

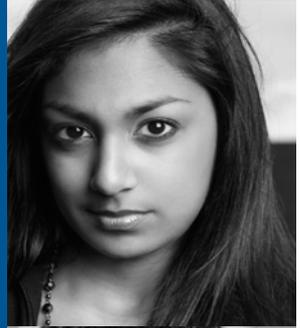
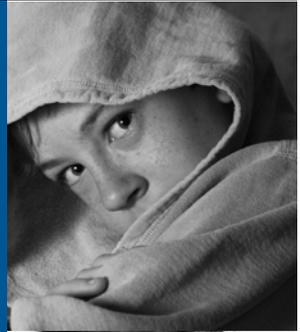
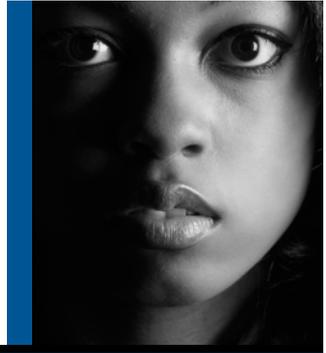
Your HEALTH

A GUIDE FOR TEENS

and the LAW

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Important

The material provided here is for basic informational purposes only. It is not meant to be and should not be taken as legal advice, nor should you rely on this information instead of seeking the advice of an attorney. The legal issues surrounding civil rights and civil liberties are among the most complex in the law, and a person's rights may vary from case to case depending on small and subtle details. Only a lawyer who has taken the time to become fully aware of the facts in a given case can provide you with sound legal advice.

If you feel your rights have been violated, contact an attorney at once. The law imposes time limits on most actions to defend your rights, so it is important to act quickly. If you do not know how to reach an attorney, call the Lawyer Referral Service of your local bar association. They will be able to direct you to a lawyer experienced in the type of law involved in your case.

If you are under 18, finding a lawyer can be difficult. Many lawyers do not represent minor clients without a parent's permission. If it is possible, speak to a trusted adult about finding a lawyer. Legal clinics based in universities may be able to assist minors in figuring out their legal options.

Table of Contents

Introduction	5
I. Basic Definitions	6
What is a minor?.....	6
What is an adult?	6
What is informed consent?	7
What is confidentiality?	8
II. General Rules	9
Minors and consent	9
Emergency care and consent	9
Minors and confidentiality	10
HIPAA and privacy	10
Parental access to minor medical records.....	11
A note about insurance	12
Confidentiality when covered by private insurance.....	12
III. Paying for Health Care Services	15
Coverage based on income	15
Payment under the Affordable Care Act (ACA).....	15
Public insurance and health programs	16
Medicaid	16
Coverage for teens with disabilities	19
IV Emancipated Minors	20
V. Minors and Sexuality	22
Sexually transmitted diseases (STDs).....	22
Family planning and birth control	24
HIV/AIDS	25
Sexual orientation	29
Pregnancy	30
Raising a child	32
Adoption.....	33
Abortion	35
Judicial bypass	35
The abortion procedure	37
Emergency contraception	37
Funding.....	38

- VI. Minors and Mental Health 39**
 - Outpatient counseling 39
 - Depression and suicide 40
 - Self-injury 42
 - Eating disorders: anorexia, bulimia and binge-eating 42
- VII. Minors and Substance Abuse 45**
 - Alcohol and drugs 45
 - Cigarettes and tobacco 46
- VIII. Minors and Violence 47**
 - Domestic violence 48
 - Child abuse 49
 - Sexual violence 49
 - Sexual harassment 51
- IX. Minors and Body Art 52**
- X. The Rights and Responsibilities of Adults and
Their Teen’s Health 54**
- Conclusion 55**

To the Parents

This booklet is intended to serve as a legal guide to the medical world for teens, parents and adults who work with teens. It seeks to address the confusing intricacies of health care law as it relates to youth in a format that is easy to understand. This handbook provides teens and their parents with information to help ensure that teens receive the medical care they need and deserve.

This handbook is also designed to educate parents as to the legal rights of teenagers, so parents can be better advocates for their child’s health. It is our hope that, by educating both parent and child, we will encourage communication about these issues where it might not have existed before.

For the purposes of this book, the word “parent” refers to biological parents, legal guardians and any other adult with legal responsibility for a minor.

Introduction

Teens are one of the least likely groups of people in the U.S. to have access to health care.¹ Researchers have consistently found that concerns about confidentiality, and specifically whether parents will be informed, have a significant impact on whether a teen will seek health care, where they will go for it, and whether they are honest about what they tell their doctors.² However, the law sometimes gives teens the option of getting medical testing and treatment without anyone else knowing about it.

This booklet seeks to clarify teens' rights under Ohio and federal law to ensure they have the legal knowledge they need to make their own medical decisions. This handbook is designed to aid not only teens, but also parents, school counselors, teachers and others who work with teens. These adults can use this book to give informed guidance to teens seeking medical care.

Frequently, professionals can promote communication between young people and their parents, helping teens to find needed support as they confront health issues. When teens cannot or will not speak to their parents, professionals can help them seek the support of other adults rather than face their health problems alone. By publicizing information about adolescents' rights, we hope to encourage teens to seek medical care even when they cannot or will not confide in adult family members or friends.

Each section in this booklet begins with an introduction to place the issue in perspective for the reader. Question and answer boxes are also included as examples of specific situations teens might face. Many sections also include information on how to seek help when confronted with especially serious situations or medical conditions. While this booklet is by no means comprehensive, we hope that it will assist in educating teens about their rights, and that it will ultimately help young people to receive the health care they seek.

I. Basic Definitions

What is a minor?

Ohio law defines a “minor” as any person between birth and 18 years old.³

A minor is denied certain rights under the law, such as the right to vote, the right to enter into an enforceable contract⁴ and, in most cases, the right to consent to medical care.⁵ However, when a minor is able to consent to medical care without also obtaining parental consent, the minor’s contract is enforceable and the minor can be held responsible for payment of the medical bill.⁶

What is an adult?

When a person turns 18, she or he is considered an adult for almost all purposes.⁷ There are a few exceptions. For example, people with certain mental or physical disabilities may not be recognized as adults by law when they become 18.⁸ For the purposes of this book, any person 18 years of age or older is considered an adult.



Today is **Cindy’s** 18th birthday. Is she a minor?

No. She is no longer under the age of 18, so she is no longer a minor.

What is informed consent?

“Informed consent,” also referred to in this booklet as “consent,” means that a patient understands and voluntarily agrees to a suggested treatment.⁹

Ohio law requires that a patient give informed consent to any medical procedure because every person should have the right to determine what is done with his or her body.¹⁰ By law, before a patient agrees to any medical procedure, it must be clearly explained:

- why the procedure is necessary;
- the nature and purpose of the procedure; and
- the risks and benefits of the procedure and any possible alternatives, including no treatment.¹¹

A patient who does not understand all of the above cannot give informed consent. Patients must also be given information about the costs of the operation and of any care that will be needed after the operation. Patients have the right to say “no,” seek another opinion, or simply think it over before going ahead with the procedure.¹² It is best to give your consent in writing; however, consent can also be given verbally.

Jack is a mentally impaired adult. Can he consent to his own care?



Maybe. If the doctor determines that Jack understands his medical condition and the consequences of various treatments, Jack can consent to his own health care. However, no patient can give informed consent unless that patient understands the risks and benefits of the proposed and alternative treatments.¹³



Erin asks her doctor for a confidential pregnancy test. Her friend calls later to find out the results for her. Can the doctor disclose the results to Erin's friend?

Not without Erin's permission. The information is confidential and cannot be disclosed to anyone but Erin.

What is confidentiality?

With regard to medical care, "confidentiality" means that information about the treatment cannot be disclosed without the permission of the person who consented to the care.¹⁴

Confidentiality is something that is taken very seriously by both patients and doctors. If a doctor tells someone else confidential information about a patient's treatment, that doctor may end up facing disciplinary procedures from the hospital and the medical board. He or she may also end up facing a lawsuit from the patient.¹⁵

II. General Rules

Minors and consent

In general, the law only allows people who are 18 or older to consent to medical treatment.¹⁶ Thus, without parental consent, a physician will not normally treat a minor. There are exceptions to this rule.

For the purposes of this booklet, when a minor “can consent” to health care, the consent of another person, such as the minor’s parent or guardian is **not** needed.

In Ohio, a minor who understands the risks and benefits of proposed care can consent to: emergency health care;¹⁷ limited outpatient mental health care;¹⁸ alcohol and drug abuse treatment;¹⁹ testing for HIV/AIDS;²⁰ and some family planning services.²¹ For other treatments, a minor must generally get a parent’s consent. Since a parent who does not consent does not have to pay, the minor will generally be responsible for the bills.

