

Medical Decisions: Should Children be Allowed to Make Them

By Hannah Westover

"Children do not need their parents to be their friends...
they *need* their parents to be their parents" - Anonymous.

This is an argument that most parents make to their children and to society because parenting is the main priority of their job. What if, however, parents were not needed to make the executive decision for medical treatments for their children? The topic of children making their own medical decisions is becoming increasingly prevalent over the coming years with the increase of child independence and the form of a child's own free will. Children, soon, may get the chance to make their own informed medical decisions without their parents looking over their shoulders and making the decisions for them. A psychological perspective will focus on a child's ability to make their own decisions based on the science gathered for the competency levels of the decisions of a child and what ages that entails. This may also include the psychological perspective of the parents and healthcare providers as well and their process of allowing the children to make the decisions. A law perspective will look at the different court cases that have occurred under this topic and whether they point to a clear and distinct answer on the subject. A law perspective may also be useful in examining how far a child's decision may go in the light of the medical systems. Children, ages 14 and up, should be able to make their own medical decisions without their parent's opinion and if not, the courts can overrule a parent's decision on the child's behalf.

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Nearly every child (0-18 years old) is in the hospital at some point in childhood. When a child does, a parent or guardian is there supporting them and keeping them comfortable while they are experiencing the scariest time of their lives. While they are in the hospital, difficult medical decisions must be made on their behalf by their parents or guardian. Sometimes, the parent's conclusions may not be the best for their child, or it is a decision that the child does not want to consent to, but they have no choice. This paper will focus on the possibility of children making their own medical decisions without the help or override of a parent or guardian. Specifically, it will delve into the harm parents may cause their children when they make decisions for their children, such as with the COVID-19 vaccine, and how the children can make their own informed medical decisions at the age of 14 and up, with some limitations.

Parental rights are a massive subject within this argument and how they may play a role in the medical care of the child. Parental rights, in Pennsylvania, are described as, "the ability to make decisions on how your child is raised, the ability to discipline your children, the ability to make healthcare and medical decisions, and child custody" (Parental rights, 2022). There is an argument, however, among the top pediatricians, neurologists, psychologists, and many more important physicians that this may not be the case in a few years because they are exploring the debate of whether children can make their own decisions. While parental control over their children has been in the medical field for as long as modern medicine has been around, that soon may change with the new coming research done.

A major change in the point of view on this topic was brought up by the American Academy of Pediatrics (AAP). The AAP discussed new research done in neuroscience that does support the idea that children can be involved in the decision-making process for their medical care. For example, Kaufmann (2016) states that "children as young as 7 can express an informed

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agreement with proposed medical treatment, and ... if the child is properly informed and involved in the discussion, this can ‘foster the moral growth and development of autonomy in young patients.’” Even the American Academy of Pediatrics agrees with the new research done and there may be a change in policies in hospitals soon on children making their own informed decisions.

In recent events, the COVID-19 vaccine has been the heat of discussion for every human on this planet. Doctors are wondering if it is safe and receiving all the critical issues, citizens are wondering if the vaccine is safe and effective to protect against the virus, parents are questioning if giving the vaccine to their children is the best decision for their family, and children are simply scared of living in the COVID 19 world. With this heated debate, there have been controversies where a parent does not want their child to receive the COVID-19 vaccine or other typical vaccines such as the hepatitis A vaccine, the tetanus vaccine, or the meningococcal vaccine. In these cases, many of the children end up in the hospital with a serious case of the disease that their parents chose to not vaccinate their child against. Some children said that they argued with their parents over wanting the vaccine and how their parents put them in harm's way over their beliefs and not what the child wanted for themselves. In all, Gantz (2010) discusses that “decline of pneumococcal vaccination [by the parent] apparent increases the risk of hospitalization due to pneumococcal disease or lobar pneumonia in children.” Hypothetically, if the children had their own way of making their medical decisions, these hospitalizations could have been prevented and some lives could have been saved.

