

Title: Consent for Treatment of Pregnant and Postpartum Minors

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Location: Saint Joseph Regional Medical Center (SJPMC) - Mishawaka and Plymouth		Department: Medical Staff Services (14001_80012)

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POLICY:

1. To ensure that all state laws are adhered to when treating a minor who is pregnant, in labor, or no more than sixty (60) days postpartum, and who is at least sixteen (16) years of age and under eighteen (18) years of age, a reasonable effort by the health care provider to obtain consent from the patient's parent or guardian is required before treatment or care can be provided. If consent is not obtained after a reasonable effort is made, then the health care provider shall act in the best interest of the pregnant/postpartum patient and her baby/fetus. Any subsequent care after the initial appointment requires one additional attempt to contact the patient's parent or guardian for consent.
2. To ensure that all state laws are adhered to when treating a minor who is pregnant, in labor, or postpartum, and is under sixteen (16) years of age, refer to the **Consent for Treatment of Minors Policy**.
3. A birth mother who is under eighteen (18) years of age is authorized by Indiana law to consent to medical care and treatment for her baby as that baby's parent. It is not necessary to obtain consent from the birth mother's parent or guardian for the baby's care.
4. For a summary of who may consent for treatment and care of a pregnant/postpartum patient and/or her child, see **Exhibit A – Summary of Consent for Treatment of Pregnant/Postpartum Patients and Baby Minor** and the flowchart attached to this policy.

PROCEDURE:

1. Determine the patient's age upon check-in and prior to having them sign the Consent for Treatment.
2. If a pregnant/postpartum patient is a minor under sixteen (16) years of age, then refer to the **Consent for Treatment of Minors Policy**.
3. If a pregnant/postpartum patient is a minor between sixteen (16) and eighteen (18) years of age and is

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- a. Pregnant;
 - b. In labor; or
 - c. Postpartum up to sixty (60) days after giving birth,
then that patient ("Pregnant Minor") is competent to consent for medical treatment with respect to her pregnancy, delivery, and postpartum care.
4. However, before providing care to a Pregnant Minor, the health care provider must either before or at the initial appointment for treatment:
- a. make a reasonable effort to contact the Pregnant Minor's parent or guardian for consent to provide treatment; and
 - b. document in writing each attempt that is made to contact the Pregnant Minor's parent or guardian.
 - c. *See Exhibit B – Hierarchy of Consenting Parties for Medical Care of a Minor* to determine the appropriate parent/guardian to seek consent from.
5. After the health care provider has made a reasonable attempt to contact the Pregnant Minor's parent or guardian before or at the initial appointment for treatment, and the health care provider is unable to make contact, or the Pregnant Minor's parent or guardian refuses to give consent, then the health care provider shall act in the manner that is in the best interest of the Pregnant Minor and the fetus/baby ("Baby Minor").
6. After the initial appointment for treatment, if the health care provider determines that additional care is in the best interest of the Pregnant Minor and the Baby Minor, then the health care provider shall make one additional attempt to contact the Pregnant Minor's parent or guardian for consent before:
- a. the provision of prenatal care;
 - b. the delivery of the Baby Minor; and
 - c. the provision of postpartum care.
7. When providing care or treatment to the Baby Minor, attempting to obtain consent from the parent or guardian of the Birth Mother (either a Pregnant Minor or a minor under sixteen years of age) is not necessary. The Birth Mother, as parent of the Baby Minor, has the authority to consent to medical care and treatment for the Baby Minor.

Exhibit A – Summary of Consent for Treatment of Pregnant/Postpartum Patients and Baby Minor & Flow Chart (SEE ATTACHMENT)

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Age of Pregnant/Postpartum Patient	Consenting Party for Treatment of Pregnant Patient	Consenting Party for Treatment of Baby Minor (once born)
≥ 18 years old	Pregnant/Postpartum Patient consents for ALL of her own medical treatment	Postpartum Patient consents for ALL medical treatment of Baby
Between 16 and 18 years old	<ul style="list-style-type: none"> - Pregnant/Postpartum Patient is competent to consent for her own medical treatment with respect to her pregnancy, delivery, and postpartum care (up to 60 days postpartum) - Prior to her consent, staff must attempt to contact Pregnant/Postpartum Patient's parent or guardian first and document all such attempts. 	
< 16 years old	Parent/guardian of Pregnant/Postpartum Patient consents for ALL medical treatment of Pregnant/Postpartum Patient	

Exhibit B – Hierarchy of Consenting Parties for Medical Care of a Minor

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Consent for medical treatment of a minor (who does not otherwise have capacity to give his/her own consent) shall be obtained from one of these parties, in the following order of priority:

1. A judicially-appointed guardian or other representative appointed by the court to make medical decisions for the minor.
2. A parent or individual acting in loco parentis for the minor*
3. An adult sibling of the minor*
4. A grandparent of the minor

If there are multiple individuals at the same priority level, those individuals shall make a reasonable effort to reach a consensus as to the health care decisions for the minor. If there is disagreement, a majority of the available individuals at the same priority level controls.

