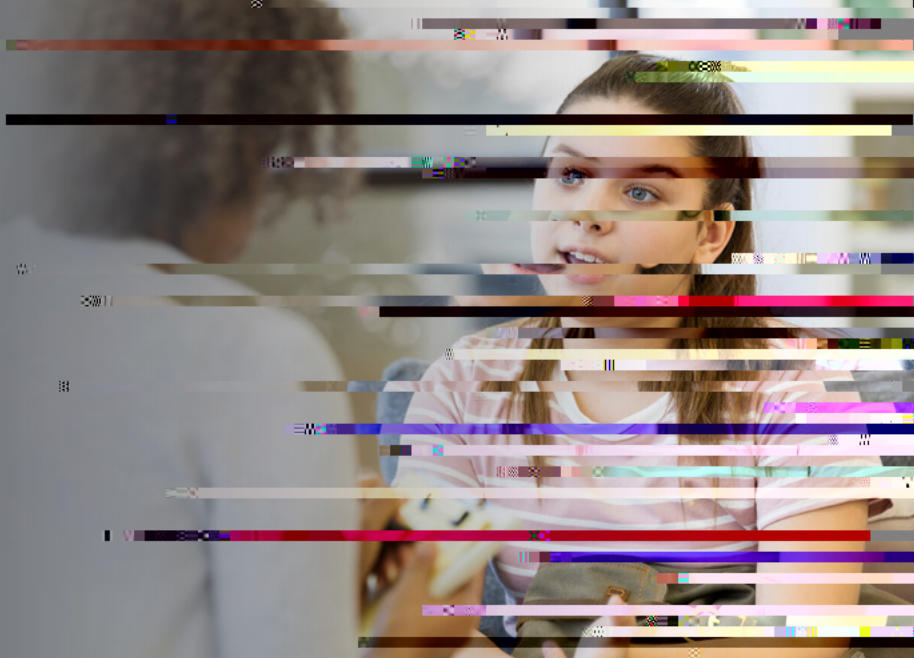


Avant factsheet:

Children and consent



Parents and guardians provide consent for their child's health care in most cases. However, if a child understands the significance of their decision they may provide consent themselves. There are circumstances where neither a parent nor the child can provide consent, and a court will need to make an order about a child's treatment. If the case is life threatening you should treat the child as an emergency and consent is not required.

When can children provide consent?

The law presumes that people have capacity to make decisions about their health care at 18 years of age. In South Australia it is 16 years. However, before reaching this age children can develop the capacity to make decisions about their health care. Capacity to consent relates to the specific decision. While a child may be competent to make some medical decisions, it does not mean they have the capacity to make all medical decisions independently.

'Gillick competence' and the 'mature minor'

The legal test used to determine if a child is capable of giving consent is when he or she "achieves a sufficient understanding and intelligence to enable him or her to understand fully what is proposed". This is referred to as 'Gillick competent' or a 'mature minor'.

Children develop this competence at different rates. When deciding if a child is competent, you should consider the child's age, their insight into the nature of the treatment and their understanding of its possible side effects. Other relevant considerations include the child's intelligence, attitude and personality, and health. One of the challenges can be assessing if a child understands the long-term implications of a procedure or treatment. Generally, the more risky the procedure, the more carefully you should assess whether the child fully understands the nature of the procedure.

If a child is competent to make decisions about their own treatment, their consent alone is sufficient. The consent of a parent or guardian is not required. This also means it is not required or appropriate to contact the child's parent or guardian without the child's consent.

Ultimately, the child is entitled to the same confidential treatment of their medical information as an adult would receive. Nevertheless,

if you feel it would benefit the child to inform their parents about their condition and proposed treatment it is advisable to raise this with the child.

Public and private hospitals may have their own policies regarding the age that a child can provide consent independently of their parents. You should check for any specific requirements in the hospitals or organisation where you work.

Disputes between parents and children

If a child has the requisite maturity to provide consent and there is a dispute between the child and their parents about the appropriate treatment, then wishes of the child will override those of the parents.

Medicare

Medicare recognises that children may seek medical treatment independently of their parents or guardians. Children can have their own Medicare card from 15 years of age. Doctors can also bulk-bill Medicare for consultations with patients who are 14

