

A Kinship Caregiver's Guide To Consenting To Health Care

Who is a Kinship Caregiver?

A kinship caregiver is a relative who is taking care of a child but is not the child's parent. Examples of kinship caregivers are grandparents, aunts/uncles, adult sisters/brothers and other adult relatives. Some kinship caregivers have a court order that allows them to consent to health care for the child, but many do not. Frequently, caregivers who do not have court orders, have problems when they try to get health care for the child. The law now allows these informal kinship caregivers to consent to health care for the child in their care. This guide explains what kinship caregivers who do not have legal custody of a child can do when they need to get health care for a child.

As a kinship caregiver, can I consent to health care on behalf of a child in my care?

Yes. The Washington Legislature recently changed the law regarding health care consent for minors. Beginning on July 24, 2005, the following people may consent to health care for a child even if they do not have a court order and if the parents are not available:

- (1) An individual who has a signed authorization from the child's parent to make health care decisions for the child;
- (2) An adult representing himself or herself to be a relative responsible for the health care of the child; or
- (3) A relative caregiver who has signed and dated a declaration that says the caregiver is an adult relative responsible for the health care of the minor child. RCW 7.70.065.

Who is considered a "relative"? Can I consent to health care if I am not a relative?

"Relative" is not currently defined under the health care consent law. If you are not related to the child, the law still allows you to consent to health care if the child's parents have given you written authorization to make health care decisions for the child.

What is a declaration?

A declaration is a written statement that states certain information is true. A declaration is dated and signed "under the penalty of perjury under the laws of the state of Washington" which means that signing a declaration that is false is a Class B felony. In order to consent to health care, a kinship caregiver may sign a declaration that states that the person signing it is an adult and a relative who is responsible for the health care of the minor. Although a signed declaration is not required under the law, health care providers may require it.

An example of a declaration that you may use is attached and is titled "Kinship Caregiver's Declaration of Responsibility for a Minor's Health Care." It is also available on the internet at: www.washingtonlawhelp.org. You may use this form or write a declaration of your own.

How long is the declaration good for and what should I do if it expires?

A declaration is only good for six months from the date that it is signed. After six months, the caregiver should fill out another declaration.

Does signing a declaration mean that I have legal custody of the child in my care?

No. Signing the declaration simply allows you to consent to health care for the child and it does not serve any other purpose. The declaration has no effect on legal custody of the child nor does it affect the legal rights of the parents.

What kind of health care can I consent to?

The Washington Legislature passed changes to the law in March 2006 clarifying that “health care” means any care, service, or procedure provided by a health care provider: (a) To diagnose, treat, or maintain a patient's physical or mental condition; or (b) That affects the structure or any function of the human body. The law specifically states that health care includes mental health care. Based upon other definitions, dental care is also covered by this law.

What should I do if a doctor or other health care provider asks for proof that I am a relative responsible for the child's health care?

Under the law, a provider does not have to, but may require documentation that supports your claim that you are the relative caregiver responsible for the health care of the child. If a health care provider does ask for some supporting documents, the following items might be useful:

- (1) A will that lists your relationship to the child.
- (2) A letter from a social worker, school personnel, a lawyer, religious leader, or a licensed medical, mental health, or behavioral professional that shows your relationship to the child.
- (3) Records from a school, hospital, clinic, or other public health or social service agency that shows your relationship to the child.
- (4) Proof that you receive a public benefit, such as TANF, SSI, medical coupons, food stamps, or free/reduced school lunch on behalf of the child.
- (5) Records from the Department of Social and Health Services that show that you are the contact for the child.
- (6) Proof that a child lives in your apartment or other housing and is related to you.
- (7) Insurance for you or the child that states your relationship.
- (8) Your Federal Income Tax return in which the child was listed.
- (9) Any other documents that show your relationship with the child and indicate that you are the caregiver for that child.

Can the child in my care consent to any health care services on his or her own?

Under Washington law, there are health care services that the child in your care can consent to on his or her own without the permission of their parent or guardian. These services include:

- emergency medical care (RCW 7.70.050(4)).
- non-emergency medical services if the child is capable of understanding or appreciating the consequences of the medical procedure under the Mature Minor Doctrine
 - health care providers will evaluate the child's age, intelligence, maturity, training, experience, economic independence, general conduct as an adult and freedom from the control of parents (*Smith v. Seibly*, 72 Wn.2d 16 (1967)).
- outpatient and inpatient mental health treatment if the child is 13 years old or older (RCW 71.34.030 and .042(1)).
- testing/treatment for sexually transmitted diseases if they are 14 years old or over (RCW 70.24.110).
- abortion services (RCW 9.02.100(2); *State v. Koome*, 84 Wn.2d 901 (1975)).
- birth control services (RCW 9.02.100(1)).
- prenatal care services; *State v. Koome*, 84 Wn.2d 901 (1975) , and
- inpatient or outpatient substance abuse treatment if the child is 13 years old or over (RCW 70.96A.095 and .096).

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**KINSHIP CAREGIVER'S DECLARATION OF RESPONSIBILITY FOR A
MINOR'S HEALTH CARE**

Use of this declaration is authorized by RCW 7.70.065.

I DECLARE THAT:

Minor's Information:

1. I consent to health care for the child: _____.
(print name of the child)
2. The child's date of birth is: _____.

Caregiver's Information:

3. My name is: _____.(print your name)
4. My home address is: _____

5. I am 18 years of age or older and I am a relative responsible for the health care of the minor.
6. My date of birth is: _____.
7. I am the _____ of the minor.
(print your relationship to the child, e.g. grandparent, aunt/uncle, etc.)

I declare under penalty of perjury under the laws of the State of Washington that the above is true and correct.

Date: _____ **City and State:** _____

Signature of Caregiver: _____

****This Declaration is ONLY valid for six months from the date listed here.***

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GENERAL NOTICES:

1. This Declaration does not affect the rights of the minor's parents or legal guardian regarding the care, custody, and control of the minor, and does not mean that the caregiver has legal custody of the minor. It also does not affect the rights of the minor to consent to his/her own medical care where authorized by law.
2. A person who relies on this Declaration has no obligation to make further investigation or inquiry beyond what is said on the Declaration form if the provider does not have actual notice of the falsity of the statements made in the Declaration.
3. A health care provider may, but is not required to, request additional documentation of a person's claimed status as being a relative responsible for the health care of the minor patient.
4. **This Declaration is ONLY valid for six months from the date above. If necessary, a caregiver may sign a new declaration after its expiration.**

ADDITIONAL INFORMATION:

To Health Care Providers and Health Care Facilities:

1. A health care provider or a health care facility where services are rendered shall be immune from suit in any action, civil or criminal, or from professional or other disciplinary action, when a health care provider or health care facility relies upon a declaration signed under penalty of perjury pursuant to RCW 9A.72.085 stating that the adult person is a relative responsible for the health care of the minor patient. RCW 7.70.065(2)(d).
2. A "health care facility" is defined as a hospital, clinic, nursing home, laboratory, office, or similar place where a health care provider provides health care to patients. RCW 70.02.010(5). A "health care provider" is a person who is licensed, certified, registered, or otherwise authorized by the law of this state to provide health care in the ordinary course of business or practice of a profession. RCW 70.02.010(8).
3. "Health care" means any care, service, or procedure provided by a health care provider: (a) To diagnose, treat, or maintain a patient's physical or mental condition; or (b) That affects the structure or any function of the human body. RCW 70.02.010(5). Health care includes mental health care. RCW 7.70.065(2).