

CLINICAL CHARACTERISTICS OF OBTAINING CONSENT FOR CHILDREN OF  
MINOR PARENTS AND THE COGNITIVELY IMPAIRED

by

Alana Marie Herron  
Julie Michelle Powell

This paper is submitted in partial fulfillment  
of the requirements for the degree of

Doctor of Optometry

Ferris State University  
Michigan College of Optometry

May, 2013

APPENDIX A

APPROVAL PAGE

CLINICAL CHARACTERISTICS OF OBTAINING CONSENT FOR CHILDREN OF  
MINOR PARENTS AND THE COGNITIVELY IMPAIRED

by:

Alana Marie Herron

Julie Michelle Powell

Has been approved

May, 2013

APPROVED:

---

APPENDIX B  
LIBRARY RELEASE PAGE

Ferris State University  
Doctor of Optometry Paper  
Library Approval and Release

**CLINICAL CHARACTERISTICS OF OBTAINING CONSENT FOR CHILDREN OF  
MINOR PARENTS AND THE COGNITIVELY IMPAIRED**

We, Alana Marie Herron and Julie Michelle Powell, hereby release this paper as described above to Ferris State University with the understanding that it will be accessible to the general public. This release is required under the provisions of the Federal Privacy Act.

Date 4/12/2013

APPENDIX C

ABSTRACT

## ABSTRACT

**Background:** This research study serves to create guidelines for a clinical policy that addresses the question of how to most accurately obtain consent when providing comprehensive eye care to the children of minor parents as well as to those individuals who are cognitively impaired. This policy is intended for use at the University Eye Center at Ferris State University. **Methods:** Independent research was performed to gather information to support the content of the policy. Also, a short survey was sent to roughly 100 optometrists throughout Michigan. The purpose of this survey was to gather information on how Michigan optometrists obtain consent from these specific patients. **Results:** Only 1 of the 5 survey question was answered correctly by the majority of respondents. Also, 3 questions had the majority answer of, "I'm not sure, I would have to review current state policies." The survey results demonstrate a general lack of confidence from the survey participants when asked to determine correct consent for minors, the children of minors, married minors and the cognitively impaired. **Conclusions:** The research will serve as a foundation for new clinical guidelines aimed at obtaining proper patient consent at the University Eye Center at Ferris State University. The need for such a policy was verified by the uncertainty of Michigan optometrists relating to patient scenarios presented in the survey.

APPENDIX D

ACKNOWLEDGMENTS PAGE



## ACKNOWLEDGMENTS

We would like to thank Dr. Alison Jenerou and Lisa Roach for their guidance and support throughout the process of completing this project. Their dedication to the Michigan College of Optometry and its students is truly admirable. The University Eye Center will greatly benefit from their continued care and commitment to excellence. We would also like to thank Dr. Dolores Kowalski and Mary Kay Hauck, Communications Coordinator for the Michigan Optometric Association, for their interest in our project.

APPENDIX E

TABLE OF CONTENTS

TABLE OF CONTENTS

	Page
LIST OF TABLES.....	ix
INTRODUCTION.....	1
BACKGROUND.....	1
MATERIALS.....	5
METHODS.....	5
RESULTS.....	6
DISCUSSION.....	12
CONCLUSION.....	16
APPENDIX	
G. REFERENCES.....	18

APPENDIX F

LIST OF TABLES

## LIST OF TABLES

Table		Page
1	Question 1 and Responses.....	7
2	Question 2 and Responses.....	8
3	Question 3 and Responses.....	9
4	Question 4 and Responses.....	10
5	Question 5 and Responses.....	11

## INTRODUCTION

It is important to establish clear clinical policies when providing optometric care to those deemed unable to make personal medical decisions. This includes minors, the children of minors as well as those who are cognitively impaired. Each state in the United States may create a unique set of standards for determining legal and ethical guardianship of a minor. The research conducted for this study only considered Michigan state laws pertaining to these persons. The purpose of this research was to determine proper clinical procedures for obtaining legal consent when providing care to children of unmarried minors, children of married minors as well as adults who have been determined unable to make his or her own medical decisions due to cognitive impairment.

