



Provision of Medical Treatment to Minors Without Their Parents’ Consent

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The legal status of minors in Israel is governed by the *Capacity and Guardianship Law, 1962*. According to this law, a person under the age of 18 is considered a minor, and his or her actions typically require the consent of a legal representative (usually parents, though a different guardian may sometimes be appointed). Since informed consent for medical treatment is considered a legal action, a minor’s representative must generally provide consent before treatment.

However, Israeli law allows minors independent decision-making rights in specific medical contexts—without, and even contrary to, parental consent. Examples include: abortion at any age¹, HIV testing from age 14², psychiatric hospitalization from age 15 (with the minor’s consent or a court order)³, genetic testing from age 16 (with the minor’s consent)⁴.

Section 6 of the Law allows minors to perform legal acts that are commonly done by minors of their age. Once these acts are performed, they cannot be undone—unless significant harm to the minor has resulted. This section supports minors making legal decisions, from buying at a grocery store to seeking routine medical care, as appropriate for their age.

Over the years, there has been an increase in the number of minors seeking medical treatment without parental accompaniment. As a result, in 2004, the Director of Medical Administration at the Ministry of Health issued Circular No. 4/2004, titled “*Visits by Unaccompanied Minors to Primary Clinics*”, based on Section 6 of the Law. This circular provides guidelines for medical professionals in community primary care clinics regarding the treatment of minors who arrive unaccompanied or accompanied by someone who is neither a parent nor a legal guardian. The guidelines apply to minors and their families who are known to the

¹ Section 316 of the Penal Code, 1977

² AIDS Virus Disclosure in Minors Law, 1996

³ Youth (Care and Supervision) Law, 1960

⁴ Genetic Information Law, 2000



medical staff at the clinic, and they distinguish between minors aged 14 and above and minors under the age of 14.

The special committee that reviewed the circular found that minors aged 14 and older commonly seek primary and routine medical care independently and typically possess the intellectual and emotional maturity required to understand relevant information in order to make an informed decision and give informed consent to routine treatments (with the exception of cases where the practitioner identifies emotional immaturity).

The circular encourages healthcare providers to seek parental consent whenever they deem it appropriate. Over the years, several attempts have been made to amend the existing legal framework and regulate the matter formally. However, these efforts have not resulted in legislation⁵.

By comparison, in the United States, minors' rights are categorized into three levels, based on their cognitive development, skills, and life circumstances: Minors – young children who are highly dependent on their parents; Mature minors – teenagers with emotional and intellectual maturity, and sufficient capacity to understand the proposed treatment and its risks and make thoughtful decisions regarding medical treatment; and Emancipated minors – minors who lead an independent lifestyle and typically live outside their parents' home. These minors can make their own decisions regarding medical treatment. Over the years, the age at which minors in the U.S. are considered mature enough to independently consent to medical treatment has decreased, even for non-emergency care.

English law recognizes the legal capacity of a 16-year-old minor to consent to and participate in any medical treatment. The law distinguishes between a minor capable of making decisions and one who lacks such capacity. This determination is made by the treating physician and is influenced primarily by the minor's age

⁵ See also: Memorandum for Amendment of the Patient's Rights Law – Memorandum of the Patient's Rights Law (Amendment) (Informed Consent of a Minor), 2014
Proposed Amendment to the Patient's Rights Law (Informed Consent of a Minor), 2020



and the nature of the required medical treatment⁶.

Contraception remains a unique point within the broader subject. One can interpret a minor's request to receive birth control pills on her own as a "legal act commonly performed by minors of her age," which therefore should be included under Section 6 of the Law. Further support for this approach can be found by inference from Circular No. 08/2017 on professional guidelines for treating girls applying to abortion committees, regarding prevention of pregnancy—even in cases of routine contraception.

Following a discussion on the matter, the Ethics Bureau established the following principles:

1. As a rule, the physician shall always act in the best interest of the minor and choose the course of action that provides the greatest possible benefit.
2. As a rule, it is in the best interest of minors that their parents be involved in their medical care. Therefore, efforts should be made to ensure parental involvement in any medical treatment provided to a minor. If the minor refuses, the physician should explain the importance of parental involvement and attempt to persuade the minor to involve his or her parents.
3. In certain circumstances, at the physician's individual discretion, medical treatment may be given to a minor without parental consent. This is permissible when all three of the following cumulative conditions are met: 1. The physician determines that the minor is sufficiently mature and has the capacity to make

⁶ This principle in English law originates from the *Gillick* judgment, which addressed a directive by the British Department of Health allowing the provision of contraceptive pills to girls under the age of 16 when intended to protect their wellbeing. The central principle established was that the girl's best interest takes precedence, even if it sometimes requires avoiding parental consent or even refraining from informing the parents. The court emphasized that there is no fixed age at which parents hold absolute authority, and the more mature the girl becomes, the more weight should be given to her decisions. According to the precedent, a doctor may provide contraception to a girl when five cumulative conditions are met: she understands the nature of the treatment; she strongly refuses to involve her parents despite efforts to persuade her; it is likely that she will engage in sexual activity regardless; her physical or mental health may suffer without the treatment; and the doctor is convinced that providing contraception is in her best interest even without parental knowledge. The ruling did not set a specific age for the minor, but rather focused solely on the girl's capacity to understand and her best interest.



- decisions about themselves and to give informed consent to medical treatment;
2. It is clearly in the best interest of the minor that the parents not be involved in the medical treatment; 3. It is clear that the medical treatment is necessary for the minor.
4. The older the minor, the more likely that he or she is capable of making independent decisions; however, assigning a fixed age has no moral value in itself. The leading principle in deciding whether a minor is capable of making decisions and giving informed consent is the physician's impression of the minor's maturity and ability.
5. The physician shall document in the minor's medical record the considerations that formed the basis for the decision not to involve the minor's parents in the provision of medical treatment.
6. The Ethics Bureau calls on the Israeli legislature to amend the law in order to clarify the issue of medical treatment for minors without their parents' consent, through adoption of the principles of the Ethics Bureau and the professional bodies that have addressed the issue in the past.