## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## **HOUSE BILL**

No. 96

Session of 2007

INTRODUCED BY YOUNGBLOOD, CRUZ, STERN, COHEN AND BLACKWELL, JANUARY 30, 2007

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, JANUARY 30, 2007

## AN ACT

1 2 3	Amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, providing for medical 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:
12	(1) to consent to any medical, surgical, dental,
13	developmental or mental health examination, diagnosis or
14	treatment, including immunization, to be rendered to the
15	minor under the supervision or upon the advice of a
16	physician, nurse, dentist or mental health professional
17	licensed to practice in this Commonwealth; and

(2) to obtain any and all records with regard to such

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provided there is no prior order of any court in any 2 3 jurisdiction currently in effect which would prohibit the 4 parent, legal custodian or legal quardian from exercising the power that the parent, legal custodian or legal quardian seeks 5 to convey to another person. Medical, surgical and dental 6 treatment or examination includes any X-ray or anesthetic 7 8 required for diagnosis or treatment. 9 (b) Form of authorization. -- Any written form that is signed 10 by the parent, legal quardian or legal custodian may be used to 11 convey the authority described in subsection (a). Any parent, legal quardian or legal custodian signing any written conveyance 12 of authority is subject to the penalties for forgery under 18 13 Pa.C.S. § 4101 (relating to forgery). The following form may be 14 15 used and its inclusion in this section shall not be construed to 16 preclude the use of alternative language: 17 MEDICAL CONSENT FORM 18 (PUT A LINE THROUGH THOSE PROVISIONS THAT ARE NOT APPLICABLE) ( ) I am the parent of the child(ren) listed below and there 19 20 are no court orders now in effect which would 21 prohibit me from exercising the power that I now seek 22 to convey. ( ) I am the legal quardian or legal custodian of the 23 child(ren) by court order (copy attached, if 24 25 available) and there are no other court orders now in 26 effect which would prohibit me from exercising the 27 power that I now seek to convey. 28 I am temporarily entrusting to ( Name ), an adult who resides at ( Address 29 the care of the following child(ren): 30

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services;

(Name and Date of Birth) (Name and Date of Birth) 1 (Name and Date of Birth) (Name and Date of Birth) 2. 3 The caregiver named above may consent to medical, dental, 4 surgical, developmental and/or mental health diagnosis, 5 examination or treatment, including immunization, for the child(ren) and may have access to any and all records regarding 6 7 any such services. 8 I am giving this consent freely and knowingly in order to 9 provide for the child(ren) and not due to pressure, threats or 10 payments by any person or agency. 11 Upon notification of intent to revoke, there shall be a period of 30 days duration before revocation takes effect. 12 13 Notification of intent to revoke must be in writing. 14 ) (Date (Name 15 (c) Use by health care provider.--(1) A conveyance of authority described in subsection 16 (a) which is consistent with the requirements of subsection 17 18 (b) shall be honored by any health care facility or practitioner described in subsection (e). 19 20 (2) Notwithstanding subsection (f), the existence of a written document conveying any authority described in 21 22 subsection (a) which is consistent with the requirements of 23 subsection (b) creates a presumption that the authority has 24 been lawfully conveyed. 25 (d) Revocation. --26 (1) A conveyance of authority described in this section 27 is revocable at will unless other terms are agreed upon by 28 the parent, quardian or custodian and the person to whom authority is being conveyed. 29 (2) The parties may provide for terms in writing which 30

- 1 may require the revocation of authority to be in writing,
- 2 <u>making revocation effective only when a specified time period</u>
- 3 <u>has elapsed after notification of intent to revoke or any</u>
- 4 <u>other terms that the parties deem appropriate.</u>
- 5 (e) Release of authorization.--
- 6 (1) A physician, nurse, mental health professional,
- 7 <u>dentist or other health care professional or a hospital or</u>
- 8 <u>medical facility who or which relies on a written instrument</u>
- 9 that:
- 10 <u>(i) is consistent with the requirements of</u>
- 11 <u>subsection (b); and</u>
- 12 (ii) authorizes another adult to consent to medical
- treatment of the executor's minor child or ward;
- 14 <u>shall not incur civil or criminal liability for treating a</u>
- minor without legal consent if a reasonable and prudent
- 16 <u>health care professional would have relied on the written</u>
- 17 instrument under the same or similar circumstances.
- 18 (2) Nothing in this section shall be construed to
- 19 relieve any individual from liability for violations of other
- 20 <u>provisions of law.</u>
- 21 (f) Family reunification services.--
- 22 (1) This section shall not be construed as a substitute
- for family reunification services conducted under 42 Pa.C.S.
- 24 <u>Ch. 63 (relating to juvenile matters).</u>
- 25 (2) The execution of a document conveying any authority
- described in subsection (a) shall not be binding in a custody
- or dependency proceeding.
- 28 (3) Regardless of the execution of a document conveying
- 29 <u>any authority described in subsection (a), a custody or</u>
- 30 <u>dependency determination shall be based on the best interests</u>

- of the child or other applicable standard as provided by law. 1
- 2 Section 2. This act shall take effect in 60 days.