## BACKGROUND

According to Michigan law, a minor is defined as a person who is 17 years or younger. In general, minors require parental consent for medical and surgical care. Parental access to any medical information pertaining to a minor is also permitted.<sup>1</sup> A minor may acquire the ability to make medical decisions without the consent of a parent/guardian with a legal emancipation. Emancipation laws enable a minor to be recognized as a legal adult, which includes the ability to consent for medical care. Minors become emancipated by operation of law on the day of their 18<sup>th</sup> birthday, while the minor is on active duty with the armed forces of the United States, and when a minor is legally married. According to the Emancipation of Minors Act, MCL 722.1, emancipation may also be granted to a minor who is at least 16 years of age by court order. In this circumstance, a petition must be filed by the minor with the family division of circuit court. The Emancipation of

Minors Act also states that a minor can consent to routine, nonsurgical medical care or emergency medical treatment when the minor is in the custody of a law enforcement agency and the minor's parent or guardian is unable to be located.<sup>1,2</sup> The Michigan Public Health Code does allow minors to consent to medical or surgical care for diagnoses and treatment of a venereal disease or human immunodeficiency virus. However, this does not apply to the preventative treatment for these diseases. In this event, provider discretion applies as to the treatment given or needed.<sup>1</sup>

The Michigan Marriage License Act 128 of 1887 states that a person who is 18 years of age or older may be legally married. A person who is at least 16 years of age, but less than 18 years of age, can seek marriage with the written consent of one parent or his/her legal guardian.<sup>3</sup> As previously stated, once a minor is validly married, the medical consent for the individual and his or her children is now the responsibility of the married minor.<sup>1,2</sup>

One area of concern for health care providers is the issue of determining accurate consensual care of children born to unmarried minor parents. In Michigan, children born after June 1, 1997 to unwed parents are automatically placed in the custody of the unwed mother so long as both parents have signed an Affidavit of Parentage. The purpose of this affidavit is to provide an opportunity for unmarried parents to voluntarily and legally establish the paternity of their child. In Michigan, however, a judge has the ability to grant custody to one or both parents.<sup>4</sup> It is the responsibility of the parent of the child to notify the medical practitioner of their ability to provide consent.

According to the Guttmacher Institute, Michigan is among 30 states to allow minors to consent to medical care for their children with the exception of surgical procedures.<sup>5</sup> In accordance with Public Health Code, MCL 333.9132, an unmarried minor mother is granted the right to consent to medical care for her child by a health professional licensed under article 15 of the Public Health Code, Act 368 of 1978. Optometry is included under article 15 (document 368-1978-15-174). The code also states it is not necessary to obtain additional consent from the father of the child, the minor mother's parent, guardian or foster parent. It is at the medical provider's discretion to determine if it is medically necessary to provide or withhold information pertaining to the child's medical care without the minor mother's consent.<sup>5</sup>

It is important for optometric doctors to have a clear understanding of whether a patient is capable of making their own medical decisions and providing informed consent for treatment. Optometrists often encounter this dilemma when performing eye examinations on patients who are classified as cognitively impaired. Cognitively impaired individuals are those who have developmental disabilities in combination with subnormal intelligence. These characteristics must be evident before the age of 18. In addition to these parameters, the person must also exhibit insufficiencies in adaptive behavior required for activities of daily living.<sup>6</sup>

A person who carries the diagnosis of cognitive impairment is able to provide informed consent regarding health care granted they have the capacity to do so. Simple consent is adequate for cognitively impaired individuals under circumstances where they will be



provided with medical care that poses no greater risk to their health or safety than would engaging in daily activities. Simple consent pertains to routine examinations and treatment. In cases where the more than routine care is required, such as foreign body removal, informed consent is necessary. To obtain informed consent, the provider must discuss at length the desired action, along with the risks, benefits, and alternative treatments in a way the patient can comprehend.<sup>7</sup> The provider determines whether the patient has adequately understood the medical care and treatment that the provider has deemed necessary.<sup>6,7,8</sup>

