

## Examination and Treatment of Minors

### For Educational Purposes Only

#### PARENT/GUARDIAN CONSENT EXCEPTIONS

- As a general rule, a health care provider may not provide health care to a minor (under age 18) without the consent of the minor's parent or legal guardian. There are several important exceptions to this rule, however:

**Minor Consent Based on Status:** A minor can consent to health care services without a parent or guardian if they are:

- Living apart from the parent or guardian and is managing his or her own finances; or
- Emancipated

**Minor Consent Based on Service: Patients under 18 have the right to the following WITHOUT parental consent:**

- Emergency care
- Prevention, diagnosis and treatment of pregnancy
- Diagnosis and treatment of venereal disease and other sexually transmitted infections, including HIV\*
- Abortion
- Any** medical or dental service if:
  - The parent or legal guardian cannot be reached;
  - The parent or legal guardian, when reached, refuses to provide or withhold consent;

\*Alaska law does not expressly allow minors to consent to HIV pre-exposure prophylaxis (PrEP) without parental/guardian involvement. It is considered best practice as part of routine STI prevention to counsel clients on PrEP use when indicated or requested. However, we recommend that you confer with your legal and/or risk management team, and state public health officials, to develop institutional policies around providing PrEP without parental/guardian consent. You can contact the Alaska Department of Health HIV Prevention Coordinator, Taylor Holsinger at 907-269-5221.

#### CONFIDENTIALITY AND PARENTAL/GUARDIAN ACCESS TO HEALTH INFORMATION

The Health Insurance Portability and Accountability Act (HIPAA) determines whether a minor has access to the minor's protected health information (PHI) and whether a parent or guardian also has access to that minor's PHI. HIPAA states:

- Alaska statutes permit a minor to obtain certain health care services without the consent of a parent or guardian. In the situations listed above, a provider must treat the minor as the health care decision maker. HIPAA rules apply: when the minor can consent to the services their health information cannot be released to anyone without the consent of the minor. (See above for those areas where a minor may obtain a health care service without the consent of a parent)
- Alaska statutes allow a parent or guardian to act on the behalf of a minor in making health care decisions except as noted above. In those situations, when a minor cannot consent to their own care a health care provider must treat that parent or guardian as the health care decision-maker and give that parent or guardian access to the minors non-protected PHI. A licensed health care provider must exercise professional judgment in making this decision.

## HEALTH CARE PROVIDERS MUST OVERRIDE THE MINOR'S CONFIDENTIALITY AND REPORT IF:

There is suspicion of child abuse or neglect, including\*;

- Physical injury or neglect (*neglect*: AS 47.17.290)
- Mental injury (AS 47.17.290)
- Sexual abuse\*\* (AS 47.10.990)
- Sexual exploitation (AS 47.17.290)
- Maltreatment (AS 47.17.290)

For more information:

- Examination and Treatment of Minors statutes: <http://www.akleg.gov/basis/statutes.asp#25.20.025>
- Alaska Youth Law Guide: <https://alaskabar.org/youth/>
- Adolescent Health Program- Youth Friendly Clinics Project: <http://dhss.alaska.gov/dph/wcfh/Pages/adolescent/AYFC.aspx>



\*The terms below have specific definitions in state law. Please consult an attorney for any questions you have about their meaning and application

\*\*Sexual abuse involving a minor means any of the following, and is age dependent:

- The minor has had any sexual contact or penetration
- Incest
- Indecent exposure
- Prostitution
- Sex trafficking