

Informed Consent Companion Document

Mature Minor Legislation

Across Canada, common law has established a “mature minor” doctrine so that paediatric patients who are considered to be sufficiently mature are able to give or refuse consent to medical care without consent from a parent or guardian.¹ In some provinces, including Ontario, Prince Edward Island and Yukon, all individuals are considered to be capable of making health care decisions, including children, as long as their decision is adequately informed, and they are able to understand the potential risks and benefits of the proposed assessment, procedure or treatment.¹ Within Manitoba and several other provinces and territories, provincial and territorial legislation provides an age at which children are presumed to be capable of making their own healthcare decisions unless evidence to the contrary exists.¹

In Manitoba, under the Health Care Directives Act², individuals 16 years of age or older are presumed capable of giving or refusing consent and children under the age of 16 are presumed incapable of giving or refusing consent to medical care. However, if a practitioner feels that a child under the age of 16 is sufficiently mature and is able to fully understand the nature, benefits and potential risks of medical care, the minor may be able to give or refuse consent for medical care in the absence of a parent or guardian under the mature minor doctrine. The rule of maturity, however, is conditional that the child’s decisions are within the best interest of their own health.¹

After discussing your planned physiotherapy intervention with a minor, you should be reasonably confident in your assessment of whether they understand the nature of the proposed treatment and its anticipated effect. The child should also understand the consequences of refusing treatment. It is important that no matter how old your patient is, they must be able to understand treatment information and reasonably foresee and understand the consequences of making treatment decisions in order to provide their informed consent.

Additional Resources:

[July 2020 In Touch Newsletter - Mature Minor](#)

References:

- 1) Government of Canada. Department of Justice. Article 12 of the Convention on the Rights of the Child and Children’s Participatory Rights in Canada. Accessed October 31, 2024, from <https://www.justice.gc.ca/eng/rp-pr/other-autre/article12/p3a.html>
- 2) The Health Care Directives Act. Manitoba Laws; Queen’s Printer of Manitoba. Accessed October 31, 2024, from <https://web2.gov.mb.ca/laws/statutes/ccsm/h027.php>