SURROGATE CONSENT DECISION TREE
MINORS (under age 18 and not emancipated)

START:

Is the minor legally able to consent on his own? (see Note below)

Foster child in a “drug research program”?

In custody of Texas Youth Commission?

Is a waiver of consent possible under the Common Rule (emergency, parental abuse, etc.)?

No consent required

16 years old AND a court order allowing him to make own medical decisions?

Biological parent or someone with court order

Statutory list of surrogates for minors (non-immunization studies):
1. a parent;
2. a grandparent of the child;
3. an adult brother or sister of the child;
4. an adult aunt or uncle of the child;
5. an educational institution in which the child is enrolled that has received written authorization to consent from a person having the right to consent;
6. an adult who has actual care, control, and possession of the child and has written authorization to consent from a person having the right to consent;
7. a court having jurisdiction over a suit affecting the parent-child relationship of which the child is the subject;
8. an adult responsible for the actual care, control, and possession of a child under the jurisdiction of a juvenile court or committed by a juvenile court to the care of an agency of the state or county;
9. a peace officer who has lawfully taken custody of a minor, if the peace officer has reasonable grounds to believe the minor is in need of immediate medical treatment.

*persons with authority under these circumstances will not typically be used for research consent except in extraordinary circumstances.

Note: In Texas, a minor may consent to medical, dental, psychological, and surgical treatment for him or herself, and hence may also consent to research for the same circumstances/treatment, if the minor is:
1. is on active duty with the armed services of the United States of America;
2. is 16 years of age or older, and residing separate and apart from the his/her parents, managing conservator, or guardian (with or without consent and regardless of duration), and managing his/her own financial affairs (regardless of the source of the income);
3. is seeking the diagnosis and treatment of an infectious, contagious, or communicable disease that is required by law or a rule to be reported by the licensed physician or dentist to a local health officer or the Texas Department of Health, including all diseases within the scope of Section 81.041, Health and Safety Code;
4. is unmarried and pregnant and consents to hospital, medical, or surgical treatment, other than abortion, related to the pregnancy;
5. is seeking an examination and treatment for drug or chemical addiction, drug or chemical dependency, or any other condition directly related to drug or chemical use; or
6. is serving a term of confinement in a facility of the Texas Department of Criminal Justice.