

MISSOURI

Minors' Access to Confidential Reproductive Healthcare



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A Minor

A minor is a person under the age of 18.

Informed Consent

As a general rule, Missouri law requires a minor who seeks medical care to obtain the consent of a parent or guardian.

However, there are several important exceptions to this rule that are described below. All minors can consent to any surgical, medical, or other treatment or procedure related to pregnancy (excluding abortion), sexually transmitted diseases, and drug or alcohol abuse. Moreover, some minors can consent for any medical treatment. When a minor gives consent, it must be voluntary, may be verbal or written (except in the case of abortion), and should be noted in the patient's record.

Minors Who May Consent to Any Medical Treatment

Certain minors may consent to any medical treatment (other than abortion) based on their status. A healthcare provider who acts in good faith may rely on the representations of a minor regarding his or her age or status. Minors who may consent include:

- Minors who are or have ever been married
- Minors who are parents (for both their own care and their children's care)
- Minors who are members of the armed forces
- Minors who are homeless, 16 years of age or older, and living without the physical or financial support of a parent or guardian, if a parent or guardian has previously given express or implied consent to their living independently*
- Minors who are victims of domestic violence, 16 years of age or older, and living without the physical or financial support of a parent or guardian, if a parent or guardian has previously given express or implied consent to their living independently*

* Implied consent includes barring the minor from the home, indicating that he or she is not welcome to stay, refusing to provide financial support, or subjecting the minor to physical, sexual, or emotional abuse.

REPRODUCTIVE HEALTHCARE

Family Planning and Contraceptives

Missouri law does not specifically require healthcare professionals to obtain parental consent before a minor receives family planning services or contraceptives, so healthcare professionals can and do provide these services to minor patients without parental consent. Federally funded Title X family planning clinics must provide confidential services to minors and may not require parental consent for minors to receive the services. For a complete listing of Title X family planning clinics in your area, please visit the Missouri Family Health Council's website at http://mfhc.org/agency_map.php.

Emergency Contraception (EC)

Missouri law does not specifically require healthcare professionals to obtain parental consent before a minor receives emergency contraceptives. As a result, healthcare professionals can and do provide EC to their minor patients without parental consent. Minors who are unable to obtain EC confidentially from their regular healthcare providers may do so at any Title X family planning clinic without parental consent or notification. Although clinicians offer EC up to 120 hours following intercourse, women are urged to take EC as soon as possible to maximize efficacy. Consistent with a recent FDA decision, EC is available "over-the-counter" for individuals age 18 or older, but minors must still obtain a prescription from a licensed healthcare provider. The National EC Hotline (1-888-NOT-2-LATE or <http://not-2-late.com>) offers information on how to obtain EC.

Pregnancy Testing, Pregnancy-Related Care, Prenatal Care, and Childbirth

Any minor may consent to pregnancy testing and all other medical care related to pregnancy (excluding abortion). For guidance on disclosure of a minor's pregnancy and related care to a parent or guardian, see the section on confidentiality below.

Abortion Services

Except in a medical emergency, a minor may consent to an abortion only if she meets one of the criteria listed below,

and has conferred with a physician 24 hours in advance of the procedure to discuss the contraindications of abortion, including any physical or psychological factors related to the procedure. The physician must sign a written statement that the minor has given her informed consent, and the minor must sign the same and provide the physician with one of the following:

- the written consent of a parent or legal guardian
- evidence of a judicial bypass
- proof of emancipation*

In *Planned Parenthood of Kansas and Mid-Missouri, Inc. v. Nixon* (2007) the Supreme Court of Missouri upheld a statute that made it a civil offense for any person to physically "cause, aid, or assist" a minor in obtaining an abortion without parental consent or a judicial bypass. The ruling does not restrict the free speech of healthcare providers and other people who advise minors on issues such as how and where to obtain an abortion without parental consent.

Sexually Transmitted Diseases (STDs)

Any minor may consent to testing and other medical care related to STDs. For guidance on disclosure of a minor's STD and related care to a parent or guardian, see the section on confidentiality.

HIV Testing and Treatment

No provision of Missouri law directly addresses whether minors may consent to HIV testing or treatment. However, HIV is a sexually transmissible virus, so minors should be able to consent for testing and related care. Confidential HIV testing is offered to minors age 13 or older at some federally qualified health centers and sites that are federally funded under the Ryan White CARE Act. Select local health departments also offer anonymous testing at no cost, including the St. Louis City Health Department, Kansas City Health Department, Springfield/Greene Health Department, and Columbia/Boone County Health Department.

Sexual Abuse and Sexual Assault

Any licensed healthcare professional who has reasonable cause to suspect that a minor has been a victim of sexual abuse—

* Emancipation is not defined by statute in Missouri, but state court cases suggest that any minor who is married, serving in the armed forces, or living independently from parents and supporting herself would be considered emancipated.

including forcible rape, sexual assault, or incest—is required to make a report to the Children's Division of the Missouri Department of Social Services.

