or is known to violate the personal or religious beliefs of one or both parents, it is advisable to obtain the consent of both parents. If the parents disagree about the advisability of the procedure, and the dispute cannot be resolved, it may be necessary for a juvenile court to intervene.



### **Q Who can give consent for a minor when parents are divorced?**

Customarily, this is addressed in the divorce and there is often a separate document which can be provided for guidance. If the parents share joint legal custody, they each continue to have the right to make health care decisions for their child. Either parent alone may consent to a recommended medical procedure unless the court issuing the order of joint legal custody has specified that the consent of both parents is required for certain, or all, medical decisions. If parents have joint legal custody and are unable to agree about treatment, it may be necessary to obtain a court order before treatment is provided unless there is an emergency. If a parent has sole legal custody, that parent has the sole legal right to make health care decisions for the child. When in doubt, we should require a court order specific to Forefront directing us what to do.

### **Q Do legal guardians have the same rights as parents to give consent to treat a minor patient?**

Yes. A legal guardian has the same authority to consent to medical treatment for a minor as a parent would have provided they are acting in the patient's best interest.

### **Q Can a stepparent give consent for a minor?**

No. A stepparent does not have the legal authority to give legal consent to medical treatment for a minor stepchild unless the stepparent has legally adopted the child or been formally designated a legal guardian, or has otherwise been designated (e.g., through a valid power of attorney).

### **Q Can a grandparent or sibling give consent for a minor?**

No. Neither a grandparent nor sibling has the legal authority to give legal consent to medical treatment for a minor unless such relative

has legally adopted the child or been formally designated a legal guardian or has otherwise been designated (e.g., through a valid power of attorney).

### **Q Can a foster parent give consent for a minor patient?**

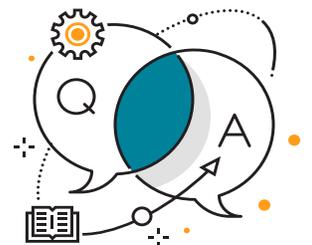
The court order appointing a foster parent customarily allows the foster parent to give consent to "ordinary" medical treatment for the child, including immunizations, physical exams, and x-rays.

### **Q In what situations can minors be treated if their parents or guardian are unavailable?**

An emergency exception may apply to permit examination and treatment of minors requiring immediate services for alleviation of severe pain or immediate diagnosis and treatment of unforeseeable medical conditions, which if not immediately diagnosed and treated, would lead to serious disability or death. Some state education codes establish qualified immunity for physicians who treat school children during regular school hours for emergency treatment. Also, a child's parents or legal guardians may sign a limited power of attorney authorizing a third party to consent to medical care in the event the child or child's parents (guardians) will be away from home, such as during vacations. A copy of the authorization signed by the parents or legal guardian should be retained with the child's medical records.

### **Q Are there any exceptions to minors consenting for themselves?**

Some exceptions exist to allow minors to consent to their own treatment; for example, married or divorced minors, minors on active duty in the armed forces, and minors "emancipated" by a court order.



**Q Is verbal consent from the parent or legal guardian acceptable for an established patient and should we follow-up verbal consent with written consent?**

Yes. The legal requirement of “informed consent” does not require written consent, but obtaining written consent provides the most protection and is best practice. If the parent/legal guardian is available by phone to be informed of the treatment options and risks, they can give verbal consent over the phone. This consent should be accurately documented in the medical record. If the procedure typically has a written form of consent specific to that procedure, then it is wise to send a copy of the written consent home and obtain a signature on it, even if it is after the procedure has been completed.

**Q If a grandparent or stepparent comes in with a minor child for a follow-up visit, should we contact the parent/legal guardian for permission to treat the minor?**

Yes. Only the parent or legal guardian can give informed consent.

**Q Is there anyway a note from the parent would be okay for one visit?**

No. Only a valid power of attorney document or other form approved by your state is appropriate.

**Q Can a minor patient be evaluated without a parent or legal guardian if we do not have a Minor Consent Form on file, the Minor Consent Form is partially completed, or the minor patient brings a completed Minor Consent Form on the date of their first visit?**

No. A parent or legal guardian is required at the minor patient’s first visit. No exceptions.