If the provider has determined that a cognitively impaired patient is unable to comprehend the examination elements and treatment options they have explained, a “surrogate” decision maker must provide consent for the patient. In Michigan, an adult may decide to assign a patient advocate who will make the necessary medical decisions on their behalf. The adult must voluntarily elect a patient advocate, and this information must be added to the patient’s medical record with the medical provider before the advocate can legally make medical decisions. If a patient advocate has not been established or the legal advocate is not available, the physician must obtain consent from at least one of the following persons in the designated order:

the patient’s legal guardian, the patient’s spouse, any adult child, either of the patient’s parents, any adult sibling, any adult grandchild, a close friend, or the guardian of the estate. If there is more than one surrogate present at same level (i.e. multiple siblings) and there is conflict over the decision, then majority rules apply. While not obligated, the medical provider should attempt to help the surrogate decision makers reach a

consensus.<sup>7,8,9</sup> According to Dr. Dolores Kowalski, O.D., of Special Needs Vision Care in Saginaw, MI, if the medical provider wishes to know who holds legal guardianship of the cognitively impaired patient, the Probate Court in the county the patient resides may be contacted. The court will determine whether a guardian has been appointed and will be able to release the name of the guardian. If no record of guardianship is found, the patient is his or her own guardian.

## MATERIALS

In order to gain more insight in to how current optometrists in Michigan handle these specific situations, surveys were distributed to all members of the Michigan Optometric Association. Approximately 100 members responded to the survey. The surveys were distributed via an electronic survey generator. This survey generator was configured to provide total anonymity to the subjects thereby ensuring complete privacy protection. The researchers also conducted independent study to better understand current Michigan policies.

## METHODS

The purpose of the survey was to gain insight in to how optometric doctors obtain consent when facing this patient population. Five questions were created to address the following scenarios: married minors, emancipated minors, children of married minor parents, children of unmarried minor parents and those who are cognitively impaired. The survey responses were evaluated to gain an understanding as to how optometric doctors obtain consent for these specific subsets of the patient population. In conjunction

with the field surveys, research of current Michigan law documents was also performed. The assemblage of this research will serve as the foundation for new clinical policies to be applied at the Michigan College of Optometry University Eye Center. The aim of these policies will be to provide clear and well stated clinical characteristics for optometrists to follow when determining proper consent for providing care to minors, the children of minors and the cognitively impaired.

## RESULTS

The project survey was electronically distributed to all members of the Michigan Optometric Association. The survey was distributed via the Survey Monkey survey generator and all identifying information associated with the respondents was kept anonymous. Of all members who received the survey, 96 individuals responded. Of those 96 respondents, 95 individuals agreed to participate in the survey. Of the 95 respondents who agreed to the survey terms, 65 individuals responded to questions 1 and 5 while 63 individuals responded to questions 2, 3 and 4. The tables listed below represent the statistical data for each of the five questions in the survey.

**Table 1. Question 1 and Responses**

<b>Question 1: When performing an exam on the child of a married minor, you require written consent from: (Please mark all that apply)</b>		
<b>Answer Choices</b>	<b>Responses</b>	<b>Number of Respondents (65)</b>
A. The child's minor mother	7.70%	5
B. The child's minor father	0.00%	0
C. The guardian of the minor mother	3.07%	2
D. The guardian of the minor father	0.00%	0
E. I'm not sure, I would have to review current state policies	56.92%	37
A, B	16.92%	11
A, B, C	1.53%	1
A, B, C, D	4.62%	3
A, B, E	4.62%	3
C, D	4.62%	3

For question 1, a total of 65 respondents provided answers. As seen in the table, the majority of respondents (56.92%) chose answer option E, indicating they were unsure of the correct answer.