Certain types of minors, generally those who are married or emancipated, can consent to all of their own health care.

Emergency care and consent

If taking the time to get consent would delay treatment and increase the risk to a minor’s health, that minor can receive medical treatment without parental consent. This is called the *emergency care doctrine*. If a minor’s condition is severe enough, a doctor may not need anybody’s consent to begin treatment. Information about a minor’s emergency treatment can be disclosed to the minor’s parents on request if a parent’s consent would have been necessary had there been no emergency. If the minor could have consented on his or her own, then the doctor may not be able to disclose that information to the parents.

Minors and confidentiality

Unless otherwise specified by law, a medical provider may not reveal confidential information about a patient without the permission of the person who consented to the health care.²² Medical providers who violate this rule may be charged with professional misconduct and could be subject to fines, reprimands or even the revocation of their licenses.²³

There are some instances, however, where a health care provider may be required to disclose confidential information to someone other than the patient. Examples include: when reports are required to be filed with the local, state or federal government; when there is a duty to warn third parties (as with some sexually transmitted diseases); when disclosure is required by a court for a judicial proceeding; or when the provider suspects abuse.²⁴

HIPAA and privacy

The Health Insurance Privacy and Accountability Act (HIPAA) sets national privacy rules for health care. HIPAA is the most important health care privacy and security rule that the government has created so far.

In general, HIPAA does not affect a minor's ability to consent to certain kinds of health care. However, parents or guardians are often allowed to access the medical records of their minor children under HIPAA rules.²⁵ HIPAA provisions were updated in early 2013.²⁶ In order to better comply with HIPAA, many doctors and health care providers are transitioning to all electronic medical records (EMRs) in place of old paper files.²⁷ EMRs are raising new issues about parental access to teens' information, especially with regard to confidential services. Some hospitals and health care providers are simply choosing not to allow teen patients (e.g. patients who are between twelve and eighteen years old) or their parents to access patient medical records online.²⁸ Ohio does not yet have a rule governing online access to EMRs — which usually happens through systems like MyChart — so doctors and health care providers may choose whether to allow their teen patients (and the teens' parents) online access to the teens' EMRs.



*A high school teacher is concerned that his student, **Joe**, is suffering from a health problem, and that Joe is too scared to talk about it. Can the teacher look up Joe's medical records in the school-based clinic, or call Joe's physician to find out what's wrong?*

No. That information is confidential. Without Joe's permission, the health care provider cannot release the information to the teacher. The teacher can, however, encourage Joe to talk about his problem, meet with Joe's parents or alert the health care provider to his concerns.

Parental access to minor medical records

In general, parents are allowed to access the medical records of their minor children.²⁹ However, under the Health Insurance Portability and Accountability Act of 1996 (HIPPA) there are three exceptions to parents being allowed to access these records.³⁰

1. If the situation is one where a teen is legally allowed to consent to medical treatment for himself or herself, then the teen's parents are not allowed to access the medical records related to that situation.
2. If a teen went to court to request medical care (like in the case of an abortion that the teen did not want to tell her parents about) and the court allows the teen to get that medical care, the teen's parents will not be able to see his or her medical records.³¹
3. If a parent agrees that his or her teenage child and the teen's doctor may have a confidential relationship, then the parent is not able to see the teen's medical records. Teens probably should not rely on this exception since it is not used very often. Additionally, parents who agree to let their teen and the teen's doctor have a confidential relationship may later decide they want to know what is being discussed.³²

On the other hand, if state or federal laws allow or require parents to access the medical records of their minor children, then parents are allowed to get that information even if the teen is the person who consented to treatment.³³ If the state or federal laws do not address who is allowed to access health information, then the hospital or health provider decides whether or not to share a teen’s health information with his or her parents.³⁴

Ohio’s laws about mature minors and the rights of minors to consent to health care are not completely clear. Because of this, and because parents are often an important part of a teen’s health support system, hospitals or doctors may decide to reveal health information about a teen to the teen’s parents.

A note about insurance

Even people who have health insurance are not necessarily covered for all procedures. Procedures that are covered by insurance — like annual physicals, for example — are considered insurance benefits. After a patient visits a doctor or health care provider, the insurance company sends the insurance policyholder (in the case of a teen, most likely the teen’s parent) an EOB — or explanation of benefits form — that identifies the services considered benefits and covered by the insurance plan.³⁵ (EOBs also contain identifying information such as the patient’s name, the type of care provided, and the cost of care.)³⁶

For example, if fifteen-year-old Cristal goes to the doctor to get a sexually transmitted disease (STD) test and uses her parents’ insurance to help pay for her visit, her parents might get an insurance EOB in the mail that says something like, “Preventive medicine — STD screen — \$300.00 — covered under policy; co-pay due at time of service = \$15.00.” Some health insurance plans — like the one Cristal’s parents have — cover most of the cost of STD screening and treatment, but others might not.

Confidentiality when covered by private insurance

Some methods of payment also compromise a minor’s confidentiality. If a minor seeks coverage for services under a parent’s insurance plan, itemized benefit statements issued to the parents sometimes reveal confidential medical information.³⁷

There is no perfect solution to the problem of confidentiality in the medical billing process. A teen seeking services under a parent's private insurance plan can contact the insurance company directly to find out if all medical services will be reported to the parents.³⁸

Under HIPAA, a patient can request that insurance company communications — such as the EOB, which might reveal the kind of care a patient received — be sent to an alternative address or email address.³⁹ However, these requests have to “clearly state” that the disclosure of such information could “endanger” the patient.⁴⁰ Patients are also allowed to request that insurance companies not send communications to the person who holds the insurance policy (usually a parent).⁴¹ However, insurance companies are not required to agree to these kinds of requests, especially if the policyholder is paying for part of the care.⁴² It is unlikely that insurance companies often agree to such requests. In general, if a teen uses his or her parent's health insurance to get treatment, the insurance company will notify the parent as policyholder what the treatment was and when it took place by sending an EOB.

Theoretically, a teen can prevent medical information from being revealed by paying for care directly, rather than relying on insurance or Medicaid. Since medical care is so expensive that teens who choose this option will probably need to find a free or low-cost provider such as a school-based clinic, a low-cost community clinic or a government clinic.



Maria, who is 16, receives confidential medical treatment. Although she does not need, and therefore does not obtain, parental consent for the treatment she receives, she does wish to pay for the treatment through her parent's insurance plan. Will information about her treatment be disclosed to her parents?

Maybe. The health care provider cannot disclose the information to Maria's parents. However, it is possible that some information will be disclosed to her parents during the insurance reimbursement process. By asking the insurance company about the risks of disclosure beforehand, Maria will be well informed before deciding where to seek care and how to pay for it.



Mrs. Smith is a school nurse. One of her patients, a 16-year-old, has a bad case of the flu and wants the nurse to call a doctor. Can Mrs. Smith give the student's medical files to the doctor?

Probably not. In certain cases, a minor can authorize the disclosure of health information. However, this is generally up to the parents.

III. Paying for Health Care Services

Coverage based on income

Many teens can receive free or low-cost health care coverage based on family income. Teens with special medical conditions such as pregnancy or a disability may qualify for programs listed under other sections of this handbook. If a teen is not entitled to free care, he or she then must pay for the services unless their parents consent to the treatment

and pay for it, or it is covered by the parents' health insurance plan. The type of treatment received may show up on insurance statements. Some clinics provide free or low-cost services for teens.



Payment Under the Affordable Care Act

The Affordable Care Act (ACA) of 2010 changed the law and expanded health care, especially for teens. Under the ACA, more families are eligible for insurance. In addition, children are allowed to remain on their parents' insurance until age 26. The ACA requires insurance providers to cover the following services to teens for free:

1. Preventive screening and counseling for STDs/STIs
2. All FDA-approved contraceptive methods and contraceptive counseling
3. Screening for interpersonal violence
4. Counseling for depression
5. Counseling for substance abuse.

Public insurance and health programs

The ACA changed public insurance and health programs like Medicaid in ways that make them more like private insurance.

