



## A Guide to Illinois Law Affecting Minors' Access to Confidential Health Care\*

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### A Minor

A minor is a person under the age of 18.

### Informed Consent

Generally, Illinois law requires the consent of a parent or guardian for a minor to obtain medical care. However, a minor who understands the risks, benefits, and alternatives to health services may give informed consent in certain situations as outlined below.

### Minors Who May Consent to All Medical Care

Minors who fit one of the following categories may consent to ALL medical care to the same extent as a person of legal age without the consent of a parent or guardian:

- The minor is legally married.<sup>1</sup>
- The minor is a parent.<sup>2</sup>
- The minor is pregnant.<sup>3</sup>
- The minor has been legally emancipated by a court for the purpose of consent to medical care.<sup>4</sup>

### Specific Circumstances in Which Minors May Consent to Medical Care

#### *Minor Not Living with Parent or Guardian*

A minor who is at least 14 years old, living separate and apart from his or her parents or legal guardian, managing his or her own personal affairs, and unable or unwilling to return to the residence of his or her parent or legal guardian ("minor seeking care") can give consent for primary care services if: (1) the health care professional providing such care reasonably believes the minor understands the benefits and risks of the services, and (2) the minor is identified in writing as a "minor seeking care" by an adult relative, an attorney, a school social worker or homeless liaison, a representative of a homelessness services agency, a representative of a religious organization, or a social service agency that provides services to at risk, homeless or runaway youth.<sup>5</sup>

#### *Contraceptives and Pregnancy Testing*

Health care personnel may provide confidential contraceptive counseling and services and pregnancy testing to minors without parental consent: if the minor is married, a parent or pregnant; if the minor is referred by a physician, a clergy person or a planned parenthood agency; or where a serious health hazard would be created by the failure to provide these services.<sup>6</sup>

#### *Emergency Contraception (EC)*

EC (or the "morning-after pill") is a form of contraception that women can take up to 120 hours after intercourse to prevent a pregnancy before it starts.<sup>7</sup> There are a number of brands of EC that may be purchased by individuals under the age of 18 without a prescription or proof of age. Minors do not need parental consent to obtain EC, and confidential services may be provided.<sup>8</sup>

#### *Sexually Transmitted Infections*

Minors aged 12 and over may consent to confidential testing, treatment, and counseling for and vaccination against sexually transmitted infections (STIs).<sup>9</sup> Providers must report incidents of STIs to departments of health in accordance with applicable statutes and ordinances; such reports are to remain confidential.<sup>10</sup> Providers are encouraged, where appropriate, to involve a minor's family in the minor's treatment for STIs, but must first obtain the minor's consent.<sup>11</sup>

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\* This document is intended as a general guide to Illinois law regarding minors' access to confidential reproductive health care. It is not intended as legal advice.

<sup>1</sup> 410 ILCS 210/1.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* But see discussion below of parental notice requirement for minors seeking abortion.

<sup>4</sup> 750 ILCS 30/1-11 (Emancipation of Minors Act); see also *In re E.G.*, 549 N.E. 2d 322 (Ill. 1989) (finding under common law that minor who possessed requisite degree of maturity had right to refuse life-sustaining medical treatment that violated her religious rights).

<sup>5</sup> 410 ILCS 210/1.5.

<sup>6</sup> 325 ILCS 10/1.

<sup>7</sup> Visit The Emergency Contraception Website ([www.not-2-late.com](http://www.not-2-late.com)) for more information.

<sup>8</sup> 325 ILCS 10/1.

<sup>9</sup> 410 ILCS 210/4; 77 Ill. Admin. Code § 693.130.

<sup>10</sup> 410 ILCS 210/4; 77 Ill. Admin. Code §§ 693.30, 100.

<sup>11</sup> 410 ILCS 210/4. However, note that 410 ILCS 210/5 states that certain health care providers "may, but shall not be obligated to, inform the parent, parents, or guardian of the minor" about treatment given or needed.

