



National
Council of
Ethics for the
Life Sciences

**THE INFORMED CONSENT PROCESS INVOLVING
MINORS: ETHICAL AND LEGAL REQUIREMENTS**

Recommendation No. 3/2022

July 2022



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Executive Summary

Informed Consent involving minors has often raised questions among healthcare professionals, as well as between young people and their parents. The subject was recently under social debate in Portugal, at the time of the initiative of voluntary vaccination of minors. In this context, the National Council of Ethics for the Life Sciences (CNECV) considered it pertinent to reflect on the issue of consent concerning minors (children and young people) for health interventions or biomedical research purposes.

Providing for Informed consent is a manifestation of respect for the person, of his/her dignity and autonomy, recognised as an individual capable of making free decisions about what concerns him/her. This is a matter that has merited the continued attention of the CNECV. In the case of minors, consent is particularly complex as it is given by a third party, the holders of parental responsibilities, usually the parents or, in their absence or impediment, a guardian appointed by court.

Under the terms of the Convention on Human Rights and Biomedicine of the Council of Europe, which was transposed into national law in 2001, "The opinion of the minor is taken into consideration as an increasingly determining factor, in accordance with his or her age and degree of maturity". (Article 6(2)).

The process of obtaining Informed Consent in the context of healthcare provision may present particular difficulties in situations (1) which are not clearly regulated and (2) in which there is disagreement between the parties involved - health professionals, minors and their legal representatives - in a triangulation which may prove complex. In effect, the dissension can have different origins, which should be correctly identified so that, in an effective way, they can be overcome for the greater good, which is the health and well-being of the minor. Aspects as diverse as the quality of communication, the capacity of understanding on the part of the addressees, marked by the degree of literacy for health or by the experiential emotional state, cultural, religious, ideological differences, with different values assumed by the parties involved, or even the nature and dynamics of the relationships between family



members, specifically between the two parents and between them and their minor child, may be at stake.

Particular attention should be paid to the progressive autonomy of the minor, which will naturally develop over the years and follow its own process of cognitive and emotional maturation. This development of autonomy should be stimulated by providing favourable conditions for its continuous and progressive exercise, as a fundamental ethical value.

Faced with different hypotheses, the CNECV identifies the aspects that healthcare professionals should consider, and the respective ethical grounds, in relation to decision making in the event of disagreement between the parties involved. The council also emphasises the need, in all circumstances and as an ethical requirement, to include minors in health decisions that concern them, aimed at the development of their autonomy and as a contribution to this path. This process also tends to promote the minor's adherence to clinical interventions and foster health education.

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National Council of Ethics for the Life Sciences

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