Under the ACA, private insurance companies are required to cover the following:

- Ambulatory patient services (outpatient care)
- Emergency services
- Hospitalization (for things like surgery)
- Maternity and newborn care (care for mother and baby before and after the baby is born)
- Mental health and substance abuse disorder services (including counseling and psychotherapy)
- Prescription drugs
- Rehabilitative and facilitative services and devices (services and devices to help people with injuries, disabilities, or chronic conditions gain or recover mental and physical skills)
- Laboratory services
- Preventive and wellness services and management of long-term or chronic diseases
- Pediatric services.⁴³

Medicaid

Medicaid is a government program that covers medical care for people below a certain income level. In the past, Medicaid was offered to specific groups of people, most notably the following:

- Low income families with children
- Supplemental Security Income (SSI) recipients
- Children under age six from low-income families
- Pregnant women who have an income below the family poverty level
- Infants born to Medicaid-eligible pregnant women

- Low-income women with breast or cervical cancer who were diagnosed through the National Breast and Cervical Cancer Early Detection Program (NBCCEDP).

Ohio chose to offer more people insurance coverage through the ACA Medicaid expansion. Medicaid now provides the same kinds of minimum benefits (such as maternity care, laboratory services, and preventive services) that the ACA requires private insurers to offer.⁴⁴

Teens who do not already receive health insurance may qualify for the following programs:

The **Early and Periodic Screening, Diagnostic, and Treatment (EPSDT)** program provides complete health services to those who receive Medicaid and are under 21 years of age.⁴⁵ Eligibility is determined based on family income. For more information or to apply for enrollment, contact a Healthcheck Coordinator for your county by visiting <http://jfs.ohio.gov>, or call the state's EPSDT Program Coordinator at the Medicaid Consumer Hotline at 800-324-8680.

Did you know . . .

There are at least **27** services that can be provided under EPSDT, including physician and clinic services, laboratory and X-ray services and dental services.⁴⁶

Healthy Start is a program that helps provide care and support to mother and baby before and after the baby's birth.

There are two Healthy Start programs in Ohio, one in Columbus and one in Cleveland:

Columbus Public Health Caring for 2

240 Parsons Avenue (Columbus Public Health Building)

Columbus, OH 43215

614-645-1697

www.publichealth.columbus.gov

MomsFirst

75 Erieview Plaza

Cleveland, OH 44114

216-664-4194

Young mothers or expectant women who live outside Columbus and Cleveland can find information about prenatal (baby care) services in their area by calling 1-800-311-BABY (or 1-800-311-2229.)⁴⁷

The **Help Me Grow Program** is geared toward providing health care and developmental services to expectant parents, newborns, infants and toddlers. Their contact information is:

Ohio Department of Health

Bureau of Early Intervention Services

246 North High Street, 5th Floor

Columbus, OH 43215

Phone: 800/755-GROW

<http://jfs.ohio.gov/ohp/consumers/familychild.stm>

Low or no-cost health care may also be available through school health clinics, community clinics or nonprofit clinics such as Planned Parenthood.

Coverage for teens with disabilities

Children with physical or medical disabilities often have difficulty paying for health care or obtaining private insurance. This is because the cost of caring for a child with a disability can be extremely expensive. Ohio has a public insurance program that may be able to help.

The **Children with Medical Handicaps Program** is a state-administered program for children with special health care needs. Their services include funding for the diagnosis and treatment of medically eligible conditions, collaborating with medical resources to assist in increasing access to care, and helping families find appropriate sources of payment for services for their child. Their contact information is:

Ohio Department of Health

Bureau for Children with Medical Handicaps

246 North High Street

P.O. Box 1603

Columbus, OH 43216

Phone: (614) 466-1700

<http://www.odh.ohio.gov/odhprograms/cmh/cwmh/bcmh1.aspx>

IV. Emancipated Minors

The most important factor in determining if a minor can consent to certain health care procedures is his or her level of understanding. By law, minors who cannot understand a treatment and its risks and benefits cannot consent to health care procedures.⁴⁸ Minors who can understand the risks and benefits of health care treatments can be considered mature minors.

Most minors can only consent to certain kinds of health care procedures, such as emergency care, or a limited number of counseling sessions.

Emancipated minors

An emancipated minor is considered independent and can legally consent to all of his or her medical care and treatment.

Ohio does not have a specific law that gives a teen the right to be emancipated by court order.⁴⁹ However in Ohio, emancipation can occur when a teen marries⁵⁰ or enlists in the armed services.⁵¹ In Ohio, teens who support themselves financially are not legally considered emancipated.⁵²



George, a 17-year-old boy, has been living on his own for two years. He is financially self-supporting, and lives in his own apartment. He is not in regular communication with either of his parents. He needs to have his wisdom teeth pulled. Can the dentist perform the surgery without the consent of George's parents?

Maybe. A minor who is not emancipated may be classified as mature and be able to consent to treatment.⁵³ In order to be mature, minors must understand the risks and consequences of proposed health care procedures.⁵⁴ Courts and physicians decide on a case-by-case basis which minors are mature minors.⁵⁵



Julia is a 17-year-old who is emotionally mature and fully capable of understanding her medical condition and the risks and benefits of various treatments. She wants to consult a physician about her severe allergies, but because of their religious beliefs her parents have refused to grant her permission. Can she consent to her own health care?

Probably not, but her parents do not have the right to refuse her treatment based on **their** religious beliefs.⁵⁶ She is entitled to receive treatment which is in her best interest. She may need to go to court and petition a judge to receive the treatment. If she decides to go to court, Julia may want to talk to a lawyer about this process. If Julia's allergies are life threatening, a doctor might be able to treat her without parental consent because life-threatening illnesses count as emergency situations. Emergency situations are considered exceptional in health care; normal medical and consent requirements don't usually apply in emergencies.



When are minors allowed to marry?

In Ohio, a man must be at least 18 years old and a woman at least 16 years old in order to marry. Men and women under the age of 18 and wishing to marry must receive parental consent before a court will issue a marriage license.⁵⁷

V. Minors and Sexuality

As teens mature and grow older, many become sexually active. Sexually active teens are often at risk for unplanned pregnancies, sexually transmitted diseases, AIDS and other health complications when proper protection is not used.

Teens who develop health problems or become parents as a result of sexual activity often risk criticism from within their family as well as from community members and at school. Some adolescents may be asked to move out of their home, be denied access to school organizations — such as the National Honor Society — or be forced to quit school to care for a child. There are laws in place to guarantee fair treatment of pregnant women in education and employment. If you think you may have been treated unfairly, consider discussing the problem with a lawyer.

Since sexual activity can carry serious consequences, teens should be aware of their rights when confronted with important health issues.

Sexually Transmitted Diseases (STDs)

In addition to the risk of pregnancy, sexual activity also carries the risk of STDs, or Sexually Transmitted Diseases. Sexually Transmitted Diseases (STDs) are sometimes referred to as Sexually Transmitted Infections (STIs). STI is the more modern term, but both STIs and STDs refer to the same thing – illnesses that are transmitted by sexual contact (such as intercourse, oral, or anal sex.) Although few STDs are life threatening, many can result in serious health problems (like infertility, or the inability to have children).

Did you know . . .

Consistent condom use provides substantial protection against the acquisition of many STDs, including HIV, chlamydia, gonorrhea, herpes, and syphilis.⁵⁸

A 2008 study by the Centers for Disease Control and Prevention found that one in four teen girls in the U.S. had at least one common STD.⁵⁹ Even teens who are not sexually active can be at risk for STDs such as hepatitis or HIV/AIDS through activities such as needle sharing.

Many STDs are not outwardly visible, and it might be hard for a teen to know that he or she has one without a blood test. It is important for teens to be tested regularly for STDs.

Minors should not avoid seeking treatment for an STD out of fear that their parents will find out. Minors can undergo treatment without parental consent and local clinics exist to provide care to patients who cannot afford to pay for their treatment.

Did you know . . .

Of the estimated **19 million** new STD infections each year, **almost half** will occur among young people ages 15-24.⁶⁰

Consent

A minor can be diagnosed and treated for an STD without parental consent.⁶¹ However, if the parents do not know about or consent to the treatment, then they are not obligated to pay for the treatment.⁶²

Confidentiality

As with most medical treatment, a patient's treatment for an STD is a confidential part of his or her medical record, but there are some cases where a limited amount of information will have to be disclosed. For example, the law requires that an infected person either abstain from sexual activities or, at a minimum, warn his or her sexual partners of the disease,⁶³ or risk criminal sanctions.



Joanna has gonorrhea and needs treatment. She is 16 and does not want to tell her parents that she has an STD. Can she be treated without parental consent?

Yes. The law allows Joanna to consent to the treatment without telling her parents, but if she doesn't tell her parents and get their consent, she will have to pay for the costs of the treatment herself. Because the treatment can be very expensive, she may want to ask her physician to help her find a low-cost or free provider, or help her talk to her parents.