For vaccinations, some parents also put their children in harm's way based on the way that the parent sees the world and not how the doctor wants them to see the world through their child's eyes. Some parents fear for their child's safety with the vaccines and what they may bring

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to their child. For a vaccine to be approved by the World Health Organization (WHO n.d.), “vaccines are required to have a high efficacy rate of 50% or above.” This statistic provided by WHO shows that vaccines have a high-efficiency rate and are effective in fighting certain diseases and viruses that may pose a threat to children or humans in general. As explained by Harmsen (2012), “Their decision [parents] is not solely based on weighing the risks of vaccination against those of nonvaccination; it also depends on the parents’ lifestyle and views about healthy child development.” However, most of the time, the parents are doing more harm than good to their children by not allowing them to get the vaccines which are why the children should be able to decide if they, themselves want to get a vaccine or not.

Many academic scholars agree that children should be able to make their own medical decisions but then the next question is what age should this be allowed? There have been many case studies that delve into this question and show that a fourteen-year-old teenager has the same amount, if not more, competency when compared to a twenty-one-year-old. As explained by Weithorn (1982), “minors aged 14 were found to demonstrate a level of competency to that of adults...” They were found to prove the level of competency in categories such as evidence of choice, reasonable outcome, rational reasoning, and understanding (Weithorn 1982). This evidence from the case study examines and suggests to the medical community that children, aged 14 and over, can make their own decisions and are competent enough to do so.

If children above 14 are competent enough to make their own medical decisions, what about children younger than them? According to experts in *Paediatrics and Child Health* (2004), “Preschool children have no significant skills to participate in decision-making in any meaningful way.” They conclude that this is because of their lack of competency since they are so young and do not understand the term danger which may lie ahead of them. Due to this fact,

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their caretakers are automatically in charge of the care even if it is bad for the child. Elementary school-aged children, however, can be considered competent, but not competent enough to make their own decisions. As explained by *Paediatrics and Child Health* (2004), “Children of primary school age may participate in medical decisions but do not have full decision-making capacity.” These children can agree or disagree to a procedure without fully understanding the implications, which is why they cannot be considered to make their own medical decisions. While 14-year-olds and above can, and are competent enough to make their own decisions, children younger than that age cannot be 100% able to make their decisions because they are not able to weigh their options as well as the older children are.

Another case study was done to show that adolescents can make their own decisions and difficult ones without their parents. The case study included 63 children (8-11 years old) and 76 adolescents (15-17 years old) who were facing the hypothetical decision of amputation to one of their extremities. According to Ruggeri et al. (2014), the “data clearly indicate that children and adolescents want to be involved in the decision process, even when the outcome involves serious negative consequences.” The participants instead chose to make the decision by themselves than have a parent select a decision for them, which shows that the participants do not want a parental say in their medical decisions because after all, the child is not the parent's self. Within this study, children clearly want to decide their own healthcare and competency is not the only reason that children should not be withheld from their decisions. The other reason that children should make their own decisions is that they are able to and want to make tough decisions for themselves (Ruggeri, et al. 2014).

There have also been several court cases where the court has overridden the medical decisions made by the parents of a child in care. The *Journal of Law & Health* discusses the

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stories of terminally ill children whose medical decisions made by their parents were overridden by the courts, “against the express wishes of the parents, Alder Key Hospital decided to remove life support...” (Stern 2019). This expresses the tough decisions that parents must make and if it is unethical by the terms of the courts, then the courts can overrule the parents’ decision for their child. This shows that many times, the parents are not making the best medical decisions for their children and can be making the children suffer through hardship with them. However, with the laws, the parents do have a say over their children (not the courts) about their child’s medical care.

In a popular court case in Texas, *HCA Inc. V Miller*, doctors overrode a parent’s decision about their baby, which the parents then took the hospital to court over. The court, however, agreed that the doctors were supplying the best interest for care for the child, unlike the parents. Because of this case, the state of Texas ruled that “in a situation where the medical treatment proposed for a child is not life-saving or life-sustaining, a court order is needed to override a parent’s refusal to consent to the treatment. By contrast, the court explained, where the need for life-sustaining medical treatment is an emergency, time constraints will often not allow the resort to the courts” (Woods 2003). Likewise, if there is an emergency with the child, the doctors can choose as they please, even if it is against the parents' wishes, to save the life of the child. However, if it is not urgent material, the courts will and do have the final say in the decision-making for the child if the doctors suggest that the parents are not making the best decision for their child. This proves to show that there are many cases where the parents make a terrible decision for their child and the hassle that must be taken to get justice for the child. With the specific law, “The *parens patriae* doctrine gives the state the right to intervene with a parent’s decision when it’s believed they are not acting in the best interest of the child’s well-being”

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(Renee 2017). This could all be reduced if the child ended up having their own final say because it is their body, and it should be their choice.

