

Certain minors can consent to any type of health care on their own.

If a minor falls into one or more of the following categories, then he or she can consent to any and all medical treatment confidentially, without involving a parent:

- Emancipated minors: minors who are living on their own and are financially independent of their parents
- Married minors
- Minors who have children
- Mature minors: parental consent may not be required for minors who can give informed consent and are mature enough to make their own health care decisions. The determination of maturity is made by the health care provider, and should be documented in the medical record. Contact legal counsel or the NYCLU if you have questions.

New York law permits all minors to consent to certain kinds of health care on their own.

Kinds of confidential health care all minors can consent to on their own include:

REPRODUCTIVE HEALTH CARE

- Pregnancy tests and options counseling
- Abortion services
- Contraceptive care and counseling, including emergency contraception (EC). EC can prevent pregnancy when taken shortly after unprotected sex. As of 2013, EC is available to men and women over-the-counter without age restrictions. For the most up to date information, please call the NYCLU or the National EC Hotline (1-888-NOT-2-LATE).

PRENATAL CARE

- Medical, dental, health and hospital services relating to prenatal care
- Labor and delivery services
- All medical care for themselves and their child, once the child is born

TESTING AND TREATMENT FOR SEXUALLY TRANSMITTED INFECTIONS (STIs)

HIV Testing and Treatment

- Testing for HIV
 - Informed consent is required
 - Anonymous testing is available. This means that the patient's name is not revealed and the test results cannot be traced to the individual.
- Treatment for HIV in some circumstances (consult legal counsel or the NYCLU):
 - For emergency care; or
 - When parental involvement is impossible or could cause harm; and
 - When the minor is sufficiently mature to follow the treatment regimen

Test results for STIs and HIV are confidential.

However, positive test results for HIV and certain STIs must be reported to the New York State Department of Health.

DRUG AND ALCOHOL ABUSE CARE

- Minors can consent to confidential alcohol and substance abuse counseling
- In some cases, minors can consent to medical treatment for substance abuse

MENTAL HEALTH CARE

- Minors can consent to mental health counseling
- Under certain circumstances, minors can consent on their own to inpatient mental health treatment

For more information about providing minors with mental health care or substance abuse treatment, consult with a supervisor or seek legal advice.

EMERGENCY MEDICAL CARE

- Parental consent is not required in cases of emergency
- Records of emergency treatment may be disclosed to a parent unless the provider determines that disclosure would harm the minor patient
- If the minor could have consented to the care on his or her own under the rules above, the care must remain confidential

POST SEXUAL ASSAULT CARE

Minors have the right to consent or refuse to consent to all post-sexual assault care.

This includes:

- Medical services, even if the minor generally could not consent on her own (e.g., treatment of injuries)
- Forensic evidence collection
- Rape crisis counseling

Communication and trust are critical. When young people are assured that health care providers will respect their right to confidentiality, they are more likely to seek reproductive and sexual health care.

To facilitate communication, providers should:

- Initiate conversations with adolescents about their right to confidential health care
- Discuss if and how a minor's parents will be involved in his or her care
- Encourage the adolescent to involve a parent when appropriate
- Establish a trusting relationship with the patient and the parent; discuss confidentiality with each individually

Billing/payment/record keeping can compromise confidentiality.

To minimize the risk of involuntary disclosure, a provider can:

- Inform the minor if the billing process may compromise confidentiality
- Ask the minor patient for alternative contact if she or he does not want to be contacted at home
- Discuss insurance, billing and alternative forms of payment with the minor (cash is the most confidential/safest payment method)
- Educate the billing department about minors' rights to confidential care and be sensitive to the diagnosis and treatment listed on bills sent home
- Consult with legal counsel before releasing any medical records that might result in harm to the minor patient

When a minor has the legal ability and consents to care, all services provided must remain confidential and cannot be released to third parties including parents and law enforcement. There are some exceptions to the rule of confidentiality, including cases of suspected child abuse and threats by the minor against him or herself or others. Please consult the resources listed at the end of this card for more information.

RULES TO KNOW

A *minor* is a person 17 and younger.

Informed consent is a necessary first step in providing confidential patient care. Informed consent requires that the patient understand the nature of the treatment, the risks, benefits and uncertainties of either receiving or not receiving the treatment, and as a result, assents to the treatment. Informed consent may be verbal or written and should be noted in the patient record. There is no minimum age for informed consent – it is an individualized determination made by the health care provider.

Confidentiality means that information about a patient's testing, diagnoses and treatment cannot be disclosed without the patient's permission. Confidential health care for adolescents means that when an adolescent patient has the legal ability and capacity to consent to health care, a provider may not disclose medical records or medical information to anyone, including parents, school personnel and law enforcement, without the adolescent-patient's consent, unless otherwise specified by law.

Developed by:

New York Civil Liberties Union

**In partnership with:
Mount Sinai Adolescent Health
Center and
Physicians for Reproductive Choice
and Health (PRCH)
Updated August 2013**

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.

If you have further questions, or want to order more cards or other publications, call the NYCLU at 212-607-3300.

For Adolescent Health Services, contact the Mount Sinai Adolescent Health Center at 212-423-3000.

To become a physician member of Physicians for Reproductive Choice and Health, call 646-366-1890 or visit www.prch.org.



www.nyclu.org

MINORS' RIGHTS TO CONFIDENTIAL REPRODUCTIVE & SEXUAL HEALTH CARE IN NEW YORK

When a young person seeks health care, a parent or guardian is usually involved. However, in some cases communication with parents or guardians about reproductive and sexual health care is difficult, and involving a parent can even be dangerous. In extreme cases, young people have been abused or forced to leave their homes when a parent discovers that a child is sexually active. In fact, fear of the consequences that result from disclosure prevents some young people from seeking necessary treatment or preventive care, leading to serious health consequences. This card outlines the provisions in federal and New York State law that allow minors to consent on their own to confidential health care.



www.nyclu.org