

Emergency Care

When an attempt to secure consent would result in a delay in treatment and would increase the risk to the minor patient's life or health, the minor may receive health services without the consent of a parent or guardian.

Exceptions to Confidentiality

The law occasionally permits or requires the disclosure of a minor's treatment information without the minor's consent.

A parent or guardian must receive notice when a minor age 14 or older admits himself or herself for **inpatient mental health** treatment.

If the minor's parent or guardian consents to inpatient mental health treatment, the parent or guardian can authorize the release of **past records** to the minor's current mental health provider and, in some cases, to the minor's primary care provider.

If a parent or guardian consents to outpatient or inpatient **mental health** treatment for a minor, the parent has the right to information necessary for providing consent for that specific treatment, including symptoms and conditions to be treated, medications and other treatments to be provided, risks, benefits and expected results.

Healthcare providers in Pennsylvania are mandatory reporters of **child abuse** or suspected child abuse. To constitute child abuse under Pennsylvania law, the abuse must be committed by a parent of the child, a person responsible for the welfare of the child, an individual residing in the same home as the child or a paramour of the child's parent. A person responsible for the welfare of a child is then defined as anyone who cares for or supervises the child, excluding persons who are employed by or provide services or programs in a public or private school. When a clinician suspects child abuse has occurred, the clinician must report it to Childline at 800-932-0313.

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:

The Children's Hospital of Philadelphia

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Penn State Children's Hospital

Physicians for Reproductive Choice and Health[®]
(PRCH)

St. Christopher's Hospital for Children

The Mid-Atlantic Chapter of the
Society for Adolescent Health

To order cards or if you have any questions or comments, contact the Clara Bell Duvall Reproductive Freedom Project, ACLU-PA at 215-629-0111 or visit www.aclupa.org/duvall.

To order cards or become a member of *Physicians for Reproductive Choice and Health*[®] (PRCH), call 646-366-1890 x24 or visit www.prch.org.

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Minors' Access to Confidential Healthcare for Reproductive Health, Mental Health and Substance Abuse in Pennsylvania

Confidentiality

When young people are assured that providers will maintain their confidentiality, they are more likely to seek care, as fear of disclosure prevents some minors from seeking health services. Generally, the right to consent entitles the patient to confidentiality. When a minor has the right to consent, a provider generally may not disclose the minor's health care information to anyone, including the minor's parents or guardians, without the minor's consent, unless there is an explicit exception in the law that permits or requires the disclosure.

To help ensure confidentiality, healthcare providers should explain the difference between the ability to consent and the ability to pay, as the billing or the insurance claims process may compromise confidentiality. It is important to discuss billing and alternative forms of payment (cash, payment plan, etc.) with the minor patient.

Who Can Consent to Health Services

Pennsylvania law generally requires the consent of a parent or guardian for the medical treatment of anyone under 18 years of age (a "minor"). However, Pennsylvania law permits a minor to consent to all medical, dental and other health services, except abortion, if the minor has: (1) graduated from high school; or (2) been married; or (3) been pregnant. Additionally, an emancipated minor may consent to all health services, including abortion.

PENNSYLVANIA

Who Can Consent continued

No other consent is required—a minor who meets one of these criteria enjoys the same rights to consent and confidentiality as an adult patient.

A minor may be considered emancipated if he or she is financially independent of his or her parents, is free of their care and control and is living independently. Because Pennsylvania does not have an emancipation statute, each county has developed its own procedures for a minor to petition the court for a judicial decree of emancipation (see www.jlc.org for more information).

There are particular areas of medical care in which all minors have the ability to consent to treatment under Pennsylvania law, which are described below.

Contraceptives

Pennsylvania law has been interpreted to permit clinicians to provide confidential contraceptive care to minors upon their own consent. Federal law also guarantees minors access to contraception without parental consent or notification at facilities that receive funding through Title X or if the patient presents a Medicaid card. To locate a Title X clinic, call the CHOICE hotline at 800-84-TEENS.

Emergency Contraception (EC)

Emergency contraception (also known as the "morning-after pill") is a form of contraception and should not be confused with the "abortion pill" (RU-486). EC can be used up to 120 hours (5 days) following intercourse to prevent pregnancy, but **should be taken as soon as possible to maximize efficacy**. Because EC is contraception, minors do not need parental consent to obtain EC. The National EC Hotline (888-NOT-2-LATE or www.not-2-late.com) offers more information on EC options and providers.

Testing and Treatment for Pregnancy

All minors have the right to consent to confidential testing for pregnancy, as well as all medical and health services to treat pregnancy (except abortion). Although not defined, medical and health services to treat pregnancy would include all prenatal care.

Abortion Services

Unless emancipated, minors generally must obtain the consent of a parent or guardian to have an abortion in Pennsylvania. If the unemancipated minor does not wish to seek the permission of a parent or guardian or if the parent or guardian will not consent, the minor may seek a court order to allow the provider to perform the abortion without a parent's consent (known as a judicial bypass). The legal proceeding is kept confidential and the minor is entitled to have a free, court-appointed attorney with her during the proceeding.

Like adults, minors who have abortions (with parental consent or via judicial bypass) are subject to the other restrictions in Pennsylvania law governing abortions, including the 24-hour waiting period.

For further information, call the CHOICE hotline at 800-84-TEENS or the Women's Law Project at 215-928-9801.

Testing and Treatment for STDs (Including HIV)

A minor may consent to medical and health services to test for or treat STDs (including HIV). Most STDs are reported to the State Health Department.

Minors Who Are Parents

A minor parent (male or female) may consent to all health services for his or her child.

Drug and Alcohol Treatment

A minor may consent to medical care or counseling related to the diagnosis or treatment of drug and/or alcohol abuse. If the minor consents to treatment, clinicians may not disclose information about the minor's treatment or care without the minor's prior written consent if the facility receives any federal assistance or reimbursements (like Medicare or Medicaid) for any of its patients or services.

If the facility does not receive any federal assistance, the question of parental notification is governed by Pennsylvania law, which permits, but does not obligate, the clinician to inform the minor's parent or guardian about the minor's treatment.

Mental Health - Inpatient Care

A minor age 14 or older may consent to inpatient mental health treatment as long as the consent is knowing and voluntary. If a minor age 14 or older is admitted for inpatient care, the minor's parent or guardian must be promptly notified. Once a minor gives consent to inpatient care, a parent or guardian cannot override that consent and remove the minor from care.

Should the minor revoke consent to inpatient care, the parent or guardian may override the minor's decision and continue inpatient treatment upon the recommendation of a physician. A parent or guardian may consent to treatment for minors upon the recommendation of a physician.

Mental Health - Outpatient Care

Minors age 14 and over may consent to outpatient mental health examination and treatment without parental consent or notice. A parent or guardian may permit treatment without a minor's consent. (See "Exceptions to Confidentiality.")