For information about the clinic or private doctor nearest you who provides treatment for people with STDs, call the **Center for Disease Control Sexually Transmitted Diseases Hotline** at 800/232-4636 or visit their website at www.hivtest.org. The call is free and you do not need to give your name.



*A public health officer tells **Larry** that he may have an STD. Can the officer tell Larry who transmitted it?*

No. The officer can reveal only that Larry is at risk. He or she cannot reveal the name of the contact.

Family planning and birth control

Sexually active teens seeking to avoid unwanted pregnancies should use some form of birth control. Further, teens should use latex condoms to protect themselves against STDs.

Since its inception in 1970, the federal Title X family planning program has funded clinics that provide treatment without regard to age or marital status.⁶⁴ As a result, Title X-supported clinics have always provided confidential family planning services to teens who request them.⁶⁵ Over the last two decades, Title X-funded clinics have prevented over 1 million teen pregnancies.⁶⁶

Consent

The U.S. Supreme Court has held that the federal constitutional right of privacy in matters relating to the use of contraception protects minors as well as adults.⁶⁷ For this reason, the government cannot restrict a minor's access to contraception without a compelling reason.⁶⁸

When a minor receives public assistance, federal law further protects his or her access to family planning services.⁶⁹



A 14-year-old girl, **Sally**, wants to get a prescription for the pill. Does she need parental consent?

No. Certain government programs provide for contraceptives, including the pill, to be made available to minors without parental consent. Private physicians **may** provide contraceptives to their minor patients without parental consent if the patient is mature enough to give his or her own consent.

Confidentiality

Any family planning counseling and medical exams that a young woman receives are part of her confidential medical records. Information about the counseling or exams cannot be released without her permission. This is also true of any prescription for contraception that she may be given.

HIV/AIDS

In 2009, young people between ages 13 and 39 accounted for 39% of HIV diagnoses.⁷⁰ Also, between 2002 and 2006, the number of youth living with AIDS increased by 41%.⁷¹ As the number of HIV-positive teens continues to increase, health workers, government officials and physicians are scrambling to prevent the spread of AIDS, sometimes forgetting about the rights of HIV-positive teens along the way.

Did you know . . .

The U.S. Centers for Disease Control and Prevention (CDC) estimates that more than 50% of undiagnosed HIV infections affect young people ages thirteen to twenty-four.⁷²

Although it is illegal to discriminate against anyone who has HIV or AIDS, people have lost their jobs, been denied health insurance, been refused treatment by doctors, and suffered other types of discrimination based on their health condition. Teens are especially vulnerable due to their dependence on a parent or guardian.

In order to protect the rights of those with HIV, the law separates HIV/AIDS from other sexually transmitted diseases. Special confidentiality rules exist to protect people with HIV/AIDS from discrimination.

Consent

As with all sexually transmitted diseases, **a minor can consent to — or refuse — an HIV test for AIDS.**⁷³ The health care professional giving the test must obtain the patient's informed consent prior to the test.⁷⁴ In most cases, patients cannot be forced to undergo an HIV test. Currently, mandatory testing can only occur in the following cases:

- when enlisting in the military, foreign service or the job corps;⁷⁵
- when applying for U.S. residency;⁷⁶
- in order to obtain coverage by certain insurance companies.⁷⁷

Though not all health care professionals are required to provide anonymous testing, an individual seeking an HIV test has the right to request an anonymous test.⁷⁸ If the health care professional does not offer anonymous testing, she will most likely be able to refer the person to a clinic, health care professional or physician who does. If the minor's parents do not know about the test or do not consent to it, they do not have to pay for the test.⁷⁹



Susan, a 15-year-old who lives with her mother, is HIV positive. She has never told her mother that she is HIV positive, and now she has developed an AIDS-related illness. She wants medical care but will avoid treatment if she is required to tell her mother. Can the physician treat her without parental consent?

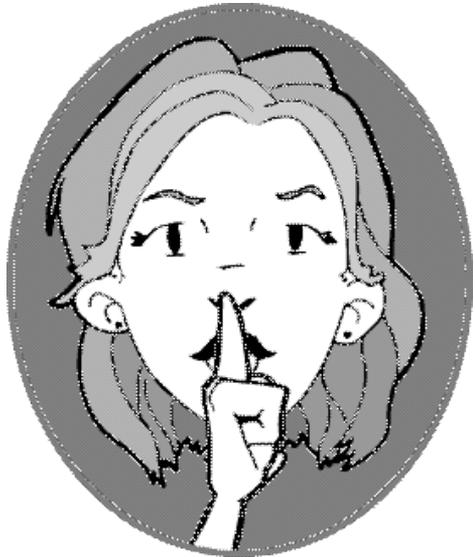
Yes. The physician can treat Susan without consulting either of her parents. However, the physician may wish to help Susan find a supportive adult in whom she can confide about her situation.

Anonymous vs. confidential testing: *Which is the best choice?*

Some clinics and hospitals offer confidential testing only; others also offer anonymous testing. Minors seeking to undergo HIV testing should carefully choose the test site depending on the amount of privacy they wish to preserve.

Anonymous testing:

An anonymous test is done by code number, not by name, so a patient's name remains unknown throughout the process. It is the most private because it is virtually impossible for outside persons or groups to gain access to the test results or learn that an HIV test took place without the consent of the patient.



Confidential testing:

In confidential testing, the test result is recorded in a patient's confidential medical record. Medical records are easily accessible to health care workers attending the patient, and courts and insurance companies can gain access to medical records in certain situations. There is also the possibility that a parent may learn of the test if he or she examines the minor child's records. Someone who goes to a blood bank to donate blood will undergo a confidential, not an anonymous, HIV test.⁸⁰

For information or help, call the Ohio AIDS Hotline at 800/332-2437. You do not have to give your name.



Confidentiality

Because people with HIV/AIDS often face discrimination, HIV related information is protected from disclosure. This includes information concerning whether a person underwent an HIV-related test or has an HIV-related illness. The results of a minor's HIV test or the identity of a minor infected with the AIDS virus can be released only to the following people if they request the information:

- a physician or police officer who has a medical need to know a person's HIV status;
- the minor or his or her legal guardian;
- the person's spouse or sexual partner;
- a person to whom disclosure is authorized by written release;
- the minor's physician or health care professional.⁸¹

A person who knows he or she is HIV positive is required by law to inform any future sexual partners or persons with whom he or she intends to share a hypodermic needle.⁸²

Disclosure to other individuals and agencies

A physician, health officer or health care facility can disclose information only in very limited circumstances. The following is a general list of some of the people to whom confidential HIV-related information may be disclosed without a signed release by the patient:

- certain health care facilities or health care providers when disclosure is necessary to provide appropriate care to the patient or the child of a patient; and
- government health officers (when disclosure is required by federal or state law).⁸³

Sexual orientation

There are no laws directly addressing the health care rights of gay, lesbian, bisexual or transgender people (LGBT). In fact, there is no national law **at all** that defines the rights of these individuals in America. This means that in some states a gay man can be fired from his job simply because he's gay. And, in some cities, a lesbian can be denied private health insurance simply because she's a lesbian.

However, state and federal laws do offer some protections depending on the circumstances. Although it may not be illegal to discriminate based on sexual orientation, a victim may be able to bring a claim under other aspects of law such as breach of contract, civil or criminal assault, wrongful discharge from employment, (if an employer needs "just cause" in order to fire an employee) invasion of privacy, or First Amendment constitutional claims. If you think you have been discriminated against you should talk to a lawyer.

The lack of legal protection only adds to the feelings of exclusion and shame that many young LGBT people feel. It may also be a factor in the high suicide and runaway rates among these teens.⁸⁴

Even though there are few laws directly protecting LGBT youth, there are plenty of places that offer help and guidance. LGBT teens can seek professional counseling to help them adjust to their emerging sexuality. Many schools and communities have social organizations and support groups for LGBT teens. These groups also help their members organize campaigns to support and promote the passage of anti-discrimination laws.

For more information call the **National Center for Lesbian Rights (NCLR)** at 800/528-6257 or the **LAMBDA** Legal Defense and Education Fund Midwest Regional Office Help Desk at 312/663-4413.