In the case of how the United States medical system should go about possibly letting some children make their own medical decisions, there is evidence from all over Europe and their different age requirements. Ten European countries, which include France and Italy, require the parents to make the decision for the child (*Consenting to medical treatment without parental consent*, 2022). However, 11 of the countries have started allowing children, ages 14-16, to make their own medical decisions without the guidance of a parent or parental consent. Likewise, 7 of the countries say that it depends on the individual case of the child and if they can make their decisions. With evidence from European countries, doctors and healthcare providers could start to make that change to allow children to make their own medical decisions. This would allow the children some freedom and empowerment by being able to make their own decisions without their parents overriding their beliefs and wants.

However, with all good, comes some bad and downsides to a situation. With the topic of children making their own decisions, there are some instances where this may not be the best scenario to accept. One instance that may not be acceptable for the child to make their own decisions is when the child is disabled in an intellectual, developmental, or social way. Some children may lack the ability to make fully-thought-out decisions for their own health. With this possibility, the decision should be made by the parent or a healthcare provider. In some instances, this way of treatment and decisions making is not available for all children based on their individual cases.

Another downside to this is what options can be available for a child to make. For instance, a child has cancer and there are two ways that it can be treated. The first is a minimally

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invasive surgical technique that requires highly specialized medical equipment and costs a mass amount. The second is a round of chemotherapy which may be the worse choice for comfort, but it is the cheaper choice. Now, this decision is up to the child, but the parent must pay for their treatment. In this case, if a parent is paying for a medical procedure for a child, should they have a say in what is to be done? This falls under the usual saying of a parent “As long as you live under my roof, you follow my rules.” If a person is paying a year's worth of salary for another person, should they have a say in what the money is used for? This is one fatal flaw in allowing children to choose their medical treatments without their parent's approval.

Finally, with every new idea or topic that comes about, there needs to be more research and more approval from people. No scenario is ever perfect in this world but there are some that are better than others. There is no way to be sure that allowing an adolescent to make their own medical decisions is perfect or even better because not many countries or states allow it now, so not enough research has been done. Nothing in this world is absolute, even with the laws of gravity, so this can never be absolute either.

Per standard personalities of 14-year old's, there should be a type of way to test their competency level on an individual basis because all children develop maturity and competency at different ages. Children aged 14-15 years must be tested on their level of competency to ensure they are making the best decisions for themselves. If denied the specific level of competency to make their decisions, they should go through a program, such as an online or in-person class, to build their competency and maturity levels to ensure that they make the best decisions for themselves on their own behalf. Children at or above 16 should be able to make their own decisions by themselves without hesitation because if they can drive a vehicle at high speeds, they should be able to make choices for their medical care.

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With all of this, there should be a possibility for states or the whole country to adopt some sort of way that children can make their own decisions. Children should be allowed to make their own medical decisions starting at the age of 14 because they seem to be competent enough and other countries have been doing this type of healthcare for quite some time and it seems to be working in a satisfactory manner. There should be limitations in place however such as a doctor's opinion on whether a disabled child can make their own decision. Before allowing a child to make a costly decision, the doctor should first talk to the parents about the cost of a procedure and if the cost is too high for the parents, then they must limit a child's options. Nothing about this process is absolute because, with everything, there needs to be more research and confirmation that this is the best road to be taken for children and their medical decisions.

The topic in this paper has been significant for as long as the modern medical system has been around. It is the question of who makes the decisions for a child and is a child allowed to make their own decisions without the persuasion and overview of a parent or guardian. The topic has been in the light of the news increasingly often as time has gone on based on equality for people and for the topic of vaccinations. Some children are dying from the poor medical decisions that their parents have made for them and the consequences of their parents' actions and not their own. The change is happening now all over the world and it going to be in the United States as well, soon. The change is now. The time is here. This is the new face of pediatric medicine. Children at or above 14 will be able to make their own medical decisions without an adult's persuasion in the coming years.

