What Rights Do Minors Have to Refuse Medical Treatment?

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INTRODUCTION

It is a fundamental principle of law and ethics that competent adults have the right to make their own medical decisions, even if these are "bad" medical decisions that may result in the individual's death. Occasionally, physicians encounter situations that question whether minors are afforded this same fundamental right. Minors have often argued that they possess the right to make medical decisions independently, even decisions to refuse medical care. Courts and society have struggled with this question and have sought to introduce standards by which minors can make medical decisions without parental consent. Law and society have labored, however, to define the extent of a minor's right to make medical decisions, specifically decisions to refuse treatment.

Clearly, society would not question the parents' rights to overrule their 5 year-old son's refusal to have a broken leg repaired. Few, if any, would argue that a 5 year-old is able to effectively evaluate the medical options and understand the nature of his decision. However, society has come to question whether parents can override their 16 year old daughter's decision to refuse additional bouts of chemotherapy to treat leukemia. The 16 year old, having battled leukemia for her entire life, may possess adequate understanding of the treatment options and be able to understand the nature of her decision. In the latter example, the minor's justification for refusing treatment should, at a minimum, be considered by the parents and the medical team. In fact, the American Academy of Pediatrics recommends physicians obtain a mature minor's assent prior to treatment. However, can physicians honor the minor's decision to refuse care when the parents believe the minor should be treated? Because of these ethical issues, various state courts have begun to recognize a minor's right to refuse medical treatment, although the courts have sought to impose restrictions on that right.

GENERAL LAWS RELATING TO A MINOR'S CONSENT

Legally, minors are incompetent to make their own decisions, as minors lack the necessary experience, knowledge, and maturity to make decisions regarding their upbringing, education, and medical care. The responsibility of raising and caring for children rests with the parents. The U.S. Supreme Court recognized that parents possess the requisite knowledge and experience to make decisions for their children.[1] Since children lack competency, parental consent is required prior to initiating any medical treatment.

Although parents are ultimately responsible for providing care for their children, state legislatures have recognized that minors possess some privacy rights and can therefore consent to certain types of medical treatment without parental involvement. In Pennsylvania, minors may seek mental health[2] or substance abuse treatment[3] without parental consent. Similarly, minors may consent to testing for communicable diseases and pregnancy without parental involvement.[4] Additionally, Pennsylvania has determined that some children, despite being under the age of majority, will nonetheless be treated as adults. For example, emancipated minors (those minors who are financially independent and are responsible for their own care) may make medical decisions without parental consent.[5] Likewise, a minor who is pregnant may make her own decisions regarding the pregnancy.[6] Ultimately, however, outside of these narrow legislatively defined circumstances, minors are unable to consent to or refuse medical care.

EVOLUTION OF THE "MATURE MINOR" DOCTRINE

Having faced circumstances in which mature minors have adamantly refused intensive or invasive medical treatment, many courts have begun to recognize the "mature minor" doctrine. This doctrine recognizes that some minors are mature enough to evaluate the treatment options and to make their own decisions. However, the mature minor doctrine lacks concrete principles that can be easily applied to future scenarios. Understandably, courts are hesitant to set a defined age, say 15 years old, when a minor attains status as a mature minor. But the courts have also failed to elucidate the facts or circumstances that might help determine whether the minor

possesses the requisite level of maturity. Many courts, without further elaboration, simply announce that minors are mature if they can understand the nature of their decisions. But how do minors demonstrate that they understand the nature of their decision?

Likewise, most courts have failed to dictate who determines whether the minor is mature. Does this responsibility rest with the physician or with the courts? How can physicians be assured that parental beliefs are not inappropriately influencing a minor's decision to refuse care? Furthermore, since each state sets the legal requirements for minors and their ability to consent to medical care, there is conflict among the states as to when the mature minor doctrine applies, if it applies at all. For example, Georgia does not recognize the mature minor doctrine; Illinois allows a mature minor to refuse medical treatment, unless that decision threatens the child's health or welfare; Virginia (the only state to address this issue though legislation) permits a minor 14 years or older to refuse, with parental acquiescence, medical treatment, even when the minor suffers from a life threatening disease. Some states have yet to form an opinion on the mature minor doctrine. Further adding to the complexity of the doctrine, some states, such as Pennsylvania (discussed below), have discussed the mature minor doctrine without adequately articulating its applicability. As a result, the doctrine lacks the specificity and consistency necessary to create useful standards.

