Article 1A.

Treatment of Minors.

Part 1. General Provisions.

§ 90-21.1. When physician may treat minor without consent of parent, guardian or person in loco parentis.

It shall be lawful for any physician licensed to practice medicine in North Carolina to render treatment to any minor without first obtaining the consent and approval of either the father or mother of said child, or any person acting as guardian, or any person standing in loco parentis to said child where:

(1) The parent or parents, the guardian, or a person standing in loco parentis to said child cannot be located or contacted with reasonable diligence during the time within which said minor needs to receive the treatment herein authorized, or

(2) Where the identity of the child is unknown, or where the necessity for immediate treatment is so apparent that any effort to secure approval would delay the treatment so long as to endanger the life of said minor, or

(3) Where an effort to contact a parent, guardian, or person standing in loco parentis would result in a delay that would seriously worsen the physical condition of said minor, or

(4) Where the parents refuse to consent to a procedure, and the necessity for immediate treatment is so apparent that the delay required to obtain a court order would endanger the life or seriously worsen the physical condition of the child. No treatment shall be administered to a child over the parent's objection as herein authorized unless the physician shall first obtain the opinion of another physician licensed to practice medicine in the State of North Carolina that such procedure is necessary to prevent immediate harm to the child.

Provided, however, that the refusal of a physician to use, perform or render treatment to a minor without the consent of the minor's parent, guardian, or person standing in the position of loco parentis, in accordance with this Article, shall not constitute grounds for a civil action or criminal proceedings against such physician. (1965, c. 810, s. 1; 1977, c. 625, s. 1.)

§ 90-21.2. "Treatment" defined.

The word "treatment" as used in G.S. 90-21.1 is hereby defined to mean any medical procedure or treatment, including X rays, the administration of drugs, blood transfusions, use of anesthetics, and laboratory or other diagnostic procedures employed by or ordered by a physician licensed to practice medicine in the State of North Carolina that is used, employed, or ordered to be used or employed commensurate with the exercise of reasonable care and equal to the standards of medical practice normally employed in the community where said physician administers treatment to said minor. (1965, c. 810, s. 2.)

§ 90-21.3. Performance of surgery on minor; obtaining second opinion as to necessity.

The word "treatment" as defined in G.S. 90-21.2 shall also include any surgical procedure which in the opinion of the attending physician is necessary under the terms and conditions set out in G.S. 90-21.1; provided, however, no surgery shall be conducted upon a minor as herein authorized unless the surgeon shall first obtain the opinion of another physician licensed to practice medicine in the State of North Carolina that said surgery is necessary under the conditions set forth in G.S. 90-21.1; provided further, that in any emergency situation that shall arise in a rural

community, or in a community where it is impossible for the surgeon to contact any other physician for the purpose of obtaining his opinion as to the necessity for immediate surgery, it shall not be necessary for the surgeon to obtain approval from another physician before performing such surgery as is necessary under the terms and conditions set forth in G.S. 90-21.1. (1965, c. 810, s. 3.)

§ 90-21.4. Responsibility, liability and immunity of physicians.

(a) Any physician licensed to practice medicine in North Carolina providing health services to a minor under the terms, conditions and circumstances of this Article shall not be held liable in any civil or criminal action for providing such services without having obtained permission from the minor's parent, legal guardian, person standing in loco parentis, or a legal custodian other than a parent when granted specific authority in a custody order to consent to medical or psychiatric treatment. The physician shall not be relieved on the basis of this Article from liability for negligence in the diagnosis and treatment of a minor.

(b) The physician shall not notify a parent, legal guardian, person standing in loco parentis, or a legal custodian other than a parent when granted specific authority in a custody order to consent to medical or psychiatric treatment, without the permission of the minor, concerning the medical health services set out in G.S. 90-21.5(a), unless the situation in the opinion of the attending physician indicates that notification is essential to the life or health of the minor. If a parent, legal guardian[,] person standing in loco parentis, or a legal custodian other than a parent when granted specific authority in a custody order to consent to medical or psychiatric treatment contacts the physician concerning the treatment or medical services being provided to the minor, the physician may give information. (1965, c. 810, s. 4; 1977, c. 582, s. 1; 1985, c. 589, s. 30.)

