

Information/Instructions Regarding the Affidavit for Consent for Health Care for a Minor

1. The Affidavit for Consent for Health Care for a Minor (Affidavit) **IS** intended for use in the following circumstances:
 - a. There is a need for medical care of any type for a minor child (under the age of 18 years); **AND**
 - b. The child is **NOT** your biological child (your name does not appear on their birth certificate as father or mother), **AND**
 - c. The child is **NOT** your adopted child (your name does not appear on their birth certificate as father or mother), **AND**
 - d. The child is **NOT** a foster child (a child who is in the legal custody of the state); **AND**
 - e. You have been unable to get a signed medical consent form from the child's parent or legal guardian, and that parent or guardian is not present to give a consent form directly to the medical provider (doctor, nurse, dentist, psychologist, hospital, clinic, laboratory or other types of persons/facilities who perform medical services); **AND**
 - f. The minor child has lived with you for at least six months **OR** the child is related by blood or marriage to you.

2. The Affidavit is **NOT** intended for use when the parent or legal guardian of the child does not want the child to have this procedure or treatment and has told you of that decision.

3. If your name appears on the child's birth certificate as the father or mother you have the right to consent for medical care for your child and you do not need to complete the Affidavit for Consent for Health Care for a Minor. However, this right could be affected by certain court orders. If you have been involved in any divorce, custody, paternity, abuse or neglect proceedings you may want to check your court order, or have an attorney to check your court order, to determine if you have any limitations upon your ability to consent for medical care for your minor child.

4. The Department of Health and Human Resources has the responsibility to ensure that children in foster care receive appropriate health care. In order to fulfill this responsibility, the Department is authorized to consent to health care services. The Department may delegate this authority to foster parents or licensed childcare agencies that have the day-to-day contact with the child. In general, either the Department caseworker, foster parent, or a licensed childcare agency will authorize

consent to routine health care services. For non-routine health care services such as surgery, anesthesia, or emergency medical treatment, consent should be given as directed by the Department through its policies. Health care providers should request and be provided a copy of the foster child's Medical Care Authorization for Child in Foster Care form from the child's caseworker, foster parent, or licensed childcare agency caseworker.

5. If your circumstances require the use of the Affidavit for Consent for Health Care for a minor, the affidavit must be signed in the presence of a Notary Public. Your health care provider may have a Notary Public on their staff. If there is not a Notary available at your health care provider's location many banks, courthouses and government offices employ Notaries.
6. As you complete the affidavit please make sure to explain how you attempted to notify the parent or legal guardian that the child is in need of medical care – try to include specifics about **when** you talked to the parent/guardian, **where** you were, **how** the contact was made (by phone, e-mail, in person). If you have attempted to talk to the parent/guardian but were unable to reach them, please include information on **how** and **when** you tried to contact the parent/guardian.
7. Take a copy of the signed affidavit to the health care provider and attach a copy of the affidavit to any consent form used by the health care provider. **Even though you have this Affidavit you still need to sign the provider's consent form.**
8. **Please note: Signing this form does not, in any way, give you custody or legal guardianship of this child. It simply allows you to consent for a medical procedure when the child's parent or guardian is not available or is unable to give the consent.**

Affidavit for Consent for Health Care for a Minor

State of West Virginia, County of _____
name of county where you are physically located at the time you sign the document

After being duly sworn, I _____ provide the following information:
Adult Caregiver's Name

- A. 1. My full name is _____;
Adult Caregiver's Name
2. My current address is _____;
Adult Caregiver's Address
3. My birthdate is _____;
Adult Caregiver's Birthdate
4. _____, was born on _____
Child's Name Child's Birthdate
- 5a. _____, has resided with me continuously since _____,
Child's Name Date Child Came to Live with You
- a period exceeding six months; OR

5b. I am related to _____ in the following manner:
Child's Name

- | | |
|---|---|
| <input type="checkbox"/> sibling | <input type="checkbox"/> paternal grandparent or great-grandparent; |
| <input type="checkbox"/> maternal grandparent or great-grandparent; | <input type="checkbox"/> paternal aunt or uncle; |
| <input type="checkbox"/> maternal aunt or uncle; | <input type="checkbox"/> paternal cousin; |
| <input type="checkbox"/> maternal cousin; | |

Note: The person signing this affidavit must truthfully select either 5A or 5B to qualify under the provisions of this law.

6. The names of child's parents or legal guardians are _____.
7. The addresses of child's parents/guardians are _____
_____.

B. I have attempted to obtain the consent of _____ for medical care for
Parents/Guardians of Child

_____ but I have been unable to do so.
Child's Name

C. Here are the attempts I have made to obtain the legal guardian/parent or parents' consent for medical care for _____:
Child's Name

D. To the best of my knowledge the guardian/parents of _____ have not
Child's Name
refused to give their consent for this medical care.

By placing an X beside each of the following paragraphs I acknowledge that I have read or have had read to me these statements:

E. General Notices: _____

This consent form is promulgated pursuant to West Virginia Code § 49-11 et seq.

This declaration does not affect the rights of the minor's parent, guardian or legal custodian regarding the care, custody and control of the minor, other than with respect to health care, and does not give the caregiver legal custody of the minor. This affidavit is valid for one year unless the minor no longer resides in the caregiver's home. Furthermore, the minor's parent, guardian or legal custodian may at any time rescind this affidavit of caregiver consent for a minor's health care by providing written notification of the rescission to the appropriate health care professional. A person who relies in good faith on this affidavit of caregiver consent for a minor's health care has no obligation to conduct any further inquiry or investigation and shall not be subject to civil or criminal liability or to professional disciplinary action because of the reliance

F. Penalty for False Statement: _____

§49-11-9. Penalty for false statement.

A person who knowingly makes a false statement in an affidavit under this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000.

G. Revocation and Termination of Consent: _____

§49-11-6. Revocation and termination of consent.

- (a) The affidavit of caregiver consent for a minor's health care is superseded by written notification from the minor's parent, guardian or legal custodian to the health care professionals providing services to the minor that the affidavit has been rescinded.
- (b) The affidavit of caregiver consent for a minor's health care is valid for one year unless the minor no longer resides in the caregiver's home or a parent, guardian or legal custodian revokes his or her approval by written notification to the health care professionals providing services to the minor that the affidavit has been rescinded. If a parent, guardian or legal custodian revokes approval, the caregiver shall notify any health care provider or health service plans with which the minor has been involved through the caregiver.

Based upon all of the statements above, I believe that I am the person who can give a consent for the health care for _____.
Child's Name

My signature below was given on the _____ day of _____, 20____ in _____,
Date Month City

_____, County, West Virginia.
County

Signature of Caregiver

STATE OF _____

COUNTY OF _____ to wit:

I, _____, a Notary Public of said County, do certify that _____, whose name(s) are signed to the writing above bearing date on the _____ day of _____, 20____, have this date acknowledged the same before me.

Given under my hand this _____ day of _____, 20____.

Notary Public

My commission expires: _____.