At the time of this writing, the following cities in Ohio have civil rights ordinances, policies or proclamations prohibiting sexual orientation discrimination:

Athens (Athens)

Canton (Stark)

Cleveland (Cuyahoga): ordinance and law making discrimination a misdemeanor crime

Cleveland Heights (Cuyahoga)

Cincinnati (Hamilton)

Columbus (Franklin): city code

Cuyahoga County: affirmative action resolution

Dayton (Montgomery): executive order

East Cleveland (Cuyahoga)

Lakewood (Cuyahoga)

North Olmsted (Cuyahoga)

Oberlin (Lorain)

Oxford (Miami)

Shaker Heights (Cuyahoga)

Toledo (Lucas)

Westlake (Cuyahoga)

Yellow Springs (Greene): town charter

Youngstown (Mahoning)⁸⁵

Pregnancy

In 2006, nearly half of all pregnancies in the U.S. were unintended.⁸⁶ A teen may feel scared, anxious and lonely as she decides what to do about

an unplanned pregnancy. Sometimes, talking to a parent is the best thing to do in this situation. If it is not possible to speak to a parent, she should try to speak to another supportive adult such as a doctor, school nurse or other family member. Whether she chooses to continue a pregnancy or terminate it, acting quickly will protect the teen's health – and her options.

Did you know . . .

80% of all teen pregnancies are unintended.⁸⁷

When can a medical provider tell a teen's parents about her pregnancy?

Questions have arisen over whether a medical care provider may notify a teen's parents about the teen's pregnancy. This has come up recently in New York, but not in Ohio.

The current case law makes it clear that a teen has a privacy right when it comes to abortions. For that reason, all states are required to provide the judicial bypass option to teens who want to have an abortion without notifying their parents. (*Bellotti v. Baird*, 443 U.S. 622 (1979); *City of Akron v. Akron Ctr. for Reprod. Health*, 462 U.S. 416 (1983)).

The Eastern District of New York has taken the position that a privacy right for abortion should not extend to a privacy right for pregnancy and has upheld a school's policy requiring the school nurse to notify parents. (*Port Wash. Teachers' Ass'n v. Bd. of Educ. of the Port Wawsh. Union Free Sch. Dist.*, 361 F. Supp. 2d 69 (E.D.N.Y. 2005)). However, legal scholars are arguing that abortion and pregnancy are inextricably intertwined and privacy over one automatically implies privacy over the other. (Melissa Prober, *Please Don't Tell My Parents: The Validity of School Policies Mandating Parental Notification of a Student's Pregnancy*, 71 *Brook. L.Rev.* 557 (2005)).

If schools or medical professionals notify parents of the pregnancy, then they deprive the teen of the right to seek a judicial bypass for abortion without parental notification. Because this issue has never made it to the courts in Ohio, it may be wise for Ohio medical care providers to err on the side of caution by protecting the teen's right to privacy.

Raising a child

There is no law specifically addressing the rights of a pregnant minor. Prenatal care, delivery and postnatal care are very expensive,⁸⁸ so it is unlikely that a hospital or doctor would agree to treat a minor without first receiving the consent of her parent. If a parent refused to consent to prenatal care for his or her daughter, the teen may be able to turn to the courts for help.

Assistance programs

Women, Infants and Children (WIC) is a food program that provides supplemental food and nutritional information to women, infants and young children. To learn more or to apply for enrollment contact:

Bureau of Women, Infants and
Children
Ohio Department of Health
246 N. High St.
P.O. Box 118
Columbus, OH 43266-0118
614/644-8006
Toll-free: 800/775-GROW



Child and Family Health Services offers health clinic services based on family size and income. This program covers both mothers and their children. For more information or to apply for enrollment contact:

Bureau of Child and Family Health Services
Ohio Department of Health
246 N. High St., 6th Floor
P.O. Box 118
Columbus, OH 43215
614/466-5332

The only circumstance in which the consent of the minor would definitely be accepted is if the girl came to the emergency room already in labor. This would be an emergency case and the hospital staff could deliver the baby without consent because of the emergency care doctrine.⁸⁹

Adoption

A minor who wishes to have her baby but does not wish, or is unable, to raise the child herself may put her child up for adoption. There are about six million people in the U.S. who are adopted.⁹⁰

Ohio legislators completely rewrote the state's adoption laws in 1996. Because of this, the law differs depending on the birth date of the child to be adopted. The laws discussed in this handbook apply only to children born on or after January 1, 1997.

The courts of Ohio recognize two types of adoptions:

Agency adoptions: In an agency adoption, the biological parents give permanent custody of their child to a registered agency. The agency then chooses the adoptive parents and arranges the adoption. The biological and adoptive parents normally do not meet and do not know each other.⁹¹

Open adoptions: An open adoption is usually arranged through an attorney (though some agencies will also provide assistance) and allows more involvement by the biological parents. The biological parents can choose and meet the adoptive parents, and the two sets of parents can even contract for certain things regarding the child's upbringing.⁹²

Though some of the laws differ depending on the type of adoption chosen, other laws are universal. For example, **only** an agency or an attorney can arrange an adoption; an adoption arranged by someone else is invalid.⁹³



Shana is a 14-year-old teen mother. After she gave birth, her parents threatened to make her move out of the house unless she put her baby up for adoption. Knowing that she could not support her baby on her own, Shana reluctantly agreed to the adoption.

A week later, Shana's grandmother agreed to let both Shana and the baby live at her house. Now Shana wants her baby back even though she has already consented to the adoption. Can Shana revoke her consent?

Probably. A court will not allow Shana to take back her consent simply because she's 14, but a court must always keep the best interests of the child in mind when making decisions in an adoption case. If the court feels that it is in the baby's best interests to stay with his or her mother and great-grandmother, then the court will most likely allow Shana to revoke her consent.

Consent

The consent laws are also the same no matter which type of adoption is chosen. Consent to an adoption cannot be given until at least 72 hours after the birth of the child.⁹⁴ Before consent is given by the biological parents, an officer of the agency or court will meet with the biological parents and explain to them the adoption procedures and their rights and responsibilities under the state's adoption laws.⁹⁵ The child's biological mother must always consent to the adoption.⁹⁶ The father of the child does not need to consent to adoption unless he has confirmed legally that he is the father.⁹⁷ After a court issues an adoption decree, the adoption is final; a biological parent may not withdraw consent after that time. Even if the biological parent is a minor, her (or his) consent is valid for the purpose of adoption."⁹⁸

Abortion

Pregnant teens have the option of getting an abortion to end their pregnancies. This is a difficult decision to make, so it is important to talk **immediately** with an adult, such as a parent, a doctor or nurse. Waiting to make a decision can have negative consequences, such as greater health risks and increased cost as the pregnancy continues. Many doctors do not perform abortions beyond 20 weeks and some later abortions are prohibited by Ohio law,⁹⁹ so do not wait too long to decide what is right for you.

Judicial bypass

Ohio law requires that one parent, custodian or guardian of a person under 18 must consent to a minor's abortion.¹⁰⁰ If a parent will not consent, or if the minor does not feel comfortable seeking consent, the minor can

Abortion law in Ohio

A minor faces many difficulties in obtaining an abortion in Ohio. A significant court decision at the end of 2006 changed the law governing teens under 18 seeking abortions. [*Cincinnati Women's Servs. v. Taft*, 468 F.3d 361 (6th Cir. 2006).]

Young women under 18 are now required to obtain parental consent or seek a judicial bypass in order to obtain an abortion. Ohio law requires that one parent, custodian or guardian of a person under 18 must consent to a minor's abortion. If a parent will not consent to an abortion, the minor can seek a judicial bypass.

The minor, like any woman, should plan to have two appointments at a clinic or doctor's office, spaced at least 24 hours apart.¹⁰¹

In the first meeting, the patient must be informed about the purpose and risks of the abortion procedure, which includes providing state-published literature describing abortions, listing agencies that provide alternatives to abortion, and providing an estimate of the probable age of the fetus at the time of abortion.¹⁰²

A woman **does not** have to inform the father of her decision to have an abortion if she does not want to do so.¹⁰³



Rebecca is 16. She is from New York but is staying in Ohio for the summer for a music program. She has found out that she is pregnant and wants to terminate the pregnancy. Does she need to tell her parents?

Yes. Although teens may undergo abortions in New York without parental consent, Rebecca is subject to Ohio law while she is visiting the state. A parent, custodian or guardian of a person 17 or younger must consent to a minor's abortion. If a parent will not consent to an abortion, the minor can seek a judicial bypass.

seek a judicial bypass.¹⁰⁴ This means that to obtain an abortion without parental or guardian consent a minor must go to the juvenile court in the county where she lives or a bordering county and convince a judge that she is mature enough or that there is a compelling reason that the minor should be able to make the decision on her own.¹⁰⁵

With the help of the court, the minor must submit a document called a petition to the court. The petition must contain specific information including the minor's initials, age, names and addresses of each parent or guardian, and awareness of risks and complications of abortion. The court will hold a hearing on the case within five days of submitting the petition. If the minor does not have an attorney the court will appoint one for her at least 24 hours prior to the hearing.¹⁰⁶ The court will specifically ask about the minor's understanding of the possible complications of abortion, how she would respond if she experienced those complications, and about whether someone has coached her on how to answer questions before the hearing.¹⁰⁷ The standard for granting a judicial bypass is high, so the minor must be very convincing that she is mature and that making her own choice is in her best interest.¹⁰⁸ Many women's medical service providers can assist with this process.¹⁰⁹

The abortion procedure

A minor, after involving her parents or getting a judicial bypass, can choose to have a surgical¹¹⁰ or medical abortion.