**Table 2. Question 2 and Responses**

<b>Question 2: When performing an exam on the child of an unmarried minor, you require written consent from: (please mark all that apply)</b>		
<b>Answer Choices</b>	<b>Responses</b>	<b>Number of Respondents (63)</b>
A. The child's minor mother	6.33%	4
B. The child's minor father	0.00%	0
C. The parent/guardian of the minor mother	9.52%	6
D. The parent/guardian of the minor father	0.00%	0
E. I'm not sure, I would have to review current state policies	47.62%	30
A, B	14.29%	9
A, B, C, D	1.59%	1
A, B, E	1.59%	1
A, C	1.59%	1
A, C, E	1.59%	1
A, E	1.59%	1
C, D	14.29%	9

For question 2, a total of 63 respondents provided answers. The majority of the respondents (47.62%) chose answer option E, indicating they were unsure of the correct answer.

**Table 3. Question 3 and Responses**

<b>Question 3: When performing an exam on an emancipated minor, you require written consent from: (Please mark all that apply)</b>		
<b>Answer Choices</b>	<b>Responses</b>	<b>Number of Respondents (63)</b>
A. The emancipated minor with legal documentation	42.86%	27
B. The emancipated minor without legal documentation	7.94%	5
C. The parent/guardian of the minor	9.52%	6
D. I'm not sure, I would have to review current state policies	38.10%	24
Both A and C	1.58%	1

For question 3, a total of 63 respondents provided answers. The majority of the respondents (42.86%) chose answer option A in which the respondent would accept consent from the emancipated minor with legal documentation. A total of 38.10% of respondents would not know how to approach this situation without first researching legal documentation.

**Table 4. Question 4 and Responses**

<b>Question 4: When performing an exam on a married minor, you require written consent from: (Please mark all that apply)</b>		
<b>Answer Choices</b>	<b>Responses</b>	<b>Number of Respondents (63)</b>
A. The married minor with legal documentation of marriage	17.46%	11
B. The married minor without legal documentation of marriage	17.46%	11
C. The parent/guardian of the married minor	19.05%	12
D. I'm not sure, I would have to review current state policies	41.26%	26
A,B	1.59%	1
A,C	1.59%	1
A, C, D	1.59%	1

A total of 63 respondents provided answers for question 4. The majority of respondents (41.26%) indicated they would not know how to properly manage this scenario without first referencing legal documentation.

**Table 5. Question 5 and Responses**

<b>Question 5: When performing exams on cognitively impaired patients, you accept written consent from: (Please mark all that apply)</b>		
<b>Answer Choices</b>	<b>Responses</b>	<b>Number of Respondents (65)</b>
A. The cognitively impaired patient	0.00%	0
B. The parent/guardian of the cognitively impaired patient	26.15%	17
C. The social worker (if present) assigned to the cognitively impaired patient	1.54%	1
D. The representative (if present) of the patient's adult foster care home	6.15%	4
E. The consent from the cognitively impaired patient ONLY is sufficient	1.54%	1
F. I'm not sure, I would have to review current state policies	15.38%	10
A, B	1.54%	1
A, B, C	1.54%	1
A, B, C, D	4.62%	3
A, D	1.54%	1
B, C	6.15%	4
B, C, D	24.61%	16
B, C, D, E	1.54%	1
B, D	4.62%	3
B, F	1.54%	1
C, D	1.54%	1

For question 5, a total of 65 respondents provided answers. The majority of respondents (26.15%) chose answer option B. For this particular question, 16.92% of respondents



included answer option F thus indicating they were unsure of how to handle this scenario without performing research first.

