

## Consent by Minors for Medical Treatment

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Under Illinois law, a minor is a person who has not attained the age of 18 years. In general, only a parent or guardian may consent for medical treatment of a minor child. However, there are several exceptions that permit a minor to consent for him or herself. These exceptions depend upon either the minor's legal status or type of medical care sought.

### Exceptions Based on Minor's Legal Status

- **Emancipated pregnant or married minors may consent for their own treatment:** A minor between 16 and 18 years old who presents a court order declaring him or her emancipated, or a pregnant or married minor of any age, may lawfully consent to the performance by a physician, advanced practice nurse or physician assistant of *any* medical or surgical procedure.
- **Minors who are parents may consent for their own treatment:** A minor who is a parent may consent to his or her own treatment. However, if the minor's status as a parent ends, then it appears that the minor no longer has authority to consent to his or her own treatment. This could occur if the minor's parental rights were terminated as part of an adoption proceeding. Minors who are parents may consent for their child's treatment. A minor who is a parent may consent to healthcare on behalf of his or her child.

### Exceptions Based on Medical Treatment

- **Medical emergencies:** Emergency medical treatment may be provided to a minor without parental consent when, in the opinion of the provider, obtaining consent is not "reasonably feasible under the circumstances without adversely affecting the condition of the minor's health." A "provider" includes a physician, dentist, hospital, physician assistant or advanced practice nurse.
- **Medical treatment/counseling for criminal sexual assault or abuse:** A minor victim of sexual assault or abuse may consent to medical care or counseling related to the diagnosis or treatment of "any disease or injury arising from such offense."
- **Sexually transmitted disease:** A minor 12 years of age or older may consent to treatment or counseling related to the diagnosis and treatment of a sexually transmitted disease. Unless the minor consents, providers cannot seek the family's involvement in the minor's treatment.

On the other hand, providers may, but are not obligated to, inform parents or guardians about treatment or counseling provided to a minor with a sexually transmitted disease. Anyone involved in furnishing medical care or counseling to the minor shall, upon the minor's consent, make reasonable efforts to involve the family of the minor in his or her treatment, if the person furnishing treatment believes that the involvement of the family will not be detrimental to the progress and care of the minor.

- **Drug use or alcohol consumption:** A minor 12 years of age or older may consent to treatment or counseling related to drug use or alcohol consumption by the minor or the effects on the minor of drug or alcohol abuse by a member of the minor's family. Unless the minor consents, providers cannot seek the family's involvement in the minor's treatment or inform the parents, unless necessary to protect the safety of the minor, a family member or another individual.

Anyone involved in furnishing medical care or counseling to the minor shall, upon the minor's consent, make reasonable efforts to involve the family of the minor in his or her treatment, if the person furnishing treatment believes that the involvement of the family will not be detrimental to the progress and care of the minor.

- **Outpatient mental health services:** A minor 12 years of age or older may consent to outpatient counseling or psychotherapy for up to five sessions of no more than 45 minutes each for treatment of a mental illness or emotional disturbance. The minor's parent or guardian cannot be informed of counseling or psychotherapy without the consent of the minor "unless the facility director believes such disclosure is necessary." If the director intends to disclose the fact of counseling, the minor must be informed. A minor's parent is not responsible for the cost of the sessions, unless he or she has consented to the treatment.
- **Inpatient mental health services:** A minor 16 years of age or older may consent to admission to a mental health facility for inpatient services if the minor executes the application for voluntary admission. Unlike outpatient services, providers must immediately inform the minor's parent, guardian or person *in loco parentis* of the admission, even if the minor does not consent to the disclosure.
- **Primary care services:** A minor at least 14 years of age but less than 18 years of age who is living apart from his or her parents and managing his or her own personal affairs may seek primary care services by a physician, advanced practice nurse or physician assistant under the following circumstances:
  - The healthcare professional reasonably believes that the minor seeking care understands the benefits and risks of any proposed primary care or services; and

- The minor seeking care is identified in writing as a minor seeking care by:
  - An adult relative;
  - A representative of a homeless service agency that receives federal, state, county or municipal funding to provide those services or that is otherwise sanctioned by a local continuum of care;
  - An attorney licensed to practice law in Illinois;
  - A public school homeless liaison or school social worker;
  - A social service agency providing services to at risk, homeless, or runaway youth; or
  - A representative of a religious organization.

**“Minor seeking care”** does not include minors under the protective custody, temporary custody or guardianship of the Department of Children and Family Services.

**“Primary care services”** means healthcare services that include screening, counseling, immunizations, medication and treatment of illness and conditions customarily provided by licensed healthcare professionals in an outpatient setting. “Primary care services” does not include invasive care beyond standard injections, laceration care or non-surgical fracture care.

- **Birth control services:** Birth control services and information may be rendered by doctors licensed in Illinois to any minor:
  1. Who is married
  2. Who is a parent
  3. Who is pregnant
  4. Who has the consent of a parent or guardian
  5. If the failure to provide such services creates a serious health hazard
  6. If the minor is referred for such services by a physician, clergyman or a Planned Parenthood agency
- **Abortion:** Illinois’ parental notice law requires a physician performing an abortion on a minor to give at least 48 hours actual notice to an adult family member of the pregnant minor of his or her intention to perform the abortion. The law contains certain exceptions, including a judicial waiver of notice. A minor is any person under 18 years of age who is not or has not been married or who has not been emancipated under the Emancipation of Minors Act. The Illinois Supreme Court upheld this law in 2013 after a lengthy history of challenges.
- **Blood Donation:** Though technically not medical treatment, state law provides that any person 17 years of age or older may donate blood without permission from a parent or guardian, and any person 16 years of age may donate blood with written permission.