When a Minor Is Not Considered a "Minor"

Generally, a minor cannot consent to treatment. Rather, the parent, guardian, or person in loco parentis must consent, and may have access to the minor's health information. A minor is defined, under Illinois law, as an individual under the age of 18. However, there are a number of exceptions to this rule, based either on the status of the patient or on the medical condition of or treatment received by the patient.

EXCEPTIONS BASED ON PATIENT STATUS
The following patients are considered adults regardless of age for purposes of consenting to medical care and access to their medical care records regardless of the type of care they receive:

- Married individuals
- Pregnant individuals
- Individuals who are parents. This individual can consent to treatment on their own behalf and on behalf of their own child
- Individuals who have been emancipated by a court in a formal court proceeding:
  - These individuals are between the ages of 16 and 18; and
  - Must present a copy of the court order

EXCEPTIONS BASED ON TYPE OF CARE SOUGHT/RECEIVED

- Individuals under the age of 18 may consent to certain treatment as follows:
  - Psychiatry/Psychology
    - Outpatient counseling or psychotherapy. More information is available within the Illinois Mental Health & Developmental Disabilities Code.
    - 12 years or older for up to 5 visits, 45 minutes each.
    - Parents only have access to the medical information (or even the fact that the child is receiving treatment) if the child is under 12 years unless the child gives consent.
    - 16 years or older may consent to voluntary admission for inpatient treatment and admission. Parents should be notified of the admission.
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- Treatment and Counseling for Sexually Transmitted Diseases if the minor is 12 years or older
  - Health care provider may tell the parent or guardian.
- Treatment for Alcohol and Drug Abuse
  - Health care provider may not tell parents without the minor's consent, unless it is necessary to protect the minor, a family member, or another individual.
- Treatment for the effects on a minor of the minor's family member's alcohol or drug abuse
  - Health care provider may not tell parents without a minor's consent, unless it is necessary to protect the minor, a family member, or another individual.
- When a female patient is pregnant, a minor may consent to an abortion if considered mature enough to make that decision or if she can show it is in her best interest
  - Health care provider may not tell parents without minor's consent.
- Treatment for criminal sexual assault or criminal sexual abuse and any injury or disease resulting from the criminal act
  - Evidence and information concerning an alleged sexual assault may be released (1) at the written request of the minor if the minor is 13 years or older, or (2) at the written request of the parent, guardian, investigating law enforcement officer, or DCFS if the minor is under the age of 13.
- Birth control
  - If failure to provide such services would create a serious health hazard or if referred for such services by a physician, clergyman, or a planned-parenthood agency.
- Emergency conditions when obtaining consent is not feasible under the circumstances without adversely affecting the minor's health.
SUMMARY
Unless specifically stated above, the reasonable presumption is that the minor, except the emergency exception, has and controls the access to his/her medical information for that condition or situation. For example, if Martha Minor is treated both for a broken leg and for a sexually transmitted disease, the information about her broken leg can be released to her parents, but not her treatment for the sexually transmitted disease unless she specifically consents to the release of the latter. If you have patient specific questions, please contact Legal Affairs at 773-702-1057 to obtain further guidance.

Any questions/comments/concerns please feel free to reach out to the Privacy Program at:

773-834-9716 or hpo@bsd.uchicago.edu