

Students

SUBJECT: PARENTAL DELEGATION OF AUTHORITY TO CAREGIVER OF MINOR CHILD

In accordance with General Obligations Law Section 5-1801, parents may delegate authority to a caregiver for specified education and health care decisions relating to their minor child. Specifically, this law allows a parent to authorize an adult person in whose care a minor has been entrusted to:

- a) Consent to any health care developmental screening or mental health examination or treatment, including immunization, to be rendered to such minor in accordance with law for which the parent has authority to consent;
- b) Enroll the minor in health plans;
- c) Review school records of the minor child;
- d) Enroll the minor in a school;
- e) Consent to the minor's absence from school; and/or
- f) Consent to the participation of the minor in a school program or school-sponsored activity.

However, such parental authorization of designated powers to a caregiver is conditioned upon there being no prior order of any court in any jurisdiction currently in effect that would prohibit the parent from himself/herself exercising such authority; and provided further that, in the case where a court has ordered that both parents must agree on education or health decisions regarding their child, an authorization pursuant to this law shall not be valid unless both parents have given their consent.

An authorization conferred upon a caregiver pursuant to this law shall not be construed to satisfy requirements governing residence for purposes of enrollment in a school as set forth in Education Law Section 3202, unless such requirements have otherwise been fulfilled.

Authorization for a caregiver's consent shall be in writing and shall include:

- a) The name of the caregiver to whom authorization is given;
- b) The name of each minor with respect to whom such authorization is granted;
- c) The parent's or parents' signature(s) and the date of such signature(s).

(Continued)

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SUBJECT: PARENTAL DELEGATION OF AUTHORITY TO CAREGIVER OF MINOR CHILD (Cont'd.)

The authorization may specify a period of time less than a year for which such authorization shall be valid unless either revoked by the parents as enumerated below. However, if no such time period is specified, the authorization shall be valid until the earlier of revocation or one year from the date the authorization was signed by the parent. The authorization may:

- a) Authorize any or all consents set forth above;
- b) Specify the treatment, diagnosis or activities for which consent is authorized; or
- c) Specify any treatment, diagnosis or activity for which consent is not authorized.

However, the decision of a caregiver to consent to or to refuse health care or mental health diagnosis or treatment for a minor shall be superseded by a contravening decision of the custodial parent of the minor.

No provision of this law shall be construed to require formal authorization to a caregiver as provided within the statute where such authorization is not otherwise required by law, rule or regulation.

Revocation of Authorization

Revocation by one parent shall be deemed effective and complete revocation of an authorization pursuant to this law. A caregiver who receives notification from a parent of any such revocation shall immediately notify any school, health care provider or health plan to which an authorization has been presented. Failure by the caregiver to notify recipients of the revocation shall not make notification of revocation by the parent ineffective.

Liability Provisions

A person who provides health care or mental health care or who permits enrollment or participation in a government sponsored health plan, a school program or school-sponsored activity upon a caretaker's consent, and who does so reasonably and in the good faith belief that the parent has in fact authorized the caretaker to do so pursuant to the provisions of this law, may not be deemed to have acted negligently, unreasonably, or improperly in accepting and acting upon such authorization. However, any such person may be deemed to have acted negligently, unreasonably, or improperly if he/she has knowledge of facts indicating that the authorization was never given, or did not extend to the care or treatment given, or was revoked.

(Continued)

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**SUBJECT: PARENTAL DELEGATION OF AUTHORITY TO CAREGIVER OF MINOR
CHILD (Cont'd.)**

Pursuant to law, the above provision (i.e., actions not deemed negligent, unreasonable or improper) shall apply even if health care or mental health care is provided to a minor or consent is given to enrollment or participation in a school program or school-sponsored activity in contravention of the wishes of the parent except where the health care provider, health plan official or school official has knowledge of facts indicating that the authorization was not given, or did not extend to the care or treatment in issue, or was revoked.

However, General Obligations Law Section 5-1801 does not alter any liability that would otherwise exist in the absence of this law, if a health care providers provides that was not medically warranted even with legal consent, or fails to provide care that should have been provided, or provides care in a negligent or unacceptable manner.

