

# Minors' Rights to Confidential Reproductive Health Care in New York

*Developed by the Mount Sinai Adolescent Health Center, New York Civil Liberties Union Reproductive Rights Project and Physicians for Reproductive Choice and Health® (PRCH).*

## **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 may give informed consent. Informed consent may be verbal or written and should be noted in the patient record.

## **Confidentiality:**

Confidentiality requires that information about a patient's treatment generally may not be disclosed without his/her permission. Confidential health care for adolescents means a provider may generally not disclose medical records to *anyone*, including parents, without the patient's consent.

It is usually helpful for a young person to talk with a parent or responsible adult when making health care decisions. Whenever possible, open communication with a parent or legal guardian should be encouraged for adolescents making health care decisions. However, open communication with parents is not always possible for young people.

Fear of disclosure prevents some minors from seeking services. When young people are assured that health care providers will respect their right to confidentiality, they are more likely to seek care, especially reproductive health care.

## **A minor can consent to confidential family planning services, including abortion. A minor may obtain any of these services without parental notification or consent:**

### • **Contraceptive Care and Counseling.**

### • **Emergency Contraception (EC)**

Emergency Contraception is a form of contraception that can be used up to 120 hours post intercourse. It is intended for emergency situations such as unprotected intercourse, contraceptive failure or rape. The National EC Hotline (1-888-NOT-2-LATE) offers more information on EC options and providers.

### • **Pregnancy Tests and Options Counseling.**

### • **Abortion services.**

## **Prenatal Care**

A pregnant minor may consent to medical, dental, health and hospital services relating to prenatal care. Minors can also consent to labor and delivery services. Once a child is born, the minor parents can consent to all medical care for themselves and their child.

## **Sexually Transmitted Disease (STD) Testing and Treatment**

A minor may be tested and treated for an STD without a parent or guardian's consent. Some STDs must be reported to the Department of Health. STD test results **may not** be released to parents or guardians without the patient's permission.

## **HIV/AIDS Testing and Treatment**

A minor has the right to consent to — or to refuse — **confidential HIV testing** without parental involvement. The informed consent must be in writing. However, positive HIV tests must be reported to the Department of Health. This does not require — or permit — parental notification without the minor's consent, except in extraordinary circumstances.

A minor is also entitled to **anonymous testing** in which the patient's name is not revealed and the test results cannot be traced to the individual.

A minor's right to treatment is not as clearly defined. In emergencies, or cases when parental involvement is impossible or could cause harm, a minor who can adhere to the treatment can consent to care.

### **In Cases of Emergency**

In emergencies, minors can consent to treatment on their own. Records of emergency treatment may be disclosed to a parent unless the provider determines that disclosure would be detrimental to the minor patient.

### **Mental Health and Substance Abuse Counseling**

Minors can consent to confidential alcohol and substance abuse counseling and, in many cases, mental health services without parental consent.

### **Communication is Critical. 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 her/his care.
- Establish a trusting relationship with the patient and the parent; discuss confidentiality with each individually.
- Encourage the adolescent to involve a parent whenever appropriate.

### **Billing/Payment/Record Keeping: To minimize the risk of involuntary disclosure to parents in the billing process, a provider can:**

1. Ask the minor patient for alternative contact information (address and phone numbers where they can be reached) if the patient does not want to be contacted at home.
2. Inform the patient if the billing process may compromise confidentiality; take steps to prevent the inadvertent disclosure of confidential information.
3. Discuss insurance, billing, and alternative forms of payment with the minor patient (i.e., cash is the most confidential/safest payment method).
4. Educate the billing department about minors' rights to confidentiality and be sensitive to the diagnosis and treatment on bills sent home.
5. Consult with legal counsel before releasing any medical records that might result in harm to the adolescent patient.

### **Adolescent Foster Care Patients:**

A young person in foster care **can** consent to confidential reproductive health care like any other minor.

**Please Note:** *This publication is intended as a guide, and is not meant to provide individual legal assistance. Please check with your legal counsel for site-specific clarification.*

If you have further questions or want to order the booklet *Teenagers, Health Care and the Law*, for a more in-depth discussion of minors' rights to health care, call the NYCLU's Reproductive Rights Project at 212-344-3005. 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*<sup>®</sup>, call 646-366-1890 or visit [www.prch.org](http://www.prch.org). ©2003