A medical abortion uses RU-486 (also known as Mifeprex, mifepristone, or “the abortion pill”) to cause an abortion. The pill terminates pregnancy by blocking the hormone progesterone. After taking it in the doctor’s office, the woman then takes a second pill at home (or sometimes during a follow-up visit) to induce contractions and trigger miscarriage. A follow-up visit to the doctor two weeks later will ensure that the procedure was effective.¹¹¹ This medicine is not the same as emergency contraception because emergency contraception does not cause an abortion.

Emergency contraception

Emergency contraception can stop a pregnancy from happening if taken soon after sexual intercourse. Anyone 17 years of age or older can purchase emergency contraception over the counter at a pharmacy. If you are under the age of 17 and need emergency contraception, you will need to get a prescription from a health care provider.



***Kate** is 17. She had sex last night with her boyfriend and the condom broke. She is scared that she will get pregnant and her parents will find out. Is there anything she can do?*

Yes. Kate can use emergency contraception (EC), which is also called “the morning after pill.”¹¹² EC is more effective the sooner it is used. The first dose should be taken within 72 hours after sexual activity. However, if used within five days (120 hours), it will still significantly reduce the chance of pregnancy.¹¹³ Kate needs a prescription for EC, so she has to see a doctor or go to a clinic.¹¹⁴ Many clinics that provide birth control also provide EC. She does not need parental consent to get EC, and the services can be provided confidentially.¹¹⁵

Funding

In most cases, a woman must pay for her abortion without assistance from the state.¹¹⁶ If at any time a woman decides not to have an abortion, she cannot lose any public assistance benefits or any other rights or privileges.¹¹⁷ No one, not even a court or her parents, can force a woman to have an abortion.¹¹⁸

VI. Minors and Mental Health

The teenage years can be the most difficult and confusing time of a person's life. The body is changing, new emotions are emerging and new responsibilities seem to crop up every day. With all these changes, even the most well-adjusted and outgoing teen can feel overwhelmed. Teens can cope with the pressures of young adulthood by talking to friends and family, but sometimes it helps to seek professional counseling.

Mental health professionals, such as counselors and psychiatrists, can help a teen get through many crises, from an ended relationship, to concerns about school and life, to depression and thoughts of suicide. In Ohio, teens can seek some counseling without having to let anyone know about it.

Did you know . . .

Suicide is the **third** leading cause of death among young people ages 15-24.¹¹⁹

Outpatient counseling

A minor who is at least 14 years old can request outpatient care without notifying a parent as long as the treatment does not include medication.¹²⁰ However, such care is limited to six sessions or 30 days, whichever comes first.¹²¹ After that, the care must stop or the parents must be informed and must consent in order for treatment to continue.¹²²

During the first six sessions or 30 days, the parents will not be informed of the treatment unless the teen consents or the care provider feels the minor is likely to harm someone. Still, before the parents can be informed, the care provider must first tell the teen that the parents will be notified.¹²³

Depression and suicide

No Ohio laws specifically address mental health care for depression or suicide risk. The National Institute of Mental Health estimates that eleven percent of teenagers suffer from depression or a depressive disorder.¹²⁴ Undoubtedly, depression and suicide impact the lives of even more teens — many have friends or know others who have struggled with depression. Symptoms of depression can include feelings of sadness or unhappiness, loss of interest in normal activities, fatigue or tiredness, irritation, trouble thinking or concentrating, physical pain (e.g. backaches, headaches), and changes in appetite.¹²⁵ The symptoms of depression can look different in teens compared to adults, making teen depression sometimes hard to diagnose. In addition to other symptoms, teens suffering from depression may feel anxious, struggle with anger, or have a hard time performing in school.¹²⁶ In teens and adolescents, depression often occurs along with other mental health or behavioral problems, such as an eating disorder or Attention Deficit Hyperactivity Disorder (ADHD).¹²⁷

People with depression or who feel hopeless or isolated may be at risk for suicide. Stressful life events, serious medical conditions, and an unsupportive family environment can also increase risk of suicide.¹²⁸ Teens who are gay, bisexual, or transgender, especially those in unsupportive family environments, have an especially high risk for suicide.¹²⁹ Young adults who are gay are two to three times more likely to commit suicide than other young adults; thirty percent of all attempted or completed suicides by young adults are related to issues of sexual identity.¹³⁰ Teens who are battling depression or thoughts of suicide are not alone — many free and some anonymous mental health resources exist to help.



Rahim is 15. He is severely depressed and wants mental health treatment. His parents, however, refuse to allow it. The physician believes that he needs to be treated. Can the doctor treat Rahim?

Yes — if Rahim consents to the treatment.

National Hopeline Network: 1-800-SUICIDE;
www.hopeline.com. Spanish speakers can call
1-800-SUICIDA.



National Suicide Prevention Lifeline: 1-800-273-
TALK; www.suicidepreventionlifeline.org/

To find Ohio help lines by city, visit <http://suicidehotlines.com/ohio.html>.

What to do, how to help

When dealing with a person who may be depressed or suicidal, the most important thing to do is to listen carefully to what they say. Also, pay attention to what they do. Ask them how they're doing; ask what their future plans are. Express your concern for their health and well-being. Suggest that they seek professional counseling. If they refuse that idea, suggest that they talk to a teacher, a coach, a family member, a religious advisor or a school counselor. Don't take "no" for an answer; stick with them until they get help — it could save their life.

For more information call **Self-Abuse Finally Ends (SAFE)** at 800/ DON'T-CUT (800/366-8288) or visit <http://www.selfinjury.com>.



Self-injury

Self-injury is the act of intentionally harming one's own body through methods such as cutting and burning.¹³¹ Self-injury can be a way that people, especially teens, try to cope with emotions or change how they feel.¹³² Self-injury may be linked to mental health problems or disorders, such as depression, eating disorders, or some personality disorders.¹³³ Signs and symptoms of self-injury can include scars from cuts or burns; fresh cuts, scratches and bruises; broken bones; isolating one's self; behavioral and emotional instability; and wearing long clothing (like pants and long sleeve tops) even in hot weather.¹³⁴ Self-injury is a serious disorder, and desire to self-injure can sometimes be triggered by strong emotions. Some people self-injure a few times and then stop, but for some teens, self-injury becomes a long-term pattern of behavior.¹³⁵ The most important way to combat self-injury is to reach out for help.¹³⁶

Eating disorders: Anorexia, bulimia, and binge-eating disorders

Eating disorders are serious conditions that affect a teen's life and health. Teens who struggle with eating disorders can become preoccupied with issues involving food and weight to the point that they are not able to think about much else.¹³⁷ The three main types of eating disorders are anorexia nervosa, bulimia nervosa, and binge-eating disorder.¹³⁸ Anorexia and bulimia, are more common in women than in men.¹³⁹ Binge-eating disorder, on the other hand, affects almost an equal number of men and women.¹⁴⁰ There are no Ohio laws that deal explicitly with eating disorder treatment, but it's important for teens who struggle with eating disorders — or know a friend who does — to recognize the symptoms and know how to reach out for help.

