

SUBJECT: PARENTAL DELEGATION OF AUTHORITY TO CAREGIVER OF MINOR CHILD

Parents may delegate authority to a caregiver for specified education and health care decisions relating to their minor child. Specifically, this law allows a parent to authorize an adult person in whose care a minor has been entrusted to:

- a) Consent to any health care developmental screening or mental health examination or treatment, including immunization, to be rendered to such minor in accordance with law for which the parent has authority to consent;
- b) Enroll the minor in health plans;
- c) Review school records of the minor child;
- d) Enroll the minor in a school;
- e) Consent to the minor's absence from school; and/or
- f) Consent to the participation of the minor in a school program or school-sponsored activity.

However, such parental authorization of designated powers to a caregiver is conditioned upon there being no prior order of any court in any jurisdiction currently in effect that would prohibit the parent from himself/herself exercising such authority; and provided further that, in the case where a court has ordered that both parents must agree on education or health decisions regarding their child, an authorization pursuant to this law shall not be valid unless both parents have given their consent.

An authorization conferred upon a caregiver pursuant to this law shall not be construed to satisfy requirements governing residence for purposes of enrollment in a school as set forth in Education Law Section 3202, unless such requirements have otherwise been fulfilled.

Authorization for a caregiver's consent shall be in writing and shall include:

- a) The name of the caregiver to whom authorization is given;
- b) The name of each minor with respect to whom such authorization is granted;
- c) The parent's or parents' signature(s) and the date of such signature(s).

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The authorization may specify a period of time less than a year for which such authorization shall be valid unless earlier revoked by the parent as enumerated below. However, if no such time period is specified, the authorization shall be valid until the earlier of revocation or one year from the date the authorization was signed by the parent. The authorization may:

- a) Authorize any or all consents set forth above;
- b) Specify the treatment, diagnosis or activities for which consent is authorized; or
- c) Specify any treatment, diagnosis or activity for which consent is not authorized.

However, the decision of a caregiver to consent to or to refuse health care or mental health diagnosis or treatment for a minor shall be superseded by a contravening decision of the custodial parent of the minor.

No provision of this law shall be construed to require formal authorization to a caregiver as provided within the statute where such authorization is not otherwise required by law, rule or regulation.

Revocation of Authorization

Revocation by one parent shall be deemed effective and complete revocation of an authorization pursuant to this law. A caregiver who receives notification from a parent of any such revocation shall immediately notify any school, health care provider or health plan to which an authorization has been presented. Failure by the caregiver to notify recipients of the revocation shall not make notification of revocation by the parent ineffective.

Liability Provisions

A person who provides health care or mental health care or who permits enrollment or participation in a government sponsored health plan, a school program or school-sponsored activity upon a caretaker's consent, and who does so reasonably and in the good faith belief that the parent has in fact authorized the caretaker to do so pursuant to the provisions of this law, may not be deemed to have acted negligently, unreasonably or improperly in accepting and acting upon such authorization. However, any such person may be deemed to have acted negligently, unreasonably or improperly if he/she has knowledge of facts indicating that the authorization was never given, or did not extend to the care or treatment given, or was revoked.

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STUDENTS

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Pursuant to law, the above provision (i.e., actions not deemed negligent, unreasonable or improper) shall apply even if health care or mental health care is provided to a minor or consent is given to enrollment or participation in a school program or school-sponsored activity in contravention of the wishes of the parent except where the health care provider, health plan official or school official has knowledge of facts indicating that the authorization was not given, or did not extend to the care or treatment in issue, or was revoked.

However, General Obligations Law Section 5-1801 does not alter any liability that would otherwise exist in the absence of this law, if a health care provider provides care that was not medically warranted even with legal consent, or fails to provide care that should have been provided, or provides care in a negligent or unacceptable manner.

[General Obligations Law Section 5-1801](#)
[Education Law Section 3202](#)

Adopted 6/28/2005