§ 90-21.5. Minor's consent sufficient for certain medical health services.

(a) Subject to subsection (a1) of this section, any minor may give effective consent to a physician licensed to practice medicine in North Carolina for medical health services for the prevention, diagnosis and treatment of (i) venereal disease and other diseases reportable under G.S. 130A-135, (ii) pregnancy, (iii) abuse of controlled substances or alcohol, and (iv) emotional disturbance. This section does not authorize the inducing of an abortion, performance of a sterilization operation, or admission to a 24-hour facility licensed under Article 2 of Chapter 122C of the General Statutes except as provided in G.S. 122C-223. This section does not prohibit the admission of a minor to a treatment facility upon his own written application in an emergency situation as authorized by G.S. 122C-223.

(a1) Notwithstanding any other provision of law to the contrary, a health care provider shall obtain written consent from a parent or legal guardian prior to administering any vaccine that has been granted emergency use authorization and is not yet fully approved by the United States Food and Drug Administration to an individual under 18 years of age.

(b) Any minor who is emancipated may consent to any medical treatment, dental and health services for himself or for his child. (1971, c. 35; 1977, c. 582, s. 2; 1983, c. 302, s. 2; 1985, c. 589, s. 31; 1985 (Reg. Sess., 1986), c. 863, s. 4; 2009-570, s. 10; 2021-110, s. 9.)

Part 2. Parental or Judicial Consent for Abortion.

§ 90-21.6. Definitions.

For the purposes of Part 2 only of this Article, unless the context clearly requires otherwise:

(1) Abortion. – As defined in G.S. 90-21.81.

(1a) Unemancipated minor or minor. – Any person under the age of 18 who has not been married or has not been emancipated pursuant to Article 35 of Chapter 7B of the General Statutes.

(2) Repealed by Session Laws 2023-14, s. 1.4(c), effective July 1, 2023. (1995, c. 462, s. 1; 1998-202, s. 13(t); 2023-14, s. 1.4(c).)

§ 90-21.7. Parental consent required.

(a) No physician licensed to practice medicine in North Carolina shall perform an abortion upon an unemancipated minor unless the physician or agent thereof or another physician or agent thereof first obtains the written consent of the minor and of:

(1) A parent with custody of the minor; or

(2) The legal guardian or legal custodian of the minor; or

(3) A parent with whom the minor is living; or

(4) A grandparent with whom the minor has been living for at least six months immediately preceding the date of the minor's written consent.

(b) The pregnant minor may petition, on her own behalf or by guardian ad litem, the district court judge assigned to the juvenile proceedings in the district court where the minor resides or where she is physically present for a waiver of the parental consent requirement if:

(1) None of the persons from whom consent must be obtained pursuant to this section is available to the physician performing the abortion or the physician's agent or the referring physician or the agent thereof within a reasonable time or manner; or

(2) All of the persons from whom consent must be obtained pursuant to this section refuse to consent to the performance of an abortion; or

(3) The minor elects not to seek consent of the person from whom consent is required. (1995, c. 462, s. 1.)

§ 90-21.8. Procedure for waiver of parental consent.

(a) The requirements and procedures under Part 2 of this Article are available and apply to unemancipated minors seeking treatment in this State.

(b) The court shall ensure that the minor or her guardian ad litem is given assistance in preparing and filing the petition and shall ensure that the minor's identity is kept confidential.

(c) The minor may participate in proceedings in the court on her own behalf or through a guardian ad litem. The court shall advise her that she has a right to appointed counsel, and counsel shall be provided upon her request in accordance with rules adopted by the Office of Indigent Defense Services.

(d) Court proceedings under this section shall be confidential and shall be given precedence over other pending matters necessary to ensure that the court may reach a decision promptly. In no case shall the court fail to rule within seven days of the time of filing the application. This time limitation may be extended at the request of the minor. At the hearing, the court shall hear evidence relating to the emotional development, maturity, intellect, and understanding of the minor; the nature, possible consequences, and alternatives to the abortion; and any other evidence that the court may find useful in determining whether the parental consent requirement shall be waived.