Anorexia

A person with anorexia is obsessed with food and with being thin. People with anorexia starve themselves, sometimes with deadly effects. Symptoms of anorexia can include refusing to eat, an intense fear of gaining weight, being cold all the time, a thin appearance, and excessive exercise.¹⁴¹

Bulimia

Teens with bulimia eat large amounts of food, and then purge, trying to get rid of extra calories by vomiting or exercising excessively. People with bulimia can be a normal weight or sometimes overweight.¹⁴² Symptoms of bulimia can include eating until the point of discomfort or pain, using laxatives, purposely vomiting, going to the bathroom during or right after meals, and dieting constantly.¹⁴³

Binge-eating disorder

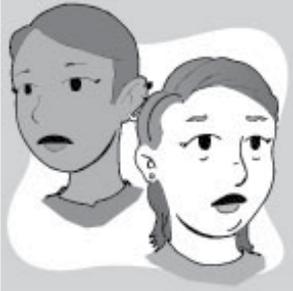
A teen who struggles with binge-eating disorder eats large amounts of food (much like a person with bulimia), but doesn't try to purge extra calories through vomiting or excessive exercise. A teen with binge-eating disorder often eats when he or she isn't hungry or long after he or she is full. Sometimes, binge eating causes him or her to feel guilty or ashamed, which can trigger another binge.¹⁴⁴ Teens with binge-eating disorder might be a normal weight, overweight, or obese. Symptoms of binge-eating disorder can include eating to the point of discomfort or pain, eating alone a lot, or feeling depressed or upset about eating a large amount of food.¹⁴⁵

An eating disorder is difficult for a teen to overcome alone. Since eating disorders are illnesses and can also result in serious physical problems (such as dehydration, an irregular heartbeat, or blood pressure problems), treatment can involve therapy, nutrition education, and medication.¹⁴⁶ A teen with an eating disorder that has become life threatening might need to be hospitalized.¹⁴⁷ Due to the possibly life-threatening nature of eating disorders, a counselor or therapist working with the teen might need to discuss the teen's condition with his or her parents.

Did you know . . .

A person with anorexia is **12** times more likely to die than a person of the same age without an eating disorder.¹⁴⁸

For additional information or help call **Anorexia Nervosa and Associated Disorders (ANAD)** at 847/831-3438, www.anad.org (all services are free) or the National Anorexia Aid Society at 614/436-1112.



***Dominique's friend Beth** has stopped eating lunch with their group of friends at school. Beth goes to the bathroom after lunch every day, and yesterday Dominique heard her vomit. Dominique is worried that Beth might have an eating disorder. What can Dominique do for Beth?*

Dominique can talk to Beth privately about why she is worried. If this does not help Beth, Dominique can go to a school guidance counselor, a nurse or Beth's parents.¹⁴⁹ Telling an adult may feel like betraying a friend, but an eating disorder can become life threatening if a person does not receive help. Like other mental health services, counseling regarding an eating disorder is confidential unless the situation is life threatening. If it is life threatening or an emergency, a guidance counselor is required to tell Beth's parents.¹⁵⁰

VII. Minors and Substance Abuse

Drug and alcohol abuse by teenagers is prevalent,¹⁵¹ and its effects can be devastating. Alcohol-related car crashes are the leading cause of death among teens.¹⁵² Many other teens will die from drug- and alcohol-related diseases such as lung cancer and cirrhosis of the liver.

Although many young adults turn away from drugs, others struggle to find treatment and make their way through an unfamiliar legal system.

In order to effectively get the care they need, teens need to know their basic rights.

Alcohol and drugs

Treatment

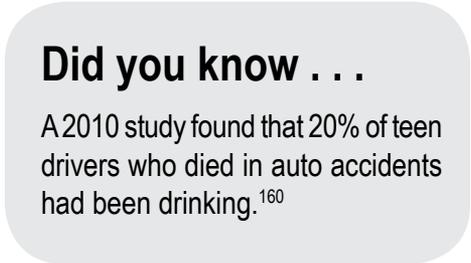
A minor can receive alcohol or substance abuse treatment without parental consent or notification.¹⁵³ If the parents do not consent to the treatment, they are not liable for payment.¹⁵⁵



Minors being treated for drug or alcohol addiction retain their civil rights, including the confidentiality of their health and medical records.¹⁵⁶ Although the State Department of Alcohol and Drug Addiction Services compiles statistics on the treatment of Ohio citizens, state law requires that these reports not reveal the identity of any person seeking aid.¹⁵⁷

Drunk driving

In Ohio, it is illegal for anyone under the age of 21 to drink alcoholic beverages.¹⁵⁸ In an attempt to curb underage drinking, Ohio legislators have mandated that the minimum blood alcohol level necessary for convicting a person of drunk driving is lower for people under 21 than for those of legal drinking age.¹⁵⁹





Lee is 16. He is thinking about talking to a school counselor about his drinking problem but is scared that his parents will be notified. Can he receive counseling without parental consent?

Yes. A minor does not need parental consent to receive counseling. Whether or not the counselor decides to treat Lee, his parents cannot be informed without his permission.

There are three body substances police can test to see if a driver is intoxicated: blood, breath and urine.¹⁶¹

The penalties for Driving Under the Influence (DUI) are harsh, especially if the driver is under the age of 18. These penalties may include revocation of the teen's license as well as time in a detention facility.¹⁶²

If you are pulled over for drunk driving, it is important to know that under certain circumstances you could be forced to give a blood sample. However, if a person refuses to take an alcohol test within two hours of arrest, the officer may suspend that person's driving privileges and confiscate his or her license.¹⁶³

Cigarettes and tobacco

Teenage smoking is strictly regulated in Ohio due to the negative effects of smoking and the fact that most smokers begin smoking during their teenage years.¹⁶⁴

It is illegal for anyone in Ohio under the age of 18 to use, buy or in any other way obtain cigarettes (including clove cigarettes) or other tobacco products.¹⁶⁵ This law also means that it is illegal for a person under 18 to smoke cigarettes or use other tobacco products. Ohio law also prohibits students from smoking, possessing or using any tobacco product in any area under the control of a school district or at any activity supervised by the school.¹⁶⁶

For additional information or help call the **National Drug Abuse Hotline** at 800/662-4357. You do not have to give your name and the call is free.



VIII. Minors and Violence

Violence can have a devastating effect on a person's quality of life, especially when that person is a child or a teenager. Experiencing, witnessing or even feeling threatened by violence can turn an outgoing person into a person who is withdrawn and afraid. Unfortunately, most acts of violence are not reported to the police, so very little can be done to stop them. This is especially true when the victim of the violence is a teenager or child.

Remember, such violence is **never** the victim's fault. Ohio lawmakers know this and have passed laws that seek to protect minors who may be the victims of violence. It is important that teens are aware of these laws so they can protect themselves, their family and their friends, and so that they can break the cycle of violence.

Youth violence is a serious teen health issue since violent injury and death disproportionately affect children, adolescents and young adults in the United States. According to the U.S. Department of Justice, teens are the most frequent victims in cases of homicide.¹⁶⁸

Did you know . . .

Youth ages 12-17 are **two and a half** times more likely than adults to be victims of serious violent crime.¹⁶⁷

For information on youth violence and strategies to prevent it, you can visit the National Youth Violence Prevention Resource Center (NYVPRC) web site, www.safeyouth.gov.



For additional information or help call the **National Domestic Violence Hotline** at 800/799-SAFE or visit <http://www.ndvh.org>.



Domestic violence

Domestic violence is defined as violence committed between members of the same household or family.¹⁶⁹ Some people who have been the victims of abuse try to end the violence by leaving their abusers and moving in with friends or family members. Others live in shelters temporarily. Sometimes this is a good solution, and the abuse will stop. Other times, however, the abuser will continue to follow and harass his or her victim. In these cases, it is important to know that the legal system may be able to help.

There is growing awareness that violence can occur between teens who are dating. Research shows that as many as one in three high school relationships involve an element of violence.¹⁷⁰ Although violence within a dating relationship is not included in the legal definition of “domestic violence,” there are other laws in place to protect people from violent intimate relationships.

If you, or a friend, are dating someone who abuses you physically, sexually, or mentally, help is available. Contact the **National Teen Dating Abuse Helpline** at 866/331-9474 or visit <http://www.loveisrespect.org>.”



Child abuse

Child abuse, also called “endangering,” occurs when an adult with custody of a minor harms the minor, or allows the minor to be in a situation in which it is likely that he or she would be hurt.¹⁷¹ Unlike domestic violence, child abuse focuses on a parent’s or caretaker’s treatment of a minor. If you believe that an adult has abused you or a friend, tell a teacher, nurse or police officer. You cannot get into trouble criminally for telling other people that you believe that someone has been abused. However, under the Child Abuse Prevention and Treatment Act (CAPTA), you can be prosecuted for knowingly lying about abuse.¹⁷²

Sexual violence

Sexual violence is perhaps the most devastating type of violence. Sexual violence is more than a violation and abuse of a person’s body; it is also a gross invasion of a person’s privacy. The most common forms of sexual violence are rape and sexual assault.

Most cases of sexual violence occur between people who know each other.¹⁷³

Victims of sexual assault or rape often are afraid to seek help. They need to know that there are people who can help them. They also need to seek medical care as soon as possible.

Did you know . . .

