Unlike most every other state, a peculiar feature of Nebraska law is that the general age of majority is nineteen years of age. Neb. Rev. Stat. § 43-2101. There are a number of important exceptions and issues related to this rule which affect the age of majority in particular situations.

NEB. REV. STAT. § 43-2101 – MARRIAGE

One such exception is that an individual’s minority status immediately terminates upon marriage regardless of whether he or she has attained the age of nineteen. Therefore, married individuals under the age of nineteen are capable of consenting to their own medical treatment under Nebraska law and possess all the legal rights of Nebraska residents who have reached the age of majority (19).

EMANCIPATION

Another major, yet trickier, exception is emancipation. Emancipation means the freeing of the minor from the care, custody, control and service of his or her parents; it occurs when the minor or the parent acts in such a way that is inconsistent with parental obligations. Foxvog v. Foxvog, 7 Neb. App. 92, 578 N.W.2d 916 (1998). Once a minor is deemed “emancipated” he or she attains all the same rights and responsibilities as if he or she had reached the age of nineteen. Accordingly, an emancipated minor is free to consent to his or her own medical treatment without parental consent. While there is no iron-clad means of determining whether a minor is emancipated short of a court order, Nebraska law focuses on a number of factors. Specifically, courts have viewed the following as evidence that a minor may be emancipated:

- Permanently and voluntarily departing from the parental home
- Giving birth and cohabitating outside of the parental home with the father of the child
- Military enlistment
- Receiving public assistance in his/her own name
- Having virtually no contact with parents or guardians

In Accent Service Co., Inc. v. Ebsen, 209 Neb. 94, 306 N.W.2d 575 (1981), the Nebraska Supreme Court stated that where a minor departs from the family home with parental consent, takes his personal belongings with him, and from then after furnishes his own support and receives nothing from his parents, the minor has become emancipated.

NEB. REV. STAT. § 71-4827 – ORGAN DONATION

Nebraska’s Revised Uniform Anatomical Gift Act also sets forth two exceptions to the general age of majority. Under the provisions of this act, “an anatomical gift of a donor’s body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education . . .” if the donor: (1) has attained eighteen years of age; or (2) is authorized under state law to apply for a driver’s license and the donor is at least sixteen years of age. It is important to note here that the statute does not necessarily require that a sixteen year old have a driver’s license. Rather, he or she need only be sixteen and otherwise qualified to apply for a driver’s license. If a minor is neither eighteen nor sixteen and eligible for a driver’s license, then that minor’s parents or guardians may elect for organ donation on behalf of the minor.

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NEB. REV. STAT. § 71-504 – SEXUALLY TRANSMITTED DISEASES

One broad exception to the general parental consent rule is that minors may be treated for sexually transmitted diseases (STDs) without consent from, or notification to, their parents or guardians. Such treatment includes treatments to prevent contracting an STD (i.e., providing prophylactics). However, the parents of minors who are treated for STDs remain financially responsible for the costs of the treatment. Under this law, physicians are shielded from both civil and criminal liability for providing such treatment, absent negligence on behalf of the physician. Until relatively recently, testing minors for HIV was treated differently than other STDs under Nebraska law, but the statute was amended so that minors are no longer mentioned. Presumably, this legislative change indicates HIV testing is treated the same as other STD testing for minors.

MENTAL HEALTH AND SUBSTANCE ABUSE

Like most other forms of medical treatment, Nebraska law does not provide any statutory exceptions which allow a minor to consent to mental health treatment absent parental consent. Therefore, a mental health professional may only render treatment to a minor without parental consent when another exception is present (i.e., the minor is married, emancipated, or it is an emergency situation).

As of 2004, parental consent is also required for the treatment of substance abuse in minors. Note, however, that law enforcement officers are not required to obtain parental consent in order to test a minor for driving under the influence of alcohol or drugs. Even still, although medical personnel are authorized to draw blood for substance abuse testing, law enforcement cannot compel medical personnel to test the minor if the medical personnel refused.

ABORTION

The laws governing abortion in Nebraska present another deviation from the general age of majority. In fact, there are several distinct rules which set forth at what age and under what circumstances a woman may consent to an abortion.

- First, a woman under the age of eighteen may still undergo an abortion if the abortion provider first obtains the notarized written consent of both (1) the pregnant woman seeking the abortion and (2) at least one of her parents or a legal guardian. Neb. Rev. Stat. § 71-6902
- Second, a woman under the age of eighteen may obtain notarized written consent from one of her grandparents instead if the pregnant woman attests in writing that she has been abused by either of her parents or legal guardians. Physicians who rely in good faith on this statement are shielded from liability. Neb. Rev. Stat. § 71-6902.01
- Third, a woman under the age of eighteen may obtain notarized written consent from one of her grandparents instead if the pregnant woman attests in writing that she has been abused by either of her parents or legal guardians. Physicians who rely in good faith on this statement are shielded from liability. Neb. Rev. Stat. § 71-6902.01
- Fourth, a woman under the age of eighteen does not need to obtain any form of notarized written consent if she clearly and convincingly demonstrates to an appropriate court that she is both sufficiently mature and well-informed to decide whether to have an abortion. In such case, the court’s order overrides the notification requirement. Neb. Rev. Stat. § 71-6903
- Fifth, a woman under the age of eighteen does not need any form of notarized written consent if “the attending physician certifies in the pregnant woman's medical record that a medical emergency exists and there is insufficient time to obtain the required consent.” Neb. Rev. Stat. § 71-6906

