
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2609 Session of 1996

INTRODUCED BY YOUNGBLOOD, L. I. COHEN, GORDNER, THOMAS,
READSHAW, SERAFINI, BELFANTI, TRELLO, LEH, HORSEY, BISHOP,
CLARK AND HENNESSEY, MAY 13, 1996

REFERRED TO COMMITTEE ON JUDICIARY, MAY 13, 1996

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, providing for medical
3 consent for a minor by an adult caregiver.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 20 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 5148. Medical consent for a minor by an adult caregiver.

9 (a) Authorization of caregiver to give consent.--A parent,
10 legal guardian or legal custodian may authorize an adult person
11 in whose care a minor has been entrusted to consent to any
12 medical, surgical, dental, developmental or mental health
13 examination, diagnosis or treatment, including immunization, to
14 be rendered to the minor under the supervision or upon the
15 advice of a physician, nurse, dentist or mental health
16 professional licensed to practice in this Commonwealth and to
17 obtain any and all records with regard to such services,
18 provided there is no prior order of any court in any

1 jurisdiction currently in effect which would prohibit the
2 parent, legal custodian or legal guardian from exercising the
3 power that the parent, legal custodian or legal guardian seeks
4 to convey to another person. Medical, surgical and dental
5 treatment or examination includes any X-ray or anesthetic
6 required for diagnosis or treatment.

7 (b) Form of authorization.--Any written form that is signed
8 by the parent, legal guardian or legal custodian may be used to
9 convey the authority described in subsection (a). The form below
10 is offered as a sample only and its inclusion in this section
11 shall not be construed to preclude the use of alternative
12 language. Any parent, legal guardian or legal custodian signing
13 any written conveyance of authority is subject to the penalties
14 for forgery under 18 Pa.C.S. § 4101 (relating to forgery).

15 MEDICAL CONSENT SUGGESTED FORM

16 (PUT A LINE THROUGH THOSE PROVISIONS THAT ARE NOT APPLICABLE)

17 () I am the parent of the child(ren) listed below and there
18 are no court orders now in effect which would
19 prohibit me from exercising the power that I now seek
20 to convey; OR

21 () I am the legal guardian or legal custodian of the
22 child(ren) by court order (copy attached, if
23 available) and there are no other court orders now in
24 effect which would prohibit me from exercising the
25 power that I now seek to convey.

26 I am temporarily entrusting to (Name),
27 an adult who resides at (Address),
28 the care of the following child(ren):

29 (Name and Date of Birth) (Name and Date of Birth)
30 (Name and Date of Birth) (Name and Date of Birth)

1 The caregiver named above may consent to medical, dental,
2 surgical, developmental and/or mental health diagnosis,
3 examination or treatment, including immunization, for the
4 child(ren) and may have access to any and all records regarding
5 any such services.

6 I am giving this consent freely and knowingly in order to
7 provide for the child(ren) and not due to pressure, threats or
8 payments by any person or agency.

9 Upon notification of intent to revoke, there shall be a
10 period of 30 days duration before revocation takes effect.
11 Notification of intent to revoke must be in writing.

12 (Name _____) (Date _____)

13 (c) Use by health care provider.--A conveyance of authority
14 described in subsection (a) which is consistent with the
15 requirements of subsection (b) shall be honored by any health
16 care facility or practitioner described in subsection (e).
17 Notwithstanding subsection (f), the existence of a written
18 document conveying any authority described in subsection (a)
19 which is consistent with the requirements of subsection (b)
20 creates a presumption that the authority has been lawfully
21 conveyed.

22 (d) Revocation.--A conveyance of authority described in this
23 section is revocable at will, unless other terms are agreed upon
24 by the parent, guardian or custodian and the person to whom
25 authority is being conveyed. The parties may provide for terms
26 in writing which would require the revocation of authority to be
27 in writing, making revocation effective only when a specified
28 time period has elapsed after notification of intent to revoke
29 or any other terms that the parties deem appropriate.

30 (e) Release of authorization.--A physician, nurse, mental

1 health professional, dentist or other health care professional
2 or a hospital or medical facility who or which relies on a
3 written instrument that is consistent with the requirements of
4 subsection (b) and that authorizes another adult to consent to
5 medical treatment of the executor's minor child or ward shall
6 not incur civil or criminal liability for treating a minor
7 without legal consent if a reasonable and prudent health care
8 professional would have relied on the written instrument under
9 the same or similar circumstances. Nothing in this section shall
10 relieve any individual from liability for violations of other
11 provisions of law.

12 (f) Family reunification services.--This section is not
13 intended to provide a substitute for family reunification
14 services conducted under 42 Pa.C.S. Ch. 63 (relating to juvenile
15 matters). The execution of a document conveying any authority
16 described in subsection (a) shall not be binding in any future
17 custody or dependency proceedings. Regardless of the execution
18 of this document, any future custody or dependency determination
19 shall be based on the best interests of the child or other
20 applicable legal standard.

21 Section 2. This act shall take effect in 60 days.