## DISCUSSION

The survey questions and answers were based off independent research performed by the project investigators and questions posed by the Clinical Operations Supervisor of the University Eye Center at the Michigan College of Optometry. This survey was composed to gather information regarding Michigan optometrists' approach to the aforementioned clinical scenarios. The large discrepancy in the number of those who agreed to take the survey (95) compared to the number of completed survey responses (63 to 65) leads the researchers to believe that a level of discomfort and confusion surrounds these topics. Some uncertainty relating to the survey verbiage was also voiced by two survey respondents. These two factors provide the most logical explanation as to why the majority answer of "I'm not sure, I would have to review current state policies" for 3 of the 5 survey questions was chosen. This would also explain the wide variation of respondent answers for questions 1, 2 and 5.

The first survey question in Table 1 titled, "When performing an exam on the child of a married minor, you require written consent from: (please mark all that apply)," the majority answer with 56.92% of responses was, "I'm not sure, I would have to review current state policies." A total of 10 answer combinations were selected among the 65 respondents for this question. The correct answer, based on current Michigan law, included both options A and B. Since a Michigan minor is legally emancipated through

marriage, consent for the care of the child may be appropriately given by either minor parent.<sup>1,2</sup> The correct response was chosen by 16.92% of respondents. An additional 4.62% of respondents included the correct answer pairing, yet also marked that they were unsure and would feel more comfortable reviewing current state policies.

The second survey question in Table 2 titled, “When performing an exam on the child of an unmarried minor, you require written consent from: (please mark all that apply),” the majority answer at 47.62% of respondents was, “I’m not sure, I would have to review current state policies.” An additional 4.77% of respondents included this answer option as part of their response. A total of 12 answer combinations were selected by the 63 respondents for this question. The correct answer, based on information collected from the Guttmacher Institute, was option A (the child’s minor mother).<sup>5</sup> Only 6.33% of respondents chose the correct answer for this question, while 22.24% included this in their answer combination. The second highest answer combination was a tie between obtaining consent from either minor parent (options A and B) and obtaining consent from either parent/guardian of the minor parent (options C and D).

The answer variation found in Question 2 may be attributed to vague law documentation. The Public Health Code states that unmarried minor mothers have the right to consent to medical care for her child by a health professional licensed under article 15, which includes optometry.<sup>5</sup> Also, Michigan children born after June 1, 1997 to unwed parents are automatically placed in the custody of the unwed mother so long as both parents have signed an Affidavit of Parentage. However, an unmarried minor father may consent to

his child's medical care if a judge has granted custody to him.<sup>4</sup> Based on this information, answer B may be an appropriate answer if proper documentation is provided by the unmarried minor father.

The third question in Table 3 titled, "When performing an exam on an emancipated minor, you require written consent from: (please mark all that apply)," the majority response at 42.86% was answer option A (the emancipated minor with legal documentation). The 63 respondents for this question provided a total of 5 answer options. The second most popular response at 38.10% was answer option D which is indicative of many doctors' uncertainty when attempting to obtain proper consent for the treatment of emancipated minors. This is the only question within the survey where the majority of respondents chose the correct answer. The close distribution of answer selections suggests that many of the optometrists who responded to this question did not have a firm concept of the correct answer and merely guessed.

The fourth question in Table 4 titled, "When performing an exam on a married minor, you require written consent from: (please mark all that apply)," the majority of respondents at 41.26% chose answer option D. The correct answer was option A. The group of 63 respondents provided a total of 7 answer combinations for this specific question. Answer option A was chosen by 17.46% of respondents; while 17.46% chose answer B and 19.05% chose answer C. The even distribution of answers provided by respondents increases the probability that the answers were chosen at random rather than by an informed decision.

