

Cognitive Development and Minors: Implications for Health Care Providers

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The uniquely American emphasis on personal autonomy in most areas of life, including medical decision-making, may be attributed to two factors. First, the egregious human experiments conducted in concentration camps during World War II led to the codification of a set of principles, the Nuremberg Code, designed to prevent similar abuses from recurring. The first of these principles mandates voluntary consent of subjects prior to participation in research. The concept of obtaining consent before research also has been adopted in the doctor-patient relationship. The doctrine of informed consent has been strengthened by the development of ethical principles which have been confirmed by the U.S. legal system. Indeed, one well-known principle in health law is Justice Cardozo's observation in *Schloendorff v. Society of New York Hospital*, 211 N.Y. 125, 129, 105 N.E.2d 92, 93 (1914), that "(e)very human being of adult years and sound mind has a right to determine what shall be done with his own body; and a surgeon who performs an operation without his patient's consent commits an assault, for which he is liable in damages." Older cases, such as *Schloendorff*, rely upon the assault and battery legal theory where the provider is liable for failure to obtain a patient's consent prior

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