

guardian when doing so. Open communication with a parent or guardian should be encouraged both during the initial decision-making process and throughout the course of medical care to help the minor patient better understand the risks, benefits, side effects, and alternatives to a particular medical treatment.

## Facilitating Communication

- Encourage minor patients to involve their parent(s) or guardian(s) when appropriate.
- Initiate conversations with minors about their right to confidential healthcare.
- Discuss whether and how minors' parents will be involved in their care.
- Write a confidentiality statement and share it with your minor patients and, when appropriate, with their parents.

## Protecting Confidentiality

Unfortunately, open communication may not always be possible for all young people. Some teens come from homes in which emotional abuse, sexual abuse, or physical violence is prevalent. Other teens have parents who do not support them in seeking reproductive healthcare. For these reasons and others, New Jersey law allows healthcare professionals to keep their minor patients' medical information confidential. To help protect confidentiality, healthcare providers may

- explain to parents that minors should be seen confidentially and ask parents to agree to such an arrangement
- ask the patient for alternative contact information (address and phone number where he or she can be reached) if the patient does not want to be contacted at home
- discuss insurance, billing, and alternative forms of payment with the minor

- inform the patient if billing or insurance claims may compromise confidentiality
- notify the insurance company that the minor was treated confidentially and that disclosure of the information would be contrary to the patient's best interests
- refer the patient to a site offering confidential services to minors for free or on a sliding-fee scale so that bills are not sent to the minor's home, where a breach of confidentiality may occur
- educate the billing department about minors' rights to confidentiality and how bills that detail information about services rendered can break confidentiality
- consult with legal counsel before releasing medical records to any person other than the minor patient

PLEASE NOTE: This publication is intended as a guide and is not meant to 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:

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To order more cards or become a member of PRCH, call 646-649-9924, email [membership@prch.org](mailto:membership@prch.org), or visit [www.prch.org](http://www.prch.org).

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# NEW JERSEY

## Minors' Access to Confidential Reproductive Healthcare



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**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 certain health services outlined in this card may give informed consent. Informed consent may be verbal or written and should be noted in the patient's record.

**Minors Who May Consent to Any Medical Treatment**

Certain minors may consent to any health treatment (in addition to those listed below) based on their status. These minors include:

- Minors who are or ever have been married
- Minors who are parents (both for their own care and for their children's care)
- Minors who have entered military service
- Minors who have been declared by a court or an administrative agency to be emancipated

**REPRODUCTIVE HEALTHCARE**

A minor may give informed consent and receive confidential care for all family planning services, including:

**Family Planning and Contraceptives**

New Jersey law does not specifically require healthcare professionals to obtain parental consent before a minor receives family planning services or contraceptives, so healthcare professionals can and do provide these services to minor patients without notifying a parent or guardian. Federally funded Title X family planning

clinics must provide confidential services to minors and may not require parental consent for minors to receive the services. For a complete listing of Title X family planning clinics in your area, please visit the New Jersey Division of Family Health Services' website at <http://www.state.nj.us/health/fhs/adult/familyplan.shtml>.

**Emergency Contraception (EC)**

New Jersey law does not specifically require healthcare professionals to obtain parental consent before a minor receives emergency contraceptives. As a result, healthcare professionals can and do provide EC to their minor patients without notifying a parent or guardian. Minors who are unable to obtain EC confidentially from their regular healthcare providers may do so at any Title X family planning clinic without parental consent or notification. Although clinicians offer EC up to 120 hours following intercourse, women are urged to take EC as soon as possible to maximize efficacy. Consistent with a 2006 FDA decision, EC is available "over-the-counter" for individuals 18 or older, but minors must still obtain a prescription from a licensed healthcare provider in states without direct pharmacy access. The National EC Hotline (1-888-NOT-2-LATE or <http://not-2-late.com>) offers information on how to obtain EC.

**Pregnancy Testing and Options Counseling**

A minor may consent to pregnancy testing and options counseling, and to all other care related to the pregnancy without notifying a parent or guardian.

**Abortion Services**

A minor in New Jersey may obtain an abortion without mandated parental consent or notification. New Jersey law does not require the release of medical records pertaining to a minor's abortion to her parents or guardian.

**Prenatal Care**

A minor who is pregnant may consent to all healthcare services related to her pregnancy, including labor and delivery services, without notifying a parent or guardian (unless she chooses to do so). The minor parent may consent to all medical care for the child.

**HIV Testing and Treatment**

A minor who is at least 13 years old has the right to consent to HIV/AIDS testing. If a physician believes that a minor under the age of 13 has been sexually assaulted, that minor has the right to consent to treatment for the assault, including testing.

Minors may also opt for anonymous HIV/AIDS testing, in which the patient's name is not revealed and the results may not be traced, at anonymous testing sites designated by the Department of Health.

**Sexually Transmitted Disease (STD) Care**

A minor may be tested and treated for an STD without a parent's or guardian's consent. Some STDs must be reported to the Department of Health.

**OTHER HEALTHCARE****Substance Abuse Care**

Minors may consent to confidential treatment for drug use or drug dependency as well as for alcohol dependency without parental consent.

**Adolescents in Out-of-Home Placements**

A young person in foster care or other out-of-home placement (e.g. a detention facility, group home, shelter, etc.) may consent to confidential reproductive healthcare like any other minor.

**CONFIDENTIALITY**

Fear of disclosure prevents some minors from seeking healthcare services, but when young people are assured that their healthcare providers will respect their privacy and keep their medical records confidential, they are more likely to seek out all types of care, including reproductive healthcare services. New Jersey law does not require a provider to disclose medical records relating to reproductive healthcare to parents without the patient's consent. Such disclosure should only be made when doing so is consistent with the confidentiality policies of the practice setting, with professional ethical guidelines, and when it is in the minor's best interest.

**Exceptions to Confidentiality**

There are some circumstances in which confidentiality may not be possible, including

- cases of suspected child abuse or neglect
- instances in which the minor poses a risk of harm to self or others
- situations in which institutional billing and health insurance claims processes result in the disclosure of confidential information

In addition to the examples listed above, institutional policies consistent with the HIPAA Privacy Rule may require that confidentiality be overridden in specific circumstances. However, unless one of the above circumstances is present, healthcare providers should take reasonable care to protect the medical information of their minor patients.

**Communication Is Critical**

It is usually helpful for a young person to talk with a parent, guardian, or other responsible adult when making healthcare decisions, and research shows that most young people involve at least one parent or