

PRESS STATEMENT FOR IMMEDIATE RELEASE:

20 October 2021

Consent for Covid-19 vaccination in children

[Wednesday, 20 October 2021] From today, adolescents between the ages of 12 and 17 are able to get vaccinated at government and private vaccination sites without their parents' consent. This has sparked a debate about the Children's Act and the relationship between children's rights and parents' responsibilities and rights. Now that Covid-19 vaccination of children in South Africa is starting, it is essential that the law on who can give consent is well understood by parents, carers and most importantly the adolescents themselves.

What does the law say?

We all have a right to decide what happens to our bodies. Section 12 of the Constitution says everyone has a 'right to bodily and psychological integrity' which includes the right to make decisions concerning medical treatment and the right not to be subjected to medical procedures or scientific experiments without their informed consent.

The right to physical and psychological integrity in the context of health is about being the ultimate decision maker when it comes to what you would allow to be done to your body "*Consent plays a significant role in the realisation of right to physical and psychological integrity because it allows an individual to make decisions about their bodies, such as getting the COVID vaccine.*" says Isabel Magaya, from the Centre for Child Law, University of Pretoria. The Children's Act (s129) states that children can consent to medical treatment, including vaccination, if:

- (a) the child is over the age of 12 years; and*
- (b) the child is of sufficient maturity and has the mental capacity to understand the benefits, risks, social and other implications of the treatment.*

The Children's Act recognises and respects children's evolving capacities and gives them the responsibility to make decisions but ensures that they do so only if they have the ability to understand the choice they are making. There is also a duty on adults to help children make good decisions.

"The UN Convention stresses that parents have the right and responsibility to provide direction and guidance to their children. However, such guidance must be directed to the promotion of the child's rights and be provided in a manner consistent with the evolving capacities of the child." Says Prof Ann Skelton, University of Pretoria and a member of the UN Child Rights Committee *"This principle establishes that as children grow and develop new knowledge and skills, they are able to take greater responsibility for decisions that affect their lives."*

Where a child is over 12 but does not understand the risks and benefits of medical treatment then a parent, guardian or care-giver may give consent for them, but they should still be part of the conversation as they have a right to be heard and their views respected.

In addition to respecting children's evolving capacities and their right to bodily integrity we need to consider children's rights:

- to have their best interests considered
- to participate in all decisions that affect them
- to information and health education
- to access health care services
- to privacy and confidentiality

The Constitution provides that 'a child's best interests are of paramount importance in every matter concerning the child'. This includes matters affecting the health and well-being of the child. Generally, parents want the best for their children and their concerns are based on wanting to protect them from harm, and just because 12 to 17 years have the right to decide for themselves does not mean that parents shouldn't be involved in helping them weigh up the risks and benefits and make a decision that is right for them.

Children are entitled to access health services on their own, in which case health care workers have a duty to offer support- and to give effect to children's rights - by:

- Presenting information about the vaccine in ways that children can understand and that are relevant to their age group
- Allowing the child to ask questions about the vaccine, the potential benefits and associated risks including short- and long-term side effects and to express any fears or concerns
- Exploring children's level of understanding of the risks and benefits in order to establish their competence to consent to the vaccine.

It is in children's best interest to help them to make good decisions

Parents have a responsibility to ensure their child's health and wellbeing, both physical and psychological, and to foster their children's ability to make their own choices. When children are very young, parents make all the decisions for them, but as children get older they are given more responsibility to make choices for themselves. *"The law tries to balance giving children autonomy and protecting them from burdensome decisions by giving requiring parents, caregivers or other adults to support them,"* says Lucy Jamieson, of the Children's Institute at UCT, *"Even though adolescents can choose for themselves, it is important for parents and care-givers to listen to their children and discuss the risks and benefits."* Learning to make good choices is an important part of children's a development and growth so finding out about the vaccine and the weighing up the risks and benefits should be a positive experience.

Upholding the wishes of children about their own medical treatment is part and parcel of acting in their best interests. However, we should aim to balance respect for children's evolving capacities as well as their autonomy with developmental realities and parental interests on this critical issue.

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For more information see *The Children's Act Guide for Health Professionals*:

http://www.ci.uct.ac.za/sites/default/files/image_tool/images/367/Law_reform/Children_Act_guide_s/Childrens%20Act%20Guide%20for%20Health%20Professionals%202013.pdf