



*Office of the Provincial Advocate
for Children and Youth*

*Bureau de l'intervenant provincial
en faveur des enfants et des jeunes*

**Letter to the Editor
published in *The Toronto Star* on January 26, 2015**

Re: "Ontario law allows children to determine medical care" (January 20, 2015)

The tragic death of an 11-year-old Aboriginal child who was battling acute lymphoblastic leukemia, and another Aboriginal child referred to as "J. J.", has prompted much debate on whether a child is deemed "capable" of making decisions about their health treatment, as protected under Ontario's *Health Care Consent Act*.

Whether it's a decision to prevent an illness or a treatment involving hospitalization, every individual – regardless of age – has the right to consent or refuse treatment, as long as they can understand the treatment information and appreciate the consequences to them. If a child is considered incapable of making a particular health decision, then a parent can act as a substitute decision-maker to consent or refuse treatment on their child's behalf. There's a process in place (through the Consent and Capacity Board) for a physician to question whether the substitute decision-maker is acting in the child's best interests - even if that substitute-decision maker is the child's parent.

The unfortunate reality is that many vulnerable young people under my mandate (which includes children welfare, First Nations, special needs) are unaware of their health rights under the law or even asked for their consent on decisions concerning their health or medical treatment. Essentially, these young people feel that they are being "left out of their own lives."

All too often, medical decisions are being made without their direct involvement, with no information about the recommended treatment and most importantly, without their consent. A recent series by *The Toronto Star* on the child welfare sector found that an alarming 48.6 per cent of children and youth in care are on psychotropic or behaviour-altering drugs like tranquilizers and Ritalin. I have heard from other young people who were given no explanation for being hospitalized.

Young people believe that consent is a process built on trusted relationships with adults (e.g. physicians, caregiver). It is therefore incumbent upon physicians, those serving children and youth in my mandate and others to build those relationships with children, their caregivers and communities that engender trust. In the experience of my Office, this starts by listening and learning.

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