

#### *Emergency Medical Care*

- Parental consent is not required in cases of emergency.
- This includes medical treatment and forensic examination following sexual assault.
  - > 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, then the care must remain confidential.

#### **Communication Is Critical**

To facilitate communication, providers should:

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

#### **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 he or she 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 confidentiality 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.

**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 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 Be aware that laws related to any or all of the subjects addressed in this pamphlet may have been added, repealed, or amended since publication.

#### DEVELOPED BY:

Mount Sinai Adolescent Health Center  
New York Civil Liberties Union (NYCLU) Reproductive  
Rights Project  
Physicians for Reproductive Choice and Health (PRCH)

If you have further questions or want to order the booklet *Teenagers, Health Care & the Law* or other publications, call the NYCLU's Reproductive Rights Project at 212-607-3300.

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

To order more cards or become a physician member of PRCH, call 646-366-1890 or visit [www.prch.org](http://www.prch.org).

© 2008 PHYSICIANS FOR REPRODUCTIVE CHOICE AND HEALTH

# NEW YORK

## Minors' Access to Confidential Reproductive Healthcare



April 2008

**When a young person seeks healthcare, a parent or guardian is usually involved. However, communication with parents is not always best for young people. In some cases, involving a parent can result in harm to the young person, like being abused or being forced to leave the home. Fear of disclosure may prevent some adolescents from seeking necessary treatment or preventive care, leading to serious health consequences.**

**When young people are assured that healthcare providers will respect their right to confidentiality, they are more likely to seek reproductive and sexual healthcare.**

**This card outlines the protections in New York state law that allow minors to consent on their own to confidential healthcare under certain circumstances.**

## DEFINITIONS

### 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 the 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. There is no minimum age for informed consent; this is an individualized determination.

## CONFIDENTIALITY

Confidentiality requires that information about a patient's treatment not be disclosed without his or her permission. For adolescents, this means a provider may not disclose medical records to *anyone*, including parents, without the patient's consent.

If minors consent to care on their own, providers cannot give parents information about that care without written consent, unless required by law.

There are some specific situations that permit or require a breach in confidentiality. Please consult the resources listed at the end of this card for more information.

### Certain Types of Minors Can Consent to Any Kind of Healthcare

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

- Married minors
- Minors who have children
- Emancipated minors—this includes:
  - > Minors in the armed forces
  - > Minors who are living on their own and are financially independent of their parents
  - > Mature minors: parental consent is not required for minors who can give informed consent and are mature enough to make their own healthcare decisions. The determination of maturity is up to the healthcare provider and should be documented in the medical record.

### Types of Confidential Care All Minors Can Consent to

New York law also permits minors to consent to certain types of healthcare on their own, including:

#### Family Planning Services

- Contraceptive care and counseling, including Emergency Contraception (EC)
  - > EC is a form of contraception that can be used up to 120 hours following intercourse, though it is most effective the sooner it is used. It is intended for emergency situations such as unprotected intercourse, contraceptive failure, or rape. Consistent with a recent FDA decision, EC is available "over-the-counter" for individuals age 18 or older, but minors must still obtain a prescription from a licensed healthcare provider. 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

- 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

#### Sexually Transmitted Infections (STIs)

- Testing for STIs
- Treatment for STIs

### HIV Testing and Treatment

- Testing for HIV
  - > Written 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, but only under the following circumstances:
  - > For emergency care or
  - > When parental involvement is impossible or could cause harm or
  - > 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.

### Types of Care Minors Can Consent to Under Certain Circumstances

Minors may be able to consent to the following types of healthcare on their own under certain circumstances. You may wish to consult with a supervisor or seek legal advice.

#### Drug and Alcohol Abuse Care

- Minors can consent to confidential alcohol and substance abuse counseling.
- Minors may sometimes consent to medical treatment for substance abuse—for more information, consult with a supervisor or seek legal advice.

#### Mental Healthcare

- Minors may sometimes consent to mental health services—for more information, consult with a supervisor or seek legal advice.