

Health care providers may not report other crimes—including rape and “statutory rape”—committed against their patients to the police, regardless of the patient’s age. It is up to the patient whether to report a sexual assault.

- **Subpoenas for information on crimes involving minors under 16:** If the police or district attorney subpoena a rape kit or other medical information regarding a minor age 15 or younger to use as criminal evidence, the provider must turn it over.
- **Communicable diseases, HIV diagnosis, and contact notification:** Health care providers must report statistical information on certain communicable diseases, including chlamydia, gonorrhea, and syphilis to state health officials, and must ask for names of sexual and needle sharing partners when an initial positive diagnosis of HIV is made for contact tracing purposes. The patient must be provided treatment whether or not she or he decides to share names; the patient should also be informed that the patient’s own name will not be disclosed during contact tracing.
- **Billing:** Breaches of confidentiality may occur when the provider or insurance company sends bills or laboratory results to the minor’s home. Providers should anticipate and discuss these with patients and find alternatives, such as obtaining special contact phone numbers or alternate addresses.

For further discussion of these and other exceptions, please refer to our publication *Teenagers, Healthcare, and the Law*, and to our Child Abuse Reporting and Teen Sexual Activity FAQ at <http://www.nyclu.org/>

To view footnote citations, please see [www.nyclu.org/rapecrisistreatment](http://www.nyclu.org/rapecrisistreatment)

## Useful Resources

### New York State Coalition Against Sexual Assault

Website: [www.nyscasa.org](http://www.nyscasa.org)  
Phone: (518) 482-4222

### New York City Alliance Against Sexual Assault

Website: [www.NYCagainstrape.org](http://www.NYCagainstrape.org)  
Phone: (212) 229-0345 (english)  
(212) 229-0345 x306 (en español)

### New York City Gay and Lesbian Anti-Violence Project

Website: [www.avp.org](http://www.avp.org)  
Hotline: (212) 714-1141

### Safe Horizon

Website: [www.safehorizon.org](http://www.safehorizon.org)  
Sexual Assault Hotline: (212) 227-3000  
Crime Victims Hotline: (860) 689-HELP

### Rape, Abuse, Incest National Network (RAINN)

Website: [www.rainn.org](http://www.rainn.org)  
Hotline: (800) 656-HOPE

*If you have further questions about minors’ rights to care after a sexual assault, or about minors’ rights to access other types of health care, contact the New York Civil Liberties Union’s Reproductive Rights Project at (212) 607-3300.*

This card was developed by  
the New York Civil Liberties Union  
Reproductive Rights Project

## MINORS AND RAPE CRISIS TREATMENT

A *minor* is a person under the age of 18. *Informed consent*, which is required before providing any medical care, means that a patient understands the risks, benefits and proposed alternatives to a particular treatment.

*Confidentiality* means that information related to a patient’s treatment cannot be disclosed without the permission of the person who consented to the treatment.

*Sexual assault services* include medical care, the sexual assault forensic evidence collection kit (the “rape kit”), and rape crisis counseling. Medical care may include physical examination, treatment of injuries from the assault, pregnancy testing and counseling, testing and prophylaxis for HIV and sexually transmitted infections (STIs), and emergency contraception (EC). The “rape kit” is used to obtain and preserve evidence that may have been left on the victim’s body or clothing. Rape crisis counseling includes any mental health care that may be necessary following an assault.

**Minors in New York State can consent to all aspects of health care following a sexual assault and any resulting treatment must remain confidential.**

### Sexual Assault Services and Confidentiality

Most minors’ parents are involved in helping them get services following a sexual assault. But fear of disclosure prevents some minors from seeking services. When young people

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know that physicians will respect their confidentiality, they are more likely to seek care, especially after a sexual assault.

Even though minors cannot generally obtain health care services without parental consent, NY Law permits minors to consent on their own to post-sexual assault services so long as they can give informed consent. There is no minimum age one must be to provide informed consent, and, therefore, health care facilities may not employ blanket policies—written or unwritten—that impose an age minimum for the receipt of services without parental consent.

When a minor legally consents to his or her health care following a sexual assault, medical information may not be disclosed to anyone, including parents, without the minor’s consent, unless otherwise required by law (see exceptions below).

**Minors can give informed consent for both medical care and evidence collection (“rape kit”) after a sexual assault without involving a parent.**

### **Services Minors Can Consent to On Their Own**

A minor who can give informed consent can consent to the following confidential services:

- Contraception, including emergency contraception;
- Abortion;
- Pregnancy care;
- Mental health care in many circumstances;
- Testing and treatment for sexually transmitted infections;
- HIV testing;

- Rape crisis counseling;
- Forensic evidence collection (“rape kit”);
- Care for all injuries related to the sexual assault.

### **Required Services**

All sexual assault survivors must be provided with care regardless of insurance status or ability to pay, and they must be offered rape crisis services and emergency contraception.

### **Forensic Evidence Collection Cannot Be Performed Without Consent**

A minor who can consent to rape crisis services also can refuse to consent to such services, and a sexual assault exam should not be performed against the minor’s will. For example, a parent cannot demand that a “rape kit” be performed without the minor’s consent. Medical guidelines require providers to interview the patient separately from the parent to ensure consent is voluntary.

### **When A Parent Has Consented to A Minor’s Sexual Assault Care**

Even when a parent has consented to post-sexual assault care, providers can refuse to provide information about a minor’s sexual assault care if:

- The provider determines that disclosure would be detrimental to the treatment of the minor, the provider’s relationship with the minor, or the minor’s relationship with his or her parent; or
- The minor is over 12 and objects to disclosure.

*As always, pregnant minors, minors who are parents, and emancipated minors can make all of their own health care decisions.*

**Almost all information about sexual assault care is confidential. There is no law mandating that providers report all sexual assault cases involving minors to State authorities or the police, and to report such incidents without the patient’s consent may constitute professional misconduct.**

### **Exceptions to the Confidentiality Rule**

Although most sexual assault care is confidential, in certain circumstances, the law may require or allow a health care provider to disclose particular information to a specified person(s) or institution(s):

- **Child abuse reporting:** Health care providers must report reasonable suspicion of child abuse to the State Central Registry of Child Abuse and Maltreatment. However, such a report is only proper when a minor is physically, sexually or emotionally abused by a parent or legal guardian, or when a parent or legal guardian knew about the abuse and failed to prevent or stop it. *No report to the State Central Register of Child Abuse and Maltreatment should be made because a minor has had consensual sex with someone who is not a relative or guardian, or has been raped by a peer or a stranger, unless the rape was the result of abuse or neglect by a parent or guardian.*
- **Gunshot wounds and life threatening stab wounds:** Such wounds must be reported to the police. However, the provider or facility should not report the circumstances surrounding how the injuries occurred, because to do so would breach patient confidentiality and expose the provider to potential legal and professional sanctions.