

Minor Consent

As a South Carolina pediatrician, when may I treat a minor without parental consent?

"As a general proposition, except in the event of an emergency, a surgeon will be liable for an assault where he operates on a child without the consent of the child's parents." *Banks v. Medical Univ. Of South Carolina*, 314 S.C. 376, 444 S.E.2d 519 (1994).

In South Carolina, a "child" is defined as an individual under the age of eighteen. S.C. Code Ann. § 20-7-30(1).

A physician must look to the parents or guardian for consent before treating a minor. The mother and father are "joint natural guardians" of their minor child or children and share an equal responsibility for the welfare of the child or children. S.C. Code Ann. § 20-7-100. However, a physician or healthcare provider is allowed to render care to a minor of any age without consent of a parent or legal guardian if in the physician or provider's judgment the proposed care is necessary, unless the care involves an operation, which may only be performed if it is essential to the minor child's life or health. S.C. Code Ann. § 20-7-290.

A minor who has reached his or her sixteenth birthday can consent to healthcare on his or her own and without input from a parent or guardian, unless the care involves an operation. If the proposed care entails an operation, then the operation can only be performed without consent of the minor's parent or guardian if in the opinion of the physician, as well as a consulting physician, if one is available, the operation is essential to the health or life of the minor. S.C. Code Ann. § 20-7-280.

An abortion cannot be performed on a pregnant minor without written consent of the minor and (1) one of the minor's parents, or (2) a legal guardian, or (3) a grandparent, or (4) a person standing in loco parentis to the pregnant minor for the past sixty days or more. The written consent must be obtained from both the minor and the other individual authorized to give consent and it must be witnessed by a third party. In cases involving an emancipated minor, a physician may perform the abortion upon written consent of the minor alone. A physician can also proceed with the consent of the minor alone when the physician has received a copy of a court order allowing the minor to obtain an abortion without parental/custodial consent. S.C. Code Ann. § 44-41-31.