(e) The parental consent requirement shall be waived if the court finds:

(1) That the minor is mature and well-informed enough to make the abortion decision on her own; or

(2) That it would be in the minor's best interests that parental consent not be required; or

(3) That the minor is a victim of rape or of felonious incest under G.S. 14-178.

(f) The court shall make written findings of fact and conclusions of law supporting its decision and shall order that a confidential record of the evidence be maintained. If the court finds that the minor has been a victim of incest, whether felonious or misdemeanor, it shall advise the Director of the Department of Social Services of its findings for further action pursuant to Article 3 of Chapter 7B of the General Statutes.

(g) If the female petitioner so requests in her petition, no summons or other notice may be served upon the parents, guardian, or custodian of the minor female.

(h) The minor may appeal an order issued in accordance with this section. The appeal shall be a de novo hearing in superior court. The notice of appeal shall be filed within 24 hours from the date of issuance of the district court order. The de novo hearing may be held out of district and out of session and shall be held as soon as possible within seven days of the filing of the notice of appeal. The record of the de novo hearing is a confidential record and shall not be open for general public inspection. The Chief Justice of the North Carolina Supreme Court shall adopt rules necessary to implement this subsection.

(i) No court costs shall be required of any minor who avails herself of the procedures provided by this section. (1995, c. 462, s. 1; 1998-202, s. 13(u); 2000-144, s. 35.)

§ 90-21.9. Medical emergency exception.

The requirements of parental consent prescribed by G.S. 90-21.7(a) shall not apply when, in the best medical judgment of the physician based on the facts of the case before the physician, a medical emergency exists that so complicates the pregnancy as to require an immediate abortion, or when the conditions prescribed by G.S. 90-21.1(4) are met. (1995, c. 462, s. 1.)

§ 90-21.10. Penalty.

Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of Part 2 of this Article shall be guilty of a Class 1 misdemeanor. (1995, c. 462, s. 1.)

Part 3. Parental Consent for Treatment.

§ 90-21.10A. Definitions.

The following definitions apply in this Article:

(1), (2) Reserved for future codification purposes.

(3) Health care facility. – A health care facility, licensed under Chapter 131E or 122C of the General Statutes, where health care services are provided to patients, including:

a. An agent or employee of the health care facility that is licensed, certified, or otherwise authorized to provide health care services.

b. The officers and directors of a health care facility.

(4) Health care practitioner. – An individual who is licensed, certified, or otherwise authorized under this Chapter, Chapter 90B, Chapter 90C, or Chapter 115C of

the General Statutes to provide health care services in the ordinary course of business or practice of a profession or in an approved education or training program, or an agent or employee of that individual.

(5) Minor. – Any person under the age of 18 who has not been married or has not been emancipated pursuant to Article 35 of Chapter 7B of the General Statutes.

(6) Parent. – A minor's parent, guardian, or person standing in loco parentis. A person standing in loco parentis is a person who has assumed parental responsibilities, including support and maintenance of the minor.

(7) Treatment. – Any medical procedure or treatment, including X-rays, the administration of drugs, blood transfusions, use of anesthetics, and laboratory or other diagnostic procedures employed by or ordered by a health care practitioner, that is used, employed, or ordered to be used or employed commensurate with the exercise of reasonable care and equal to the standards of medical practice normally employed in the community where the health care practitioner administers treatment to the minor child. (2023-106, s. 3(a).)

§ 90-21.10B. Parental consent for treatment.

(a) Except as otherwise provided in this Article or by court order, a health care practitioner shall not provide, solicit, or arrange treatment for a minor child without first obtaining written or documented consent from that minor child's parent.

(b) Except as otherwise provided in this Article or by court order, a health care facility shall not allow treatment to be performed on a minor child in its facility without first obtaining written or documented consent from that minor child's parent.

(c) This section does not apply to services provided by a clinical laboratory unless the services are delivered through a direct encounter with the minor child at the clinical laboratory facility. (2023-106, s. 3(a).)

§ 90-21.10C. Penalty.

A health care practitioner or other person that violates this section is subject to disciplinary action by the board that licensed, certified, or otherwise authorized the health care practitioner to provide treatment, including a fine of up to five thousand dollars ($5,000). (2023-106, s. 3(a).)