

# Minors' Access to Reproductive Healthcare in Ohio

## A Minor:

A minor is a person under the age of 18.

## Informed Consent:

A minor who understands the risks, benefits and proposed alternatives to certain health services outlined in this card can give informed consent.

Informed consent must be voluntary, may be verbal or written, and should be noted in the patient record. (Consent for abortion must be in writing.)



## 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 healthcare. Generally, when a minor's consent to treatment or testing is permitted by law, health providers should keep this information confidential.

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

- Cases of suspected child abuse or neglect, sexual abuse and some instances of consensual sex depending on the age of the minor, which must be reported under child abuse reporting laws.
- Records of mental health services, which may be made available to a parent or guardian if the therapist determines that disclosure will protect the safety of the minor or another individual (such as in cases of suicidal or homicidal ideation). However, the minor must be informed of parental disclosure.

## **Confidentiality:** continued

- 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. Healthcare providers should discuss with the patient what information may be included in a bill or insurance claim and how this could lead to disclosure of confidential medical information.

## **Communication is Critical:**

It is usually helpful for a young person to talk with a parent, guardian or responsible adult (aunt, older sibling, etc.) when making healthcare decisions. Parents, guardians or other responsible adults may help an adolescent to understand the risks, benefits, alternatives or side effects of medical treatments. In fact, most young people do involve at least one parent when making healthcare 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 healthcare. 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.

## **Pregnancy Testing**

Minors have the right by law to receive pregnancy testing without parental consent from clinics that receive federal funding for family planning services through Title X. Ohio law does not specifically require other healthcare providers (i.e., those not providing services through Title X) to obtain parental consent before a minor can receive pregnancy testing. Because the law is silent, physicians can and do provide pregnancy testing services to their minor patients without parental consent.

## **Contraceptives**

Minors have the right by law to receive contraceptives (including emergency contraception) without parental consent from clinics that receive federal funding for family planning services through Title X. Ohio law does not specifically require other healthcare providers (i.e., those not providing services through Title X) to obtain parental consent before a minor can receive contraceptives. Because the law is silent, physicians can and do provide contraceptive services to their minor patients without parental consent.

## **Emergency Contraception (EC)**

Emergency contraception (also known as the morning-after pill) is a form of contraception, and should be treated the same as other contraceptives for purposes of consent. 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](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 (STDs)

Minors have the right by law to confidential evaluation and treatment of any sexually transmitted disease. Clinicians are required to report incidents of STDs to the Director of Health, where the report will remain confidential. In addition, the state requires patients to notify their sexual partners of their disease.

## HIV

Minors may consent to testing and counseling for HIV, including anonymous HIV testing. Ohio law requires that anyone who is tested for HIV be given personal counseling before and after the test. The counseling must include an oral or written explanation of the test and testing procedures as well as an oral or written explanation of the nature of AIDS and AIDS-related conditions. If necessary, the patient can be referred for further counseling.

The results of a patient's HIV test may be disclosed to the following people:

- The patient's parent or legal guardian.
- The patient's spouse or sexual partner.
- The patient's physician.

In addition, the state requires that a patient diagnosed with HIV notify all persons they intend to share a hypodermic needle with or engage in sexual conduct with. Failure to notify such persons may result in a conviction for felonious assault and classification as a sexually oriented offender.

## Abortion Services

A minor in Ohio may obtain an abortion if one of the following is the case:

1. The physician performing the abortion obtains the consent of a minor's parent, guardian or custodian; or

2. The physician performing the abortion has been notified by the juvenile court that the abortion can proceed without the consent of a parent, guardian or custodian.

The most common way for a minor to obtain an abortion without consent of her parent, guardian or custodian is for the minor to get a juvenile court order stating that she is sufficiently mature and properly informed to make the decision or that obtaining the consent of her parent, guardian or custodian is not in her best interests. She should be referred to a clerk of courts for the juvenile court in the county where she lives or in the county where the abortion will be done. The juvenile court will provide her with a lawyer free of charge. Please note the law requiring parental consent changed in September 2005.

## **Sexual Assault**

A minor may consent to health services associated with criminal sexual assault or abuse. Such services may include emergency contraception, pregnancy tests, counseling and treatment for STDs. The minor may also consent to the use of a sexual assault evidence collection kit. The provider must give written notice to a parent or guardian that the examination has taken place, and there may be an obligation to report the assault.

## **Emergency Care**

In cases of emergency, consent to medical care is implied. Emergency means a situation in which the proposed surgical or medical treatment is reasonably necessary (according to competent medical judgment), a person authorized to consent is not readily available and any delay in treatment would jeopardize the minor's life or health.

## **Substance Abuse Care**

Minors age 12 and older may consent to confidential diagnosis or treatment of any condition caused by the abuse of drugs or alcohol. Ohio law specifically protects the confidentiality of information obtained in the treatment of a patient for drug or alcohol abuse.

## **Mental Health**

Minors age 14 and older may consent to confidential mental health services on an outpatient basis. Providers of such treatment may not notify a parent or guardian of the minor's treatment without the minor's consent, unless the provider believes that such notification is necessary (and the minor is notified) such as would occur if the adolescent is actively suicidal or homicidal. Counseling or psychotherapy sessions are limited to six sessions or 30 days until parental consent is obtained.

## **Married Minors**

If a minor is legally married, and has established his or her own residence and is self-supporting, she/he can consent to ALL healthcare evaluation and treatment, without the consent of a parent or guardian.

## **Incarcerated Minors**

A minor who is prosecuted as an adult and is confined in a state correctional institution is considered emancipated for the purpose of consenting to medical treatment.

## **Adolescent Foster Care Patients**

A minor in foster care can consent to confidential reproductive healthcare like any other minor. In all other matters where a parent or guardian's consent is required, consent must be obtained from the appropriate county or state official.

## **Facilitating Communication is Essential for the Treatment of Minors**

- Initiate conversations with minors about their right to confidential healthcare.
- Discuss whether and how a minor's parent or legal guardian 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.

## **To Help Ensure Confidentiality, Healthcare Providers Can:**

- Explain to the parent that the minor has a need for privacy and confidentiality, and ask the parent to agree to such an arrangement from the first visit.
- 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 that billing or the insurance claims process may compromise confidentiality.
- Discuss billing and alternative forms of payment (cash, payment plan, etc.) with the minor patient.
- Educate office personnel about minors' rights to confidentiality and be sensitive to the information on bills sent home.

- Consult with legal counsel if there is a question about medical records that might result in harm to the adolescent patient.
  - Investigate ways to create filing and other systems that protect adolescents' confidentiality.
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### **Reference:**

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

**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.

### **Developed by:**

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Ohio State Minors' Access Committee

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