As a related matter, pregnant minors may consent on their own behalf to genetic testing of the fetus. 181 NAC 5-002. Likewise, parents who are themselves minors may consent to the medical treatment of their children.

NEB. REV. STAT. § 38-1232 – EMERGENCY TREATMENT

The common law generally provides that parental consent is not required for treating a minor in an emergency situation. Moreover, although not addressed specifically on the subject of parental consent, other provisions of Nebraska law generally shield medical personnel from liability when rendering emergency aid for free.
Recently Created Exceptions – Contracts and Powers of Attorney for Medical Treatment

On March 3, 2010, the laws governing minority in Nebraska were significantly altered.

Although the general age of majority remains nineteen, the Nebraska state legislature carved out two new and very significant exceptions for minors entering into legally binding contracts and for minors who obtained medical powers of attorney:

**NEB. REV. STAT. § 43-2101 – CONTRACTS/LEASES**

First, the legislature clarified that, except for wards of the state, an individual need only be eighteen years old to enter into a legally binding contract. The precise text of the statute provides that "a person eighteen years of age or older and who is not a ward of the state may enter into a binding contract or lease of whatever kind or nature and shall be legally responsible therefor."

**NEB. REV. STAT. § 30-2604 – POWERS OF ATTORNEY FOR MEDICAL TREATMENT**

Second, the legislature also added a procedure by which those who have attained the age of at least eighteen years can consent to their own medical treatment. Pursuant to this new statute, "A parent or guardian of a minor who is at least eighteen years of age and who is not a ward of the state, by a properly executed power of attorney, may delegate to such minor, for a period not exceeding one year, the parent's or guardian's power to consent to such minor's own health care and medical treatment."

In plain English, this statute means that a minor in Nebraska can now consent to his or her own medical treatment if the following three factors are met:

- the minor is at least 18 years of age;
- the minor is not a ward of the state; and
- one of the minor’s parents or guardians properly executes a power of attorney which says that the minor has authority to consent to the minor’s own medical care

In response to this statute, colleges and universities have been quick to implement their own form documents which satisfy the requirements of **Neb. Rev. Stat. § 30-2604**. An example of such a document from the University of Nebraska Lincoln can be found here: [http://health.unl.edu/forms/ConsentForTreatmentofMinor.pdf](http://health.unl.edu/forms/ConsentForTreatmentofMinor.pdf)

**OTHER MINOR LAWS/RESTRICTIONS IN NEBRASKA (NOTE VARYING AGES)**

**NEB. REV. STAT. § 38-10,165 – BODY ART (TATTOOS)**

Written parental consent is required before a person under the age of eighteen may get body art/tattoo. And the person giving the consent must be present during the procedure.

**NEBRASKA CONSTITUTION VI-1 – VOTING**

To vote you must be a citizen of the United States and have reached the age of eighteen years before the first Tuesday after the first Monday in November and reside within the state.

**NEB. REV. STAT. § 43-252 – FINGERPRINTS**

Unless ordered by a judge, the fingerprints of any juvenile less than fourteen years of age may not be taken.

**NEB. REV. STAT. § 43-245(10) – JUVENILE**

For purposes of classification for juvenile court matters, a juvenile is defined as any person under the age of eighteen

**NEB. REV. STAT. § 28-807(8) – MINOR – CRIMINAL OBSCENITY**

For purposes of classification for criminal obscenity matters, a minor is defined as any unmarried person under the age of eighteen.

**MINOR – SHOPLIFTING**

For purposes of classification as to the crime of theft by shoplifting, a minor is defined as any person under the age of seventeen. **Neb. Rev. Stat. § 25-21,194(8)**. Parents of said minor shall be liable to the owner of the merchandise in a civil action for theft by shoplifting by the minor. **Neb. Rev. Stat. § 25-21,194(1)**.

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MINOR – ALCOHOL

Under the Nebraska Liquor Control Act: “Minor means any person, male or female, under twenty-one years of age, regardless of marital status.” Neb. Rev. Stat. § 53-103.23. “No minor shall obtain, or attempt to obtain, alcohol liquor by misrepresentation of age, or by any other method, in any tavern or other place where alcoholic liquor is sold.” Neb. Rev. Stat. § 53-180.01. No minor may sell, dispense, consume or have in the minor’s possession or physical control any alcoholic liquor. Neb. Rev. Stat. § 53-180.02.

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