

## Confidentiality/Minor Consent Laws

### For Educational Purposes Only

#### PARENT/GUARDIAN CONSENT EXCEPTIONS

A parent or legal guardian must provide consent on behalf of a minor (under age 18) before health care services are provided, with several important exceptions. These exceptions are based on a minor's **status** or the **type of service** requested.

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

- Married
- On active military duty
- Emancipated by court order -OR-
- Homeless (not living with parents/guardians *and* lacking a fixed and regular night time residence or living in a shelter/halfway house or other place not normally used for sleeping by humans)

**Minor Consent Based on Service: Patients under 18 are able to do the following WITHOUT parental consent:**

- Emergency medical, surgical, hospital or health services (if a parent/guardian cannot be reached)
- Contraceptives and family planning services including emergency contraception\*
- Pregnancy and prenatal care\*\*
- Testing and treatment for sexually transmitted infections (STIs)
- Testing for HIV
- Substance use treatment (a parent/guardian must be notified if minor is admitted for treatment)
  - A minor, 12 and older, who is under the influence of a drug or narcotic, including withdrawal, may be considered an emergency case and regarded as having consented to care
- A minor, 12 and older, may consent to exams and treatment for sexual assault if a parent/guardian cannot be contacted within the timeframe necessary to provide treatment

#### MINORS NEED A PARENT/GUARDIAN'S PERMISSION FOR:

- Vaccines, including HPV
- Inpatient and outpatient mental health screening and treatment (unless an emergency requires it to prevent serious injury or save the life of the minor)
- Abortion (unless judicial bypass is obtained; the pregnancy resulted from sexual contact with a relative, guardian, foster parent or unrelated male living with the adolescent and her mother; OR due to a medical emergency)
- Treatment for HIV

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

- There is suspicion of abuse or neglect
- The minor has had oral or sexual intercourse with a person aged 18 or older
- The minor has had oral or sexual intercourse with a person aged 13 or under

Note: There is no state statute that requires providers to ask minor patients the age of their sexual partner.

## THE "MATURE MINOR" DOCTRINE

The "mature minor" doctrine is often used to determine if care can be provided to minors without parental consent. There is no legal definition of a "mature minor" nor is it recognized under Arizona law. However, because the courts have been willing to apply the mature minor doctrine in some legal cases, risk for providing treatment without parental consent to a minor considered "mature" is reduced. Other jurisdictions have found a minor to be "mature" when:

- They are 15 or older
- They are able to understand the risks and benefits of the proposed care
- The care is beneficial and necessary, *and*
- There is good reason (including the minor's objection) for proceeding without parental consent

Additionally, despite the lack of Arizona statute, the routine obstetrical practice in Arizona is to allow for an adolescent to consent for her own prenatal care and all related treatments based on the mature minor doctrine. Providers are encouraged to document factors in the medical record, including:

- The nature of the care
- That the care is beneficial
- That the care is necessary
- There is a good reason for proceeding without parental consent

*\*Although no Arizona statute specifically addresses family planning, an opinion issued by the State Attorney General in 1977 states that a minor may consent to family planning services. It is advisable for the provider to consider and document evidence of the maturity of the minor when providing such services without parental consent.*

*\*\*While no specific Arizona statute specifically addresses minor consent for pregnancy and prenatal care, minors are generally able to consent to treatment for pregnancy related care, including prenatal care, delivery services, treatment of complications and post-natal care.*

Reference: Birkholz K, Chulani VL, Murphy PS, Ritzman J, Stookey K, Quinn L, editors. Consent & Confidentiality in Adolescent Health Care: A Guide for Arizona Health Care Clinicians. Arizona Medical Association and Arizona Chapter, American Academy of Pediatrics. 2018. Online. <https://www.azmed.org/page/adolescents>