General Obligations Law Section 5-1801
Education Law Section 3202

Adopted: 8/22/06

SUBJECT: DESIGNATION OF PERSON IN PARENTAL RELATION

In accordance with General Obligations Law Title 15-A, a parent of a minor or incapacitated person may designate another person as a person in parental relation to such minor or incapacitated person for certain health care and educational decisions for a period not exceeding six (6) months. However, such parental designation is conditioned upon there being no prior order of any court in any jurisdiction currently in effect that would prohibit the parent from himself/herself exercising the same or similar authority; and provide further that, in the case where a court has ordered that both parents must agree on education or health decisions regarding the child, a designation pursuant to this law shall not be valid unless both parents have given their consent.

The designation of a person in parental relation must be in writing in the form prescribed by General Obligations Law Title 15-A, and shall include specified information as enumerated in law for designations of thirty (30) days or less, as well as additional information required for designations of more than thirty (30) days. The designation of a person in parental relation may be presented to any school that requires such designation by either the parent or designee. The designation may specify a period of time less than six (6) months for which such designation shall be valid unless either revoked by the parent in accordance with law. *However, a designation specifying a period of more than thirty (30) days shall be notarized.*

If no time period is specified in the designation, it shall be valid until the earlier of revocation; or

- a) The expiration of thirty (30) days from the date of signature if the designation does not meet the requirement for designations of more than thirty (30) days.
- b) Six (6) months from the date of commencement specified in the designation if the designation meets the requirements for designations of more than thirty (30) days.

Scope of Designation

A designation made pursuant to this law may specify:

- a) The treatment, diagnosis or activities for which consent is authorized;
- b) Any treatment, diagnosis or activity for which consent is not authorized; or
- c) Any other limitation on the duties and responsibilities conveyed by the designation.

Revocation of Designation

A parent may revoke a designation by notifying, either orally or in writing, the designee or a school to which the designee has been presented, or by any other act evidencing a specific intent to revoke the designation. A designation shall also be revoked upon the execution by the parent of a subsequent designation. Revocation by one parent authorized to execute such a designation shall be deemed effective and complete revocation of a designation pursuant to law.

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SUBJECT: DESIGNATION OF PERSON IN PARENTAL RELATION (Cont'd.)

A designee who receives notification from a parent of such revocation shall immediately notify any school to which a designation has been presented. A parent may directly notify any such school of the revocation, in which case the failure of the designee to notify the school of such revocation shall not make revocation ineffective.

Effect of Designation

- a) A designee shall possess all the powers and duties of a person in parental relation pursuant to Public Health Law Sections 2164 and 2504 and Education Law Sections 2 and 3212, unless otherwise specified in the designation.
- b) A designation shall not impose upon a designee a duty to support pursuant to Family Court Act Section 413.
- c) A designation shall not cause a change in the school district of residence of the child for purposes of the Education Law, and during the period of validity of the designation, the child shall be presumed to be a resident of the school district in which the parent resided at the time the designation was made.
- d) A designation shall terminate and be revoked upon the death or incapacity of the parent who signed the designation.
- e) The decision of a designee shall be superseded by a contravening decision of a parent.

A person who acts based upon the consent of a designee reasonably and in the good faith belief that the parent has in fact authorized the designee to provide such consent may not be deemed to have acted negligently, unreasonably, or improperly in accepting the designation and acting upon such consent. However, any such person may be deemed to have acted negligently, unreasonably, or improperly if he/she has knowledge of facts indicating that the designation was never given, or did not extend to an act or acts in question, or was revoked.

No provision of Title 15-A of the General Obligations Law shall be construed to require designation of a person in parental relation as provided within the statute where such designation is not otherwise required by law, rule or regulation.

General Obligations Law Title 15-A
Education Law Sections 2 and 3212
Public Health Law Sections 2164 and 2504
Family Court Act Section 413
Mental Hygiene Law Section 80.03

Adopted: 8/22/06