

Minors' Access to Confidential Reproductive Health Care in Illinois

A Minor

A minor is a person under the age of 18.

Informed Consent

As a general rule, Illinois law requires a minor who seeks medical treatment to obtain the consent of a parent or guardian. However, there are several important exceptions, which are described below. A minor who understands the risks, benefits and proposed alternatives to certain health services may give informed consent as outlined in this card.



Minors Who May Consent to Medical Care

If a minor fits one of the following categories, she/he may consent to ALL health care evaluation and treatment without the consent of a parent or guardian:

- The minor is legally married.
- The minor is a parent.
- The minor is pregnant.
- The minor has been legally emancipated by a court.

Specific Medical Care for Which a Minor May Give Consent:

Contraceptives and Pregnancy Testing

Health care personnel may provide confidential contraceptives and pregnancy tests to minors without parental consent if the minor is married, a parent or pregnant, is referred by a physician, clergyman or planned parenthood agency, or where a serious health hazard would be created by the failure to provide these services.

Specific Medical Care for Which a Minor May Give Consent

continued:

Emergency Contraception (EC)

Emergency Contraception (also known as the morning-after pill) is a form of contraception. Clinicians have begun offering EC up to 120 hours following intercourse; however, **women are urged to take EC as soon as possible to maximize efficacy.** The National EC Hotline (1-888-NOT-2-LATE or www.not-2-late.com) offers information on EC options and providers. Minors do not need parental consent to obtain EC, and confidential services may be provided.

Sexually Transmitted Diseases

Minors aged 12 and over may consent to confidential testing, treatment and counseling for sexually transmitted diseases (STDs). Providers must report incidents of STDs to the Department of Health or the local board of health, where the report will remain confidential. Providers are encouraged, where appropriate, to involve a minor's family in the minor's treatment for STDs, but must first obtain the minor's consent.

HIV

Minors aged 12 and older may consent to testing, treatment and counseling for HIV. Minors may also consent to anonymous HIV testing. Department of Health regulations require disclosure of positive results to school officials. In addition, providers are encouraged, but not obligated, to notify a minor's parent of a positive test result if they have been unsuccessful in persuading the minor to do so and they believe that notification is in the minor's best interest.

Abortion Services

A minor may consent to confidential abortion services without parental notification or consent.

Sexual Assault

A minor may consent to health services associated with criminal sexual assault or abuse. Such services include emergency contraception, pregnancy tests, counseling and treatment for STDs. A minor who presents himself/herself within seven days of the assault may consent to the use of a sexual assault evidence collection kit. Minors aged 13 and older may give written consent to a hospital to release evidence and information from the kit to law enforcement officials. If medical personnel has reasonable cause to believe that the minor is an abused child, the abuse must be reported to the Department of Child and Family Services. Such reporting requirements only arise where a family or household member commits a criminal sexual offense, or allows one to be committed against the child.

Emergency Care

A minor may receive health services without the prior consent of a parent or guardian when obtaining such consent is not reasonably feasible without adversely affecting the minor's health.

Substance Abuse Care

Minors aged 12 and older may consent to confidential outpatient counseling and treatment if they or a family member abuses drugs or alcohol. Providers are encouraged, where appropriate, to involve a minor's family in the minor's treatment for substance abuse, but must first obtain the minor's consent. However, if the provider believes that parental notification is necessary to protect the safety of the minor or others, the provider may inform the parent of the minor's substance abuse counseling or treatment.

Mental Health

Minors aged 12 and over may consent to confidential counseling or psychotherapy on an outpatient basis.

Providers of such treatment may not notify parents of the minor's treatment services without the minor's consent unless the provider believes that such notification is necessary. If the minor is under 17, counseling or psychotherapy sessions are limited to five in number until parental consent is obtained. In addition, parents can obtain psychological records if the provider does not find compelling reasons for denying access.

Communication is Critical

It is usually helpful for a young person to talk with a parent or responsible adult when making health care decisions. In fact, many young people do involve at least one parent when making health care decisions. Whenever possible, open communication with a parent or legal guardian should be encouraged, both in making the initial decision and in having their ongoing support during and after medical treatment.

However, open communication with parents is not always possible for young people. Some cannot involve their parents because they come from homes where physical violence, sexual abuse or emotional abuse is prevalent. Other parents simply do not support their teenagers in seeking reproductive health care. In addition, research shows that the absence of confidentiality discourages minors from seeking sensitive reproductive health services. For these and other reasons, minors, as a matter of law, may receive certain health services without being required to tell their parents or needing their parents' permission.

Facilitating Communication is Essential for the Treatment of Minors

- Initiate conversations with minors about their right to confidential health care.
- Discuss whether and how a minor's parents or legal guardians will be involved in her/his health care.
- Encourage the minor patient to involve a parent or legal guardian when appropriate.

Facilitating Communication is Essential for the Treatment of Minors

continued:

- Establish a trusting relationship with the patient and the parent and discuss the issue of confidentiality.
- Write a confidentiality statement and share it with your minor patients.

Confidentiality

Fear of disclosure prevents some minors from seeking services. When young people are assured that providers will respect their privacy and provide confidential care, they are more likely to seek care, especially reproductive health care. Generally, when a minor can consent to treatment or testing, health providers may keep this information confidential.

However, there are circumstances in which confidentiality may not be possible, including:

- Cases of suspected child abuse or neglect, including sexual abuse.
- Cases where a counselor of a minor who abuses drugs or alcohol, or has a family member who abuses drugs or alcohol, believes that parental notification is necessary to protect the safety of the minor or others.
- Mental health records may be made available to a parent if the therapist does not find that there are compelling reasons for denying access to a parent.
- The billing and health insurance claims process, which may result in the disclosure of confidential information to a minor's parents, particularly if a minor is covered under the parent's health insurance. Health care providers should discuss with the patient what information will be included in a bill or insurance claim and how this could lead to disclosure of confidential medical information.

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 new policies related to the HIPAA privacy rule.

To Help Ensure Confidentiality, Health Care Providers May:

- Ask the minor patient for alternative contact information (address and phone numbers where she/he can be reached) if the patient does not want to be contacted at home.
- Inform the patient if billing or the insurance claims process may compromise confidentiality.
- Notify the insurance company that you treated the minor confidentially based on his/her own consent and that disclosure of the information would be contrary to the patient's best interest.
- Discuss insurance, billing and alternative forms of payment with the minor patient.
- Educate the billing department about minors' rights to confidentiality and be sensitive to the information on bills sent home.
- Consult with legal counsel before releasing any medical records that might result in harm to the adolescent patient.
- Investigate ways to create filing and other systems that protect adolescents' confidentiality.
- Explain to the parent that the minor should be seen confidentially and ask the parent to agree to such an arrangement.

Developed by:

Physicians for Reproductive Choice and Health® (PRCH)

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