



HCCA - Seattle

06/05/2020

1

Denise Atwood, RN, Esq.,
DMG Chief Risk Officer
Denise_Atwood@dmgaz.org

**DISCLAIMER: EDUCATION PURPOSES ONLY –
DOES NOT CONSTITUTE LEGAL ADVICE**

2

Consent issues with minors –
road you want



Consent issues with minors –
road you get



3

Road map - Outline

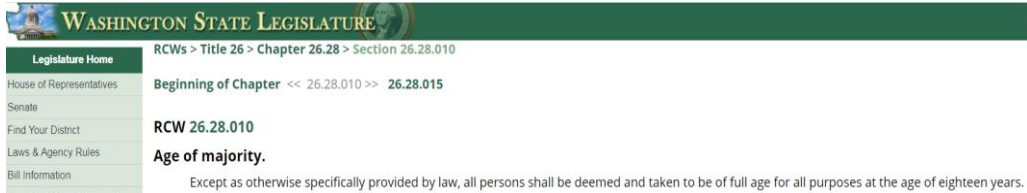
Consent issues with minors



1. Minors accessing health care – required consent
2. Status of the minor and guardianship issues
3. Mature Minor Rule [MMR] – 3 steps to comply
4. Polling with participants & Case Studies

4

The Law – Age of Majority



WASHINGTON STATE LEGISLATURE

RCWs > Title 26 > Chapter 26.28 > Section 26.28.010

Legislature Home

House of Representatives

Senate

Find Your District

Laws & Agency Rules

Bill Information

Beginning of Chapter << 26.28.010 >> 26.28.015

RCW 26.28.010

Age of majority.

Except as otherwise specifically provided by law, all persons shall be deemed and taken to be of full age for all purposes at the age of eighteen years.

POLL: Legally, what can you do once you have reached age of majority?

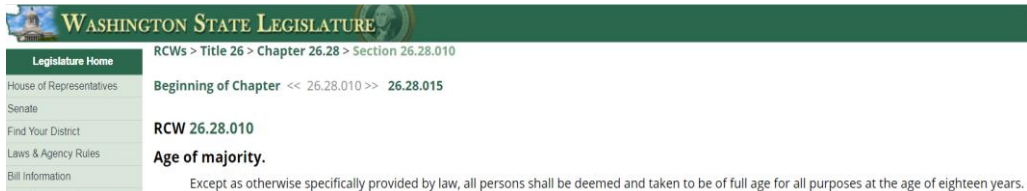
- A. Vote
- B. Enter into contracts
- C. Sue and be sued
- D. All of the above

What about from a healthcare perspective?

- Consent for treatment
- Held responsible for payment for services rendered

5

The Law – Emancipation



WASHINGTON STATE LEGISLATURE

RCWs > Title 26 > Chapter 26.28 > Section 26.28.010

Legislature Home

House of Representatives

Senate

Find Your District

Laws & Agency Rules

Bill Information

Beginning of Chapter << 26.28.010 >> 26.28.015

RCW 26.28.010

Age of majority.

Except as otherwise specifically provided by law, all persons shall be deemed and taken to be of full age for all purposes at the age of eighteen years.

POLL: Legally, what can you NOT do once you are emancipated?

- A. Vote
- B. Enter into contracts
- C. Sue and be sued

What about from a healthcare perspective?

- Consent for treatment
- Held responsible for payment for services rendered

6

Consent – guardianship issues

Generally, a minor may receive medical care or treatment only if a parent or legal guardian gives valid, informed consent. **What is needed to treat in these situations?**

Relative caregiver?	Signed authorization natural parent or declaration you are relative responsible for child' health care [RCW 7.70.065].
Step-parent?	Unless legally adopted, natural parent consent or signed declaration.
Legal guardian?	Certified copy court order establishing guardianship.
Natural or adoptive parents disagree on treatment?	Do not treat unless emergency or court order.
Refusal of consent by a "mature" minor?	Consider mature minor's wishes. Follow MMR.

7

Consent - exceptions

Generally, a minor may receive medical care or treatment only if a parent or guardian gives consent.

POLL: Is this an **exception** to the general rule – meaning can the minor give consent – if the minor is:

1. **Emancipated or married**
 - A. Yes
 - B. Maybe
 - C. No
2. **Homeless**
 - A. Yes
 - B. Maybe
 - C. No
3. **Seeking emergency care**
 - A. Yes
 - B. Yes if...
 - C. No

SOURCE: <https://www.familycarenetwork.com/sites/default/files/Advanced%20Consent%20to%20Treat%20Minors%20rev092415.pdf>

8

Consent - exceptions

Generally, a minor may receive medical care or treatment only if a parent or guardian gives consent.

POLL: Is this an **exception** to the general rule – meaning can the minor give consent – if care relates to:

1. **Birth control and pregnancy related care**
 - A. Yes to obtain care
 - B. Yes to obtain and refuse care
 - C. No regardless of age
2. **Sexually transmitted diseases/HIV**
 - A. Yes regardless of age
 - B. Yes if 14 or older
 - C. No regardless of age
3. **Outpatient mental health treatment***
 - A. Yes regardless of age
 - B. Yes if 13 or older
 - C. No regardless of age
4. **Outpatient drug & alcohol abuse treatment***
 - A. Yes regardless of age
 - B. Yes if 13 or older
 - C. No regardless of age

SOURCE:<https://www.familycarenetwork.com/sites/default/files/Advanced%20Consent%20to%20Treat%20Minors%20rev092415.pdf>

9

Mature Minor Rule (MMR) – Seattle & King County

[Home](#) » [Public Health — Seattle & King County](#) » [Public Health Centers and other office locations](#) » [Mature Minor Rule](#)

The Mature Minor Rule

Teens and patient confidentiality

About the Mature Minor Rule

The Mature Minor Rule was created as a result of a court case, *Smith v. Seibly*, 72 Wn.2d 16 (1967), and is part of Public Health - Seattle & King County's policy which allows health care providers to treat youth under the age of eighteen as adults based upon an assessment and documentation of the youth's maturity.

The Mature Minor Rule requires that providers consider the Mature Minor Factors below to determine whether a youth **has the capacity to understand the proposed health care service and/or treatment and is sufficiently mature to make their own health care decisions**.

Let's break that down and discuss...

10

Mature Minor Rule (MMR) – Seattle & King County

Mature Minor Factors (must meet one or more)

- **Freedom from parents or guardian: lives apart, manages their own affairs?**
The youth is living apart from their parents or guardians and is managing their own affairs.
- **Age and maturity?**
The youth is able to provide reliable information and make important decisions with good insight and judgment.
- **Self-supporting?**
The youth is financially independent from parents or guardians or is involved in a work-training program.
- **Training and experience?**
The youth has sufficient training and experience to make knowing and intelligent healthcare decisions.
- **General conduct as an adult?**
The youth demonstrates the general conduct of an adult.

Let's break that down and discuss...

11

MMR- 3 steps to comply

Step 1. Is law APPLICABLE?

If the youth is under the age of 18, the mature minor rule may apply

GO TO STEP 2

Step 2. ASSESS

Mature minor factors (must meet one or more)

1. Living apart from parents or guardian AND is managing own affairs ≠ college student (see 3)
2. Able to make decisions with good insight and judgement
3. Financially independent or in work-training program
4. Training and experience to make knowing and intelligent healthcare decisions
5. Demonstrates general conduct of an adult

GO TO STEP 3

Step 3. CLEARLY DOCUMENT

Providers name

Date of service

Statement "the youth is a mature minor" because...

OBJECTIVE documentation of which factor(s) met

12

Case Scenarios*

Evaluate several case scenarios from 3 perspectives:

1. Legal/Compliance
2. Ethical (see next slide)
3. Practical (Practice Tips). Implicit Bias?

SCENARIO REFERENCES

Some scenarios adapted from: Consent & Confidentiality in Adolescent Health Care, Arizona Medical Association, 2018 ed. Revised Code of Washington (RCW), Columbia Legal Services, November 2017.



13

Ethical Principles: Develop Working Definitions



1. Autonomy (Patient & Provider)
2. Beneficence
3. Non-maleficence
4. Fidelity/Veracity
5. Justice/Fairness

When addressing ethical issues, be aware of Implicit Bias.

Poll: What is implicit bias?

- A. Any effect or inference tending to produce results that do not adhere to standard morals and values.
- B. An individual's favorable or unfavorable response to similar situations.
- C. Attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner.
- D. All of the above define or describe implicit bias.

It is important to be mindful of **Implicit Bias** as it may lead you to make poor or unethical decisions...

14

Case Scenario

Changing sex designation


Sixteen year old Jesse comes to your clinic for a physical. When asked at registration about gender, Jesse does not feel it appropriate to check male or female because Jesse identifies as gender fluid and enters "X". During the appointment with the nurse practitioner, Jesse asks if the gender designation on the birth certificate can be changed.

Let's break it down...

15

Case Scenario

Changing sex designation – Washington Administrative Code (WAC - in part)

 [WAC 246-490-075](#)

Changing sex designation on a birth certificate.

(1) For the purposes of this section:

(a) "Adult" means a person who is at least eighteen years of age, or is an emancipated minor under chapter 13.64 RCW.

(b) "Minor" means a person under the age of eighteen years of age, but not an emancipated minor under chapter 13.64 RCW.

(c) "X" means a gender that is not exclusively male or female, including, but not limited to, intersex, agender, amalgagender, androgynous, bigender, demigender, female-to-male, genderfluid, genderqueer, male-to-female, neutrois, nonbinary, pangender, third sex, transgender, transsexual, Two Spirit, and unspecified.

(2) Only an adult, or an adult through a guardian appointed pursuant to chapter 11.92 RCW, may apply to change sex designation on a birth certificate for oneself.

(3) Only the parent or legal guardian of a minor may apply to change sex designation on the minor's birth certificate.

Discuss this scenario from each of the following perspectives:

1. Legal/Compliance [WAC 246-490-075]
2. Ethical
3. Practical (Practice Tips). Implicit bias?

16

Case Scenario

Changing sex designation – WAC (in part)

PDF **WAC 246-490-075**

- (7) The sex designation change application of a minor must include a signed statement by the minor's licensed health care provider attesting that:
- (a) The minor identified on the application is under the care of the provider; and
 - (b) The provider has determined the request to change sex designation on the birth certificate is consistent with the minor's identity.
- (8) Only licensed health care providers whose scope of practice allows for attestation of a sex designation change may provide this attestation.

[Statutory Authority: RCW 43.70.150 and 43.70.160. WSR 18-02-048, § 246-490-075, filed 12/27/17, effective 1/27/18.]

Again, discuss this scenario from each of the following perspectives:

1. Legal/Compliance [WAC 246-490-075]
2. Ethical
3. Practical (Practice Tips). Implicit bias?

17

Case Scenario

Release of Medical Records, Contraceptives, Sexual Activity

Fourteen year old Juanita comes to you with complaints of persistent headaches. Her mother is with her. When her mother leaves the room, Juanita reports recent sexual activity with one partner where she uses condoms "most of the time." Her last menstrual period was one week ago. She would like birth control for contraception and screening for sexually transmitted diseases, but does not want her mother to know. Juanita is on her mother's health insurance.

Discuss this scenario from each of the following perspectives:

1. Legal/Compliance [Birth Control RCW 9.02.100(1) & STD testing RCW 70.24.110]
2. Ethical
3. Practical (Practice Tips). Implicit bias?

18

Case Scenario

Drug Screening & Substance Abuse Treatment

Dillon is 16 years old. Dillon's mother is concerned and wants Dillon to have a urine drug screen without his knowledge. Upon examination of Dillon when he is alone in the room, he states he has been using smart pills/smarties (*slang for Adderall*) during the week and China White/White Girl (*slang for fentanyl*) on the weekends to sleep. Based on your examination and his demeanor and appearance, you are concerned about drug abuse. Dillon wants outpatient treatment but does not want his mother to know.

Discuss this scenario from each of the following perspectives:

1. **Legal/Compliance**
 - Outpatient Substance Abuse Treatment [>13 do not need parental consent RCW 70.96A.230]
 - Inpatient Substance Abuse Treatment [Consent required unless Child In Need of Services – see RCW 70.96A.235 and RCS 70.96A.096 – both parental notification and consent may be required]
2. **Ethical**
3. **Practical (Practice Tips). Implicit bias by provider? Inclusion challenges?**

19

Case Scenario

Drug Screening & Suspected Drug Abuse

Same scenario, except his parents want Dillon to get medically necessary treatment for chemical dependency but Dillon is refusing (remember he is 16):

1. **Legal/Compliance**

While RCW 71.34.010 allows adolescents to confidentially and independently seek services for mental health and substance use disorders, it was amended to ensure parents have the ability to exercise reasonable, compassionate care and control of their minor children...including the ability to request and receive medically necessary treatment for their adolescent children without the consent of the adolescent. [Passed Legislature in 2019 regular session]
2. **Ethical**
3. **Practical (Practice Tips). Implicit bias by provider? Inclusion challenges?**

20

Case Scenario

Pregnancy

Rochelle is going to be 14 this Friday. She arrives at the ED and requests to be seen because her stomach hurts. When she is in the room with the provider, she reports she has been having unprotected sex, has missed her last two periods and wants an abortion. She states her parents are out of town and she is staying with her 18-year-old brother who does not know she is at the ED.

Discuss this scenario from each of the following perspectives:

1. **Legal/Compliance**
- Abortion [no parental consent or notification required at **any age** RCW 9.02.100(2); *State v. Koome*, 84 Wn.2d 901 (1975)]
2. **Ethical**
3. **Practical (Practice Tips)**. Implicit bias by provider? Inclusion challenges?

Does your analysis change if she wants to keep the baby and get prenatal care?

1. **Legal/Compliance**
- Prenatal care [same as above, no parental consent or notification required, *State v. Koome* (1975)]

21

Case Scenario

Parent Verbal Refusal of Care

Lamont, 17, checks into the ED where you are working and states he thinks he sprained his ankle, and he wants it evaluated. He lives with his parents and is a senior in high school. You call to obtain verbal consent to treat and his father refuses treatment and says to send him straight home.

Discuss this scenario from each of the following perspectives:

1. **Legal/Compliance**
- [Non-emergency: Yes parental consent, unless minor meets MMR *Smith v. Seibly*, 72 Wn.2d 16, 21, 431 P.2d 719 (1967) or is homeless under McKinney-Vento Act]
2. **Ethical**
3. **Practical (Practice Tips)**. Implicit bias ?

Does your analysis change if it appears Lamont broke his ankle because foot is rotated outward?
- [Emergency: No, but only if parent's consent is not readily available, RCW 7.70.050(4)]

22

Case Scenario

Guardianship

Roberto, 12, is brought in for an earache and fever by his step-mother. You have met the birth mother before, but not the step-mother. There is no formal parental documentation in the chart which allows the step-mother to seek care for Roberto.

Discuss this scenario from each of the following perspectives:

1. Legal/Compliance
2. Ethical
3. Practical (Practice Tips). Implicit bias?

23

Questions ??

Questions ??

24