Minor victims of rape or sexual assault may consent to a forensic medical examination. However, the hospital or physician conducting the exam must give written notification to a parent or guardian that the exam has occurred. If the offender has been apprehended, the minor has a right to access the results of any HIV test performed on the offender. Both the minor victim and the parent(s) or guardian(s) will be informed if the offender is confirmed to be HIV positive.

OTHER HEALTHCARE

Emergency Care

In an emergency situation, consent to healthcare is implied, even if the minor objects or in the absence of consent of a parent or guardian. An emergency situation is one in which it is imminently necessary to provide medical care, and any delay caused by an attempt to obtain consent would jeopardize the life, health, or limb of the minor patient.

Drug and Alcohol Abuse Care

Any minor may consent to outpatient medical care or other treatments for drug or alcohol abuse, including counseling. However, only emancipated minors may consent to inpatient treatment for drug or alcohol abuse at rehabilitation facilities. For guidance on disclosure of a minor's drug or alcohol abuse problem and related care to a parent or guardian, see the section on confidentiality below.

Any minor participating in a program for the treatment of intravenous drug use may be tested for HIV, without the right of refusal, if there are reasonable grounds to believe that the minor is infected with HIV and is a reasonable health threat to others.

Blood Donations

Unemancipated minors 17 years of age may donate blood without the consent of a parent or guardian.

CONFIDENTIALITY

Fear of disclosure prevents some minors from seeking healthcare services, but when young people are assured that their healthcare providers will respect their privacy and keep their medical records confidential, they are more likely to seek out all types of care, including reproductive healthcare services. Missouri law permits, but *does not require*, healthcare providers to inform a parent or guardian if their minor child has been diagnosed with or treated for pregnancy, STD, or drug or alcohol abuse. Such disclosure should only be made when doing so is consistent with the confidentiality policies of the practice setting and with professional ethical guidelines, and when it is in the minor's best interest. The law does not permit healthcare providers to disclose any information if the minor patient is found not to be pregnant, afflicted with an STD, or suffering from drug or alcohol abuse.

Exceptions to Confidentiality

There are some circumstances in which confidentiality may not be possible, including

- cases of suspected child abuse or neglect
- instances in which the minor poses a risk of harm to self or others
- situations in which institutional billing and health insurance claims processes result in the disclosure of confidential information to a minor's parents

In addition to the examples listed above, institutional policies consistent with the HIPAA Privacy Rule may require that confidentiality be overridden in specific circumstances.

However, unless one of the above circumstances is present, healthcare providers should take reasonable care to protect the medical information of their minor patients.

Communication is Critical

It is usually helpful for a minor to talk to a parent, guardian, or other responsible adult when making healthcare decisions, and research shows that most young people involve at least one parent or guardian when doing so. Open communication with a parent or guardian should be encouraged both during the initial decision-making process and throughout the course

of medical care to help the minor patient better understand the risks, benefits, side effects, and alternatives to a particular medical treatment.

Facilitating Communication

- Encourage minor patients to involve their parent(s) or guardian(s) when appropriate.
- Initiate conversations with minors about what issues they can expect to be kept confidential.
- Discuss whether and how minors' parents or guardians will be involved in their healthcare.
- Write a confidentiality statement and share it with your minor patients and, when appropriate, with their parents.

Protecting Confidentiality

Unfortunately, open communication may not always be possible for all young people. Some teens come from homes in which emotional abuse, sexual abuse, or physical violence is prevalent. Other teens have parents who do not support them in seeking reproductive healthcare. For these reasons and others, Missouri law allows healthcare professionals to keep their minor patients' medical information confidential. To help protect confidentiality, healthcare providers may

- explain to parents that minors should be seen confidentially and ask parents to agree to such an arrangement
- ask the patient for alternative contact information (address and phone number where he or she can be reached) if the patient does not want to be contacted at home
- discuss insurance, billing, and alternative forms of payment with the minor
- inform the patient if billing or insurance claims may compromise confidentiality
- notify the insurance company that the minor was treated confidentially and that disclosure of the information would be contrary to the patient's best interests
- refer the patient to a site offering confidential services to minors for free or on a sliding-fee scale so that bills

are not sent to the minor's home, where a breach of confidentiality may occur

- educate the billing department about minors' rights to confidentiality and how bills that detail information about services rendered can break confidentiality
- consult with legal counsel before releasing medical records to any person other than the minor patient

PLEASE NOTE: This publication is intended as a guide and does not provide individual legal assistance. Please check with your legal counsel for site-specific clarification about confidentiality and disclosure issues, including any policies related to the HIPAA privacy rule. Be aware that laws related to any or all of the subjects addressed in this pamphlet may have been added, repealed, or amended since publication.

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Reference:

English A, Kenney KE. *State Minor Consent Laws: A Summary, 2nd Edition*. Chapel Hill, NC: Center for Adolescent Health and the Law, 2003 (order at www.cahl.org).

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