Approximately **75%** of rape victims know their rapist.¹⁷⁴

Words to know:

Rape: Rape is usually defined as any forced penetration, including intercourse, oral sex and anal sex. Rape is always wrong and should be reported immediately.¹⁷⁵

Sexual assault: This type of assault includes inappropriate touching, especially of sexual organs.¹⁷⁶

Sometimes victims do not know their attackers. In order to have the best chance of catching and punishing an attacker, it is crucial for a victim of sexual violence to seek immediate medical attention. A hospital will be able to gather the necessary evidence and give the victim any other medical or emotional support that is needed.¹⁷⁷ In Ohio, a minor who is a victim of sexual violence can consent to an examination by a hospital physician for the purpose of gathering physical evidence.¹⁷⁸ The consent of a parent is not required. But the hospital must give the parents written notification that the examination has taken place. Also, Ohio law provides free emergency room exams to all victims of sexual assault offenses.¹⁷⁹

For additional information or help call the **Rape, Abuse and Incest National Network (RAINN)** at 800/656-HOPE or visit <http://www.rainn.org>. RAINN is a free 24-hours-a-day, 7-days-a-week national hotline for victims of sexual assault that refers callers to a rape crisis center in their area. You do not have to give your name to get help.



Renee is 16 years old. Her uncle has repeatedly raped and assaulted her. Renee's parents will not consent to medical treatment for their daughter because they fear the doctor will report the abuse to the police. Can Renee obtain treatment without her parents' consent?

Yes. A minor can consent to treatment if it is considered a "necessity." Also, since they prohibited treatment, Renee's parents may be charged with neglect or child endangerment. The health care provider may report the incident to the authorities if abuse is involved. Depending on the circumstances, the parents may also be responsible for the costs of the treatment.

Sexual harassment

Sexual harassment is a form of sex discrimination and is illegal under federal law.¹⁸⁰ It can occur in school or the workplace, and it is illegal in both places.¹⁸¹ The law requires that schools and businesses have sexual harassment policies and complaint procedures in place. This way, a student or employee will know what constitutes harassment and will know what steps to take to stop the harassment.

Every policy is a little different, but one thing about sexual harassment is always true — the sexual conduct must be unwelcome in order for it to be considered sexual harassment.¹⁸² Some examples of sexual conduct include:

- sexual advances;
- touching of a sexual nature;
- displaying or distributing sexually explicit drawings, photographs or literature;
- sexual or dirty jokes; and
- pressure for sexual favors.¹⁸³

Sexual harassment in the workplace can occur between two or more employees or between employees and management.¹⁸⁴ Until recently, sexual harassment in schools was only recognized when it was between teachers/administrators and students. But in May of 1999, the U.S. Supreme Court ruled that, in limited situations, a school can be forced to pay for harassment that occurs between students.¹⁸⁵

It is important to report sexual harassment immediately. If the harassment is taking place at school, tell a teacher, the principal, a dean or the superintendent. In the workplace, tell a supervisor or manager. It is also a good idea to write down the dates and details of the harassment so that you can recall specific details later.

IX. Minors and Body Art

From flowers on their ankles to political or religious tattoos on their backs, from belly rings to tongue piercings, many teens add art to their bodies. The practice of skin painting and piercing can carry serious health risks, however. Unclean needles may carry blood-borne diseases like hepatitis and the virus that causes AIDS. Tattoos can also trigger allergic reactions. Tattoos and piercings also carry a risk of infection, like any surgical procedure.¹⁸⁶ Teens must therefore choose the tattoo or piercing procedures they undergo carefully.

What the law says

Ohio law strictly regulates body piercing and tattooing among minors. Parental consent is required before a minor can get a tattoo, a body piercing or even an ear piercing with an ear-piercing gun.¹⁸⁷ In order to give consent, the parent must go with the child to the business where the procedure will be performed and sign a document that describes the tattoo or piercing procedure and explains how to take care of the affected body area following the procedure.¹⁸⁹

Did you know . . .

Body piercing carries with it the risk of life threatening blood viruses such as HIV and Hepatitis B and C.¹⁸⁸

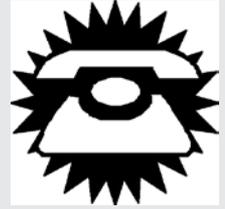


Amber is 17. She wants to get her belly button pierced but knows that her parents will not give their consent. She asks her grandmother to take her to get pierced instead. Can Amber's grandmother consent to the piercing in place of a parent?

No. Amber's grandmother is not her parent or guardian, so she has no legal ability to make decisions for Amber. Amber will have to get one of her parents to consent before she can get her belly button pierced.

Parental consent is strictly required in all cases. The law forbids a minor from lying about his age or forging his parent's or guardian's signature in order to get a tattoo or body piercing. It is also illegal for a person to impersonate a minor's parent or guardian in order to assist the minor in obtaining a tattoo or body piercing.¹⁹⁰

For more information on body piercings, visit www.safepiercing.org, the web site of the **Association of Professional Piercers.**



X. The Rights and Responsibilities of Adults and Their Teen's Health

As we have seen, the law gives parents and guardians the power to make decisions for their teen's health care, but this power is not absolute.

As outlined in the preceding pages, there are some health care decisions that a minor can make on his or her own. In other cases, if the parent's health care decision is in conflict with the wishes of the child or the care provider, the child or care provider may ask the courts to decide what decision is in the best interest of the child's health. Also, a parent is not allowed to make medical decisions that would unnecessarily risk the life or health of his or her child. Lastly, if the parents are separated or divorced, only the parent with custody can consent.¹⁹¹

Along with the right to make health care decisions for their minor children comes the responsibility of paying for that care. Parents must pay for all the health care to which they consent for their child. Parents are also responsible for paying for necessary emergency medical care.

Ohio courts have ruled that health care is a necessity which parents must provide for their children. The failure to provide proper or necessary medical care may constitute child neglect in Ohio.¹⁹² For this reason and others, it is important that parents pay close attention to the overall health of their children.

Conclusion

The lives of teens are complex. They have enough to think about without also having to wonder about their health care rights. This booklet offers some broad guidelines on those rights and some places to turn for help regarding some specific issues.

The American Civil Liberties Union of Ohio Foundation has always been committed to educating people about their legal rights. We hope that this handbook will raise awareness of minors' health care rights and will increase the likelihood that they will receive the proper medical treatment when they need it.

While every effort has been made to ensure the information in this handbook is up to date and correct, the law is always changing. Therefore, it is important to consult an attorney for advice when faced with a complex issue of health care.

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Footnotes

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- 172 Ohio laws also make filing a false report of child abuse a misdemeanor offense. O.R.C. § 2921.14.
- 173 *Id.*
- 174 Jennifer L. Truman, Bureau of Justice Statistics, Dept. of Justice, *Criminal Victimization in the United States (2011)*, available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/cv10.pdf>.
- 175 O.R.C. § 2907.02.
- 176 Under Ohio laws, "sexual assault" includes the crimes of rape, sexual battery, corruption of a minor, sexual imposition, importuning, voyeurism, and public indecency. O.R.C. § 2709.02.
- 177 Cleveland Rape Crisis Center, Resources: *You Have Been Sexually Assaulted*, <http://www.clevelandrapecrisis.org/resources/what-to-do-if-you-have-been-sexually-assaulted> (last visited Nov. 16, 2012).
- 178 O.R.C. § 2907.29.
- 179 O.R.C. § 2907.28.
- 180 Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e).
- 181 The Civil Rights Act was originally interpreted as applying only to discrimination and harassment occurring in the work place. However, the right to be free from discrimination and sexual harassment was extended to schools through Title IX of the Education Amendments Act., 20 U.S.C. § 1681.
- 182 29 C.F.R. § 1604.11(a)(1)(2) (providing EEOC guidelines on discrimination because of sex); see also Grace S. Ho, *Not Quite Rights: How the Unwelcomeness Element in Sexual Harassment Law Undermines Title VII's Transformative Potential*, 20 Yale J.L. & Feminism 131 (2008).
- 183 Sara L. Johnson, *When is Work Environment Intimidating, Hostile, or Offensive, So As To Constitute Sexual Harassment in Violation of Title VII of Civil Rights Act of 1964*, 78 A.L.R. Fed. 252 (2008).
- 184 *Id.*
- 185 *Davis v. Monroe County Bd of Ed.*, 526 U.S 629 (1999).

Minors and Body Art

- 186 Mayo Clinic, *Tattoos: Risks and Precautions to Know First* (March 20, 2012), <http://www.mayoclinic.com/health/tattoos-and-piercings/MC00020>; Ctr. for Young Women's Health, Children's Hospital Boston, *Body Piercing: A Guide for Teens* (Apr. 27, 2011), <http://www.youngwomenshealth.org/body-piercing.html>.
- 187 