MINORS AND RESEARCH

Along the same lines, research ethics stress the importance of minor assent to participate in a research study. In the research setting, parents maintain the ultimate authority to consent to their child's participation in a research study, but the investigator should obtain the minor's assent also. Guidelines issued by the Food and Drug Administration recommend that Institutional Review Boards, prior to approving a research study, evaluate whether minor assent is necessary. An Institutional Review Board should only waive the requirement for minor assent when certain defined criteria are satisfied.

THE MATURE MINOR DOCTRINE IN PENNSYLVANIA

There is some debate surrounding the applicability of the mature minor doctrine in Pennsylvania. Interestingly, the court cases that discuss it are predominantly criminal cases. Upon being charged with manslaughter or child neglect or endangerment, parents have argued that their child's refusal of medical treatment abrogates their responsibility to seek medical care for the child.

One notable Pennsylvania Supreme Court case focuses on a minor's desire to seek spiritual treatment instead of medical treatment.[7] The parents, honoring their child's refusal of medical treatment, were subsequently convicted of manslaughter for failing to seek necessary treatment for their child's life-threatening illness. The court, in upholding the parents' conviction, stated that Pennsylvania does not recognize the mature minor doctrine as a defense against the manslaughter charges, but the court failed to discuss whether the doctrine gave the minor the right to refuse treatment. Instead, the court's narrow ruling only focused on the inability of the parents to justify their actions based on the mature minor doctrine. The question thus remains whether a mature minor in Pennsylvania may refuse medical care when the minor is not suffering from a life threatening illness. Perhaps Pennsylvania would allow a 17 year old who displays a level of maturity to refuse the influenza vaccine, but the same 17 year old would presumably not be allowed to refuse medical treatment for cancer.

INTERNATIONAL VIEW OF THE MATURE MINOR DOCTRINE

In recent years, the debate surrounding the rights of minors to refuse medical treatment has been played out internationally in England and Canada. A 13 year old girl in England garnered international attention when she refused a heart transplant. After being diagnosed with leukemia at a young age, her heart became weak after treatment of an infection. After weighing the option of a heart transplant, which her physicians determined was necessary to preserve her life, she refused it. Her physicians questioned her ability to make that decision on her own, and initiated court proceedings. Upon adequate assurances that the girl understood the nature of her decision and that her decision was not influenced by her parents, the courts and her physicians honored her decision to refuse the transplant.

Later this year, the Supreme Court of Canada will review a case in which a 14 year old refused a blood transfusion due to her religious beliefs. Although the child was forced to consent to the blood transfusion by lower court rulings, the Supreme Court of Canada will decide whether a minor can refuse medical treatment when the minor's life is endangered. Legal experts and ethicists are following this case in hopes that the court articulates

useful standards on which to base future court rulings or to enact legislation.

CONCLUSION

Current legislation which allows a minor to consent to medical treatment without parental interference already poses a challenge to physicians treating children. The mature minor doctrine, due to its lack of standardization, certainly adds another layer of confusion when caring for minors. As the debate continues in courts and governing bodies across the globe, the current rules and restrictions on a minor's ability to refuse medical treatment will inevitably be transformed.

REFERENCES*

1. Parham v. J.R., 442 U.S. 584 (1979)
2. 50 P.S. §7201
3. 71 P.S. §1690.112
4. 35 P.S. §10103
5. 35 P.S. §10101
6. 35 P.S. §10101
7. Commonwealth v. Nixon, 563 Pa. 425 (2000)

*P.S. = Pennsylvania State Law