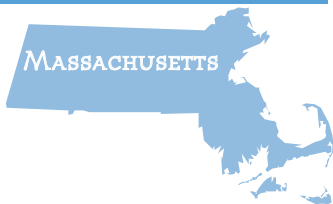


# Minors' Access to Confidential Reproductive Healthcare in Massachusetts: A Practitioner's Resource

## A Minor

A minor is a person under the age of 18.



## Informed Consent

As a general rule, Massachusetts law requires a minor who seeks medical treatment to obtain the consent of a parent or guardian. However, as described below, a minor may give consent to certain medical treatments outlined in this card, if the practitioner believes that she/he is capable of giving informed consent. A minor who understands the risks, benefits and proposed alternatives to the services specified below may give informed consent. Informed consent may be verbal or written and should be noted in the patient record.

## Minors Who May Consent to Medical Care

If a minor fits one of the following categories, she/he may consent to confidential healthcare (except abortion and sterilization), evaluation and treatment without the consent of a parent or guardian:

- The minor is capable of giving informed consent and the treatment is in her/his best interests (the "mature minor" rule).
- The minor is or was legally married (a patient who is or was married may also consent to abortion and sterilization).
- The minor is a parent.
- The minor is a member of the Armed Forces of the United States.
- The minor believes she may be pregnant.\*

*\*Some institutions interpret this care as medical treatment for the pregnancy only.*

## **Minors Who May Consent** *continued*

- The minor is living independently (physically and financially).

In all of these circumstances, if there is a danger of a serious risk to life or health, the minor should be notified that the provider must inform the parent or guardian.

## **Confidentiality**

Fear of disclosure prevents some minors from seeking services. When minors are assured that providers will respect their privacy and provide confidential care, they are more likely to seek care, especially reproductive healthcare. Generally, when a minor has the right to consent to treatment or testing, healthcare providers should keep information related to the service confidential.

However, there are circumstances in which confidentiality may not be possible, including: (1) cases of suspected child abuse or neglect, including sexual abuse; (2) threats by the minor against self or others; (3) cases where there is serious risk to the minor's life or health.

## **To Help Ensure Confidentiality of Medical Information, Healthcare 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 minor patient.
- Investigate ways to create filing and other systems that protect minors' confidentiality.
- Explain to the parent that the minor should be seen confidentially and ask the parent to agree to such an arrangement.

## **Specific Medical Care for Which a Minor May Give Consent:**

### **Contraceptives and Pregnancy Testing**

Based on the "mature minor" rule, minors do not need parental consent to receive confidential pregnancy tests or contraceptives, so long as the physician believes that the provision of services is in the best interest of the minor, who must be capable of informed consent.

### **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. Massachusetts law requires that hospitals offer EC to female rape victims of child-bearing age, and this includes minors. The National EC Hotline (1-888-NOT-2-LATE or [www.not-2-late.com](http://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 and HIV**

A minor may consent to confidential Sexually Transmitted Disease (STD) diagnosis and treatment. However, providers must report information about any person who has been diagnosed with certain STDs to the Department of Public Health (DPH). DPH maintains the confidentiality of the report.

A minor may consent to HIV testing, which should be kept confidential. Parents must be notified if the illness has reached the point of seriously threatening the minor's life or health.

## **Abortion Services**

An unmarried minor in Massachusetts must obtain the consent of a parent (the custodial parent if the parents are divorced), a legal guardian or obtain an order from the court (through a confidential proceeding known as a "judicial bypass") to have an abortion. For more information, counseling and legal assistance minors may call 1-800-682-9218.

## **Sexual Assault**

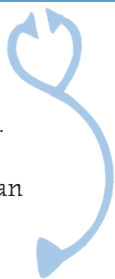
Minors may consent to confidential medical care for sexual assault. However, if medical personnel have reasonable cause to believe that the minor is suffering injury from child abuse, then the abuse must be reported to the Department of Social Services.

## **Emergency Care**

When an attempt to secure consent would result in a delay of treatment and increase the risk to the minor's life or health, a minor may receive health services without the consent of a parent or guardian (though every effort should be made to notify the parent or guardian, with such efforts documented in the patient's chart).

## Mental Health and Substance Abuse Care

In general, minors may consent to confidential outpatient counseling and treatment for alcohol, drug and emotional or psychiatric problems. If the condition endangers the life of the minor, however, a parent or guardian must be notified.



## Adolescent Foster Care Patients

A minor in foster care may consent to confidential reproductive healthcare like any other minor.

### Communication is Critical

Open dialogue with a parent or guardian should be encouraged, although communication with parents/guardians is not always possible for minors.

#### **To Facilitate Communication Providers Should:**

- Initiate conversations with minors about their right to confidential healthcare.
- Discuss whether and how a minor's parents or legal guardians will be involved in her/his healthcare.
- Encourage the minor patient to involve a parent or legal guardian when appropriate.
- Establish a trusting relationship with the patient and the parent and discuss the issue of confidentiality.

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