

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.
- HIV prevention through the use of PrEP (Pre-Exposure Prophylaxis) if parent or guardian cannot be reached, isn't available, or refuses to provide or withhold consent
- 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;

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*)

Alaska Confidentiality Laws

- 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