Works Cited

- “Consenting to Medical Treatment without Parental Consent.” *FRA European Union Agency for Fundamental Rights*, 2017, fra.europa.eu/en/publication/2017/mapping-minimum-age-requirements-concerning-rights-child-eu/consenting-medical-treatment-without-parental-consent.
- Foster, Mandie, et al. ‘Children’s Voices on Their Participation and Best Interests during a Hospital Stay in Australia’. *Journal of Pediatric Nursing*, vol. 63, Elsevier BV, Mar. 2022, pp. 64–71, <https://doi.org/10.1016/j.pedn.2022.01.003>.
- Glantz, J. M., McClure, D. L., O’Leary, S. T., Narwaney, K. J., Magid, D. J., Daley, M. F., & Hambidge, S. J. (2011, January 29). *Parental decline of pneumococcal vaccination and risk of pneumococcal related disease in children*. *Vaccine*. Retrieved December 6, 2022, from <https://www.sciencedirect.com/journal/vaccine>.
- Harmsen, Irene A., et al. ‘Factors That Influence Vaccination Decision-Making by Parents Who Visit an Anthroposophical Child Welfare Center: A Focus Group Study’. *Advances in Preventive Medicine*, vol. 2012, Hindawi Limited, Nov. 2012, p. 175694, <https://doi.org/10.1155/2012/175694>.
- Kaufman, Stefanie L. *The Role of Children and Adolescents in Their Own Medical Decisions /Treatment*. <https://blogs.brown.edu/anth-1242-s01-fall-2016/2016/09/23/the-role-of-children-and-adolescents-in-their-own-medical-decisions-treatment/>. Accessed 23 Apr. 2023.
- ‘Parental Rights Attorney in Pennsylvania’. *Sadek & Cooper Family Lawyers*, 16 May 2017, <https://www.familylaw.sadeklaw.com/resources/parental-rights-pennsylvania/>.

BRADFORD WRITES!
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‘Pediatric Decision-Making’. *Vermont Ethics Network / Advancing Health Care Ethics*, Vermont

Ethics Network, 11 Feb. 2018, <https://vtethicsnetwork.org/medical-decision-making/more-topics-in-medical-decision-making/pediatric-decision-making>.

Publishing Ethics Resource Kit. *Vaccine*. <https://www.sciencedirect.com/journal/vaccine>.

Accessed 23 Apr. 2023.

Renee, Alexa. ‘When Can the Government Override a Parent’s Medical Decision in the U.S.?’

KXTV, 25 July 2017, <https://www.abc10.com/article/news/local/when-can-the-government-override-a-parents-medical-decision-in-the-us/103-459250777>.

Ruggeri, Azzurra, et al. ‘Braving Difficult Choices Alone: Children’s and Adolescents’ Medical

Decision Making’. *PloS One*, vol. 9, no. 8, Public Library of Science (PLoS), Aug. 2014, p. e103287, <https://doi.org10.1371/journal.pone.0103287>.

Stern, Elchanan G. ‘Parens Patriae and Parental Rights: When Should the State Override Parental

Medical Decisions?’ *Journal of Law and Health*, vol. 33, no. 1, 2019, pp. 79–106, <https://www.ncbi.nlm.nih.gov/pubmed/31841618>.

Harrison, C., et al. ‘Treatment Decisions Regarding Infants, Children and Adolescents’.

Paediatrics & Child Health, vol. 9, no. 2, Oxford University Press (OUP), Feb. 2004, pp. 99–114, <https://doi.org10.1093/pch/9.2.99>.

Weithorn, Lois A., and Susan B. Campbell. ‘The Competency of Children and Adolescents to

Make Informed Treatment Decisions’. *Child Development*, vol. 53, no. 6, JSTOR, Dec. 1982, p. 1589, <https://doi.org10.2307/1130087>.

Woods, Michael. ‘Overriding Parental Decision to Withhold Treatment’. *AMA Journal of Ethics*,

vol. 5, no. 8, American Medical Association (AMA), Aug. 2003, pp. 325–328, <https://doi.org10.1001/virtualmentor.2003.5.8.hlwa1-0308>.

BRADFORD WRITES!
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Vaccine Efficacy, Effectiveness and Protection. <https://www.who.int/news-room/feature-stories/detail/vaccine-efficacy-effectiveness-and-protection>. Accessed 23 Apr. 2023.