For the fifth question in Table 5 titled, “When performing exams on cognitively impaired patients, you accept written consent from: (please mark all that apply),” the majority response at 26.15% was answer option B. The correct answer included answer options A-E which was not chosen by any of the respondents. A total of 65 respondents answered this question providing a total of 16 different answer combinations. The answer combination B, C, E was chosen by 24.61%. The data provided by this particular question in the survey was deemed unreliable by the survey creators. This is due to the complicated verbiage of the answer choices and increased disparity of answers provided by the respondents. It is feasible to assume this question created confusion for the respondents thereby skewing the results. The survey creators acknowledge the redundancy of choices A and E. Both answers A and E are correct because a cognitively impaired patient can make his or her own medical decisions if deemed able to do so by the providing doctor. If the patient is deemed unable to make his or her own medical decisions then a surrogate decision maker may be chosen. Answer options B, C and D all represent potential patient surrogates.

When analyzing the survey results, the survey creators recognized the potential confusion of survey takers over the question content or formatting, especially for Question 5. Based on the data, it is evident that those Michigan optometrists who participated in the survey have a general lack of confidence when asked to determine correct consent for minors, the children of minors, married minors and the cognitively impaired. The data collected

from this survey appears to validate the need for clearly established guidelines pertaining to these specific patients in optometric clinics.

## CONCLUSION

The focus of this project was to provide an assemblage of legal documentation for use in the establishment of a policy for the University Eye Center at Ferris State University's Michigan College of Optometry. The survey responses provided evidence that revealed the majority of Michigan optometrists have difficulty determining who should provide consent for the specific patients studied. The research will serve as a foundation for proper clinical procedures when obtaining legal consent for the children of minors, married minors as well as adults who have been determined unable to make his or her own medical decisions due to cognitive impairment.

## APPENDIX G

### REFERENCES

## REFERENCES

1. The Network for Public Health Law, (2012). *Michigan laws related to right of a minor to obtain health care without consent of knowledge of parents*. Retrieved from website: [http://www.michigan.gov/documents/mdch/Michigan\\_Minor\\_Consent\\_Laws\\_292779\\_7.pdf](http://www.michigan.gov/documents/mdch/Michigan_Minor_Consent_Laws_292779_7.pdf)
2. (2007). *Michigan child welfare law*. Retrieved from website: [http://www.michigan.gov/documents/MCWLChap15Part1\\_34821\\_7.pdf](http://www.michigan.gov/documents/MCWLChap15Part1_34821_7.pdf)
3. Mich. Gen. Laws ch. 551, § 103. Marriage License. 1887 Mich. Acts 128. Retrieved from website: [http://www.legislature.mi.gov/\(S\(1hgdbjadhub13255itopbbab\)\)/mileg.aspx?page=GetObject&objectname=mcl-551-103](http://www.legislature.mi.gov/(S(1hgdbjadhub13255itopbbab))/mileg.aspx?page=GetObject&objectname=mcl-551-103)
4. Michigan Legal Aid, (2005). *Michigan child custody basics*. Retrieved from website: [http://michiganlegalaid.org/library\\_client/resource.2005-05-29.1117417915770/html\\_view](http://michiganlegalaid.org/library_client/resource.2005-05-29.1117417915770/html_view)
5. (2013). State policies in brief: Minors' rights as parents. Retrieved from Guttmacher Institute website: [http://www.guttmacher.org/statecenter/spibs/spib\\_MRP.pdf](http://www.guttmacher.org/statecenter/spibs/spib_MRP.pdf)
6. Prater, C. D., & Zylstra, R. G. (2006). Medical care of adults with mental retardation. *American family physician*, 73(12), 2175-2183. Retrieved from <http://www.aafp.org/afp/2006/0615/p2175.html>
7. Disability Rights Network of Pennsylvania, (2009). Consent for medical treatment by individuals with mental retardation. Retrieved from website: <http://www.drnpa.org/File/factsheetmedconsent.pdf>
8. Ethics in clerkship: Surrogate decision making. (2012). Chicago College of Medicine, University of Illinois, Chicago, IL, Retrieved from website: <http://www.uic.edu/depts/mcam/ethics/surrogate.htm>
9. Human Rights Campaign, (2008). Healthcare laws: State by state. Retrieved from website: <http://www.hrc.org/resources/entry/healthcare-laws-state-by-state>