## **HIV**

Minors aged 12 and older may consent to testing, treatment and counseling for HIV.<sup>12</sup> Minors may also consent to anonymous HIV testing.<sup>13</sup> Providers must report incidents of HIV to departments of health in accordance with applicable statutes and ordinances; such reports are to remain confidential.<sup>14</sup> In addition, providers are encouraged, but not obligated, to notify a minor's parent of a positive test result. Providers are directed to notify a minor's parent only if they believe that notification is in the minor's best interest and they have been unsuccessful in persuading the minor to do so.<sup>15</sup>

## **Abortion Services**

A pregnant minor may consent to abortion services without parental consent.<sup>16</sup> However, an adult family member—i.e., someone over 21 years of age who is the minor's parent, grandparent, stepparent who lives in the minor's home, or legal guardian—must be notified 48 hours before the abortion is performed unless one of a number of exceptions applies, including when a court grants a waiver of the notice requirement in an expedited and confidential proceeding (i.e., "judicial bypass").<sup>17</sup> For more information, visit [www.ilbypass.org](http://www.ilbypass.org).

## **Sexual Assault**

A minor may consent to health services associated with criminal sexual assault or abuse.<sup>18</sup> Such services include emergency contraception, pregnancy tests, counseling and treatment for STIs.<sup>19</sup> A minor who presents for care within seven days of the assault may consent to the use of a sexual assault evidence collection kit. Minors aged 13 and older may give written consent to a hospital to release evidence and information from the kit to law enforcement officials.<sup>20</sup> If medical personnel have reasonable cause to believe that the minor is an abused child under the Abused and Neglected Child Reporting Act, the abuse may need to be reported to the Department of Children and Family Services.<sup>21</sup>

## **Emergency Care**

A minor may receive emergency care without the prior consent of a parent or guardian when obtaining such consent is not reasonably feasible without adversely affecting the minor's health.<sup>22</sup>

## **Substance Abuse Care**

Minors aged 12 and older may consent to confidential outpatient counseling and treatment if they or a family member abuses drugs or alcohol.<sup>23</sup> Providers are encouraged, where appropriate, to involve a minor's family in the minor's treatment for substance abuse, but must first obtain the minor's consent.<sup>24</sup> However, if a provider is providing counseling to such minor and believes that parental notification is necessary to protect the safety of the minor or others, the provider may inform the parent of the minor's substance abuse counseling or treatment without the minor's consent.<sup>25</sup>

## **Mental Health**

Minors aged 12 and over may consent to confidential counseling or psychotherapy on an outpatient basis.<sup>26</sup> If the minor is under 17, counseling or psychotherapy sessions are initially limited to eight in number without parental consent; after that, additional sessions without parental consent are available only if the provider determines that obtaining such consent would be detrimental to the minor's well-being.<sup>27</sup> Providers may not notify parents of the minor's treatment without the minor's permission unless the provider believes such notification is necessary for obtaining parental consent; however, in such a case, the minor must first be informed of the provider's intention to disclose and given the opportunity to discontinue treatment.<sup>28</sup> In addition, parents can obtain psychological records if the provider does not find compelling reasons for denying access.<sup>29</sup>

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<sup>12</sup> 410 ILCS 210/4; 77 Ill. Admin. Code § 697.420.

<sup>13</sup> 410 ILCS 305/6; 77 Ill. Admin. Code §§ 697.130, 140.

<sup>14</sup> 410 ILCS 210/4; 77 Ill. Admin. Code §§ 693.30, 100. Reports of public school students diagnosed as having HIV or AIDS may not be disclosed to public school officials. *See* H.B. 61, 98th Gen. Assemb. (Ill. 2013) (P.A. 98-0353).

<sup>15</sup> 410 ILCS 305/9(k).

<sup>16</sup> 410 ILCS 210/1; 750 ILCS 70/30.

<sup>17</sup> 750 ILCS 70/10, 15, 20, 25.

<sup>18</sup> 410 ILCS 70/5(b); 410 ILCS 210/3(b); 77 Ill. Admin. Code § 545.60(g).

<sup>19</sup> 410 ILCS 70/2.2, 5; 77 Ill. Admin. Code § 545.60.

<sup>20</sup> 410 ILCS 70/6.5(a)(1); 77 Ill. Admin. Code § 545.60(e), (h).

<sup>21</sup> 325 ILCS 5/3, 4.

<sup>22</sup> 410 ILCS 210/3(a).

<sup>23</sup> 410 ILCS 210/4.

<sup>24</sup> *Id.*

<sup>25</sup> 410 ILCS 210/5.

<sup>26</sup> 405 ILCS 5/3-501(a).

<sup>27</sup> *Id.*

<sup>28</sup> 405 ILCS 5/3-501(a-2).

<sup>29</sup> *Id.*; 740 ILCS 110/4(a)(3).