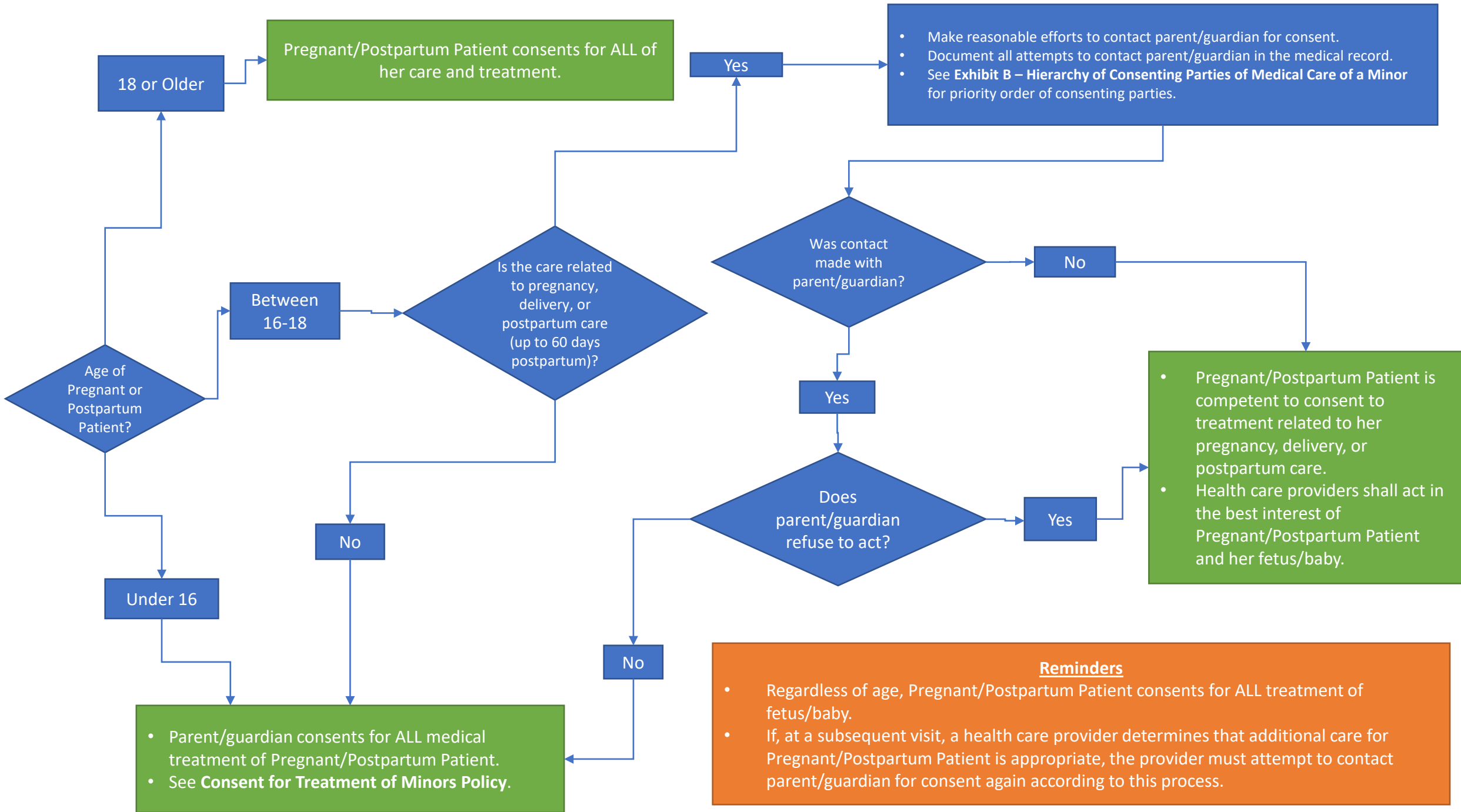
REFERENCES/STANDARDS:

- IC 16-36-1-3.5 (Competency of minor; pregnancy, delivery, and postpartum care; duty to contact minor's parent or guardian)
- IC 16-36-1-4 (Incapacity to consent; invalid consent)
- IC 16-36-1-5 (Persons authorized to consent for incapable parties; minors)
- IC 16-36-1-5(b)-(e)
- IC 16-36-1-6
- Policy Origin Date: January 2020
- Review Date: February 2020
- Revised Date:
- Effective Date: March 2020
- Reviewed/Recommended By: Medical Executive Committee
- Policy 229

* A parent, person in loco parentis, or adult sibling may delegate their decision making authority to another representative. This delegation:

- (a) Must be made in writing;
- (b) Must be signed by the delegate;
- (c) Must be witnessed by an adult;
- (d) May specify conditions on the authority delegated;
- (e) May not be further delegated to another representative (unless the writing expressly provides otherwise); and

- (f) May be revoked at any time by notifying orally or in writing the delegate or the health care provider.



Pregnant/Postpartum Patient consents for ALL of her care and treatment.

- Make reasonable efforts to contact parent/guardian for consent.
- Document all attempts to contact parent/guardian in the medical record.
- See **Exhibit B – Hierarchy of Consenting Parties of Medical Care of a Minor** for priority order of consenting parties.

Age of Pregnant or Postpartum Patient?

18 or Older

Between 16-18

Is the care related to pregnancy, delivery, or postpartum care (up to 60 days postpartum)?

Under 16

- Parent/guardian consents for ALL medical treatment of Pregnant/Postpartum Patient.
- See **Consent for Treatment of Minors Policy**.

Yes

No

Was contact made with parent/guardian?

Yes

- Pregnant/Postpartum Patient is competent to consent to treatment related to her pregnancy, delivery, or postpartum care.
- Health care providers shall act in the best interest of Pregnant/Postpartum Patient and her fetus/baby.

Does parent/guardian refuse to act?

Yes

No

Reminders

- Regardless of age, Pregnant/Postpartum Patient consents for ALL treatment of fetus/baby.
- If, at a subsequent visit, a health care provider determines that additional care for Pregnant/Postpartum Patient is appropriate, the provider must attempt to contact parent/guardian for consent again according to this process.