

A Kinship Caregiver's Guide to Consenting to Health Care

Who is a Kinship Caregiver?

A kinship caregiver is a relative of a child who is not the child's parent, but who is taking care of a child. Examples are:

- Grandparents
- Aunts or uncles
- Adult sisters or brothers
- Other adult relatives.

Some kinship caregivers have a court order that allows them to consent to health care for the child. Many more do not. Often, caregivers who do not have court orders have problems when they try to get health care for the child.

The law lets kinship caregivers consent to health care for a child in their care. This publication explains what kinship caregivers who do not have a court order can do when they need to get health care for a child.

I am a kinship caregiver. Can I consent to health care on behalf of a child in my care?

Yes. The law says that you can consent to health care for a child when:

- You have a signed authorization from the child's parent to make health care decisions for the child; or
- You represent yourself to be a relative responsible for the health care of the child; or
- You are a relative caregiver who has signed and dated a declaration that you are an adult relative responsible for the health care of the child. [RCW 7.70.065](#).

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

The law does not explain exactly who is a "relative." The law still allows nonrelatives to consent to health care if the child's parent has given you written authorization.

What is a declaration?

A declaration is a written statement you sign that says the information in the statement is true. You date and sign a declaration "under the penalty of perjury under the laws of the state of Washington." Signing a declaration that is false is a serious felony.

The law does not require a signed declaration for a relative to consent to health care for a child. Health care providers may ask for a declaration.

We have attached an example of a declaration you may use. It is called "Kinship Caregiver's Declaration of Responsibility for a Minor's Health Care." It is also available online at www.washingtonlawhelp.org. You may use this form or write your own declaration.

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

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

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

No. It just allows you to consent to health care for the child. The declaration has no effect on legal custody, or the legal rights of the parents.

What kind of health care can I consent to?

Under state law, “health care” means any care, service, or procedure provided by a health care provider:

- To diagnose, treat, or maintain a patient's physical or mental condition; or
- That affects the structure or any function of the human body.

The law states that health care includes mental health care. Based upon other definitions, this law also covers dental care.

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?

The law says a provider may ask you for proof that you are the relative caregiver responsible for the child's health care. If this happens, the following items might be useful:

- A will that lists your relationship to the child.
- A letter from a social worker, school personnel, a lawyer, religious leader, or licensed medical, mental health, or behavioral professional that shows your relationship to the child.
- Records from a school, hospital, clinic, or other public health or social service

agency that shows your relationship to the child.

- Proof that you get a public benefit, such as TANF, SSI, medical coupons, food stamps, or free/reduced school lunch on behalf of the child.
- Records from the Department of Social and Health Services (DSHS) showing that you are the contact for the child.
- Proof that a child lives in your home and is related to you.
- Insurance for you or the child that states your relationship.
- Your Federal Income Tax return in which the child was listed.
- 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/her own?

Under Washington law, there are health care services that the child in your care can consent to on his/her own without an adult's permission. These services include:

- 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 71.34.530](#) and [.500\(1\)](#));
- Testing/treatment for sexually transmitted diseases if they are 14 years old or over ([RCW 70.24.110](#)), or any age in King County;
- 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](#)).

Can a health care provider provide emergency health care to a child?

Yes. Under RCW 7.70.050(4), a health care provider can provide a child with required treatment in a recognized health care emergency without parental consent.

How to can I get medical assistance?

For most medical programs, including insurance and subsidies, you can apply through Healthplanfinder online at www.wahealthplanfinder.org, by phone at 1-855-923-4633 (1-855-WAFINDER), or by requesting a paper application from Healthplanfinder or from your local DSHS office. If you go online, make sure you go to the correct website (www.wahealthplanfinder.org).

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.

This information is current as of September 2015.

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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).