

Indiana Code (05/09/2023)

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IC 16
IC 16-36

Title 16 – HEALTH
Article 36 – MEDICAL CONSENT

IC 16-36-1-5 Persons authorized to consent for incapable parties; minors

Sec. 5. (a) If an adult incapable of consenting under section 4 of this chapter has not appointed a health care representative under section 7 of this chapter or the health care representative appointed under section 7 of this chapter is not reasonably available or declines to act, except as provided in sections 9 and 9.5 of this chapter, consent to health care may be given in the following order of priority:

- (1) A judicially appointed guardian of the person or a representative appointed under section 8 of this chapter.
- (2) A spouse.
- (3) An adult child.
- (4) A parent.
- (5) An adult sibling.
- (6) A grandparent.
- (7) An adult grandchild.
- (8) The nearest other adult relative in the next degree of kinship who is not listed in subdivisions (2) through (7).
- (9) A friend who:
 - (A) is an adult;
 - (B) has maintained regular contact with the individual; and
 - (C) is familiar with the individual's activities, health, and religious or moral beliefs.
- (10) The individual's religious superior, if the individual is a member of a religious order.

(b) Consent to health care for a minor not authorized to consent under section 3 of this chapter may be given by any of the following:

- (1) A judicially appointed guardian of the person or a representative appointed under section 8 of this chapter.
- (2) A parent or an individual in loco parentis if:
 - (A) there is no guardian or other representative described in subdivision (1);
 - (B) the guardian or other representative is not reasonably available or declines to act; or
 - (C) the existence of the guardian or other representative is unknown to the health care provider.
- (3) An adult sibling of the minor if:
 - (A) there is no guardian or other representative described in subdivision (1);
 - (B) a parent or an individual in loco parentis is not reasonably available or declines to act; or
 - (C) the existence of the parent or individual in loco parentis is unknown to the health care provider after reasonable efforts are made by the health care provider to determine whether the minor has a parent or an individual in loco parentis who is able to consent to the treatment of the minor.
- (4) A grandparent of the minor if:
 - (A) there is no guardian or other representative described in subdivision (1);
 - (B) a parent, an individual in loco parentis, or an adult sibling is not reasonably available or declines to act; or
 - (C) the existence of the parent, individual in loco parentis, or adult sibling is unknown to the health care provider after reasonable efforts are made by the health care provider to determine whether the minor has a parent, an individual in loco parentis, or an adult sibling who is able to consent to the treatment of the minor.

(c) A representative delegated authority to consent under section 6 of this chapter has the same authority and responsibility as the individual delegating the authority.

(d) An individual authorized to consent for another under this section shall act in good faith and in the best interest of the individual incapable of consenting.

(e) If there are multiple individuals at the same priority level under this section, those individuals shall make a reasonable effort to reach a consensus as to the health care decisions on behalf of the individual who is unable to provide health care consent. If the individuals at the same priority level disagree as to the health care decisions on behalf of the individual who is unable to provide health care consent, a majority of the available individuals at the same priority level controls. [Pre-1993 Recodification Citation: 16-8-12-4.]

As added by P.L.2-1993, SEC.19. Amended by P.L.81-2015, SEC.6; P.L.54-2017, SEC.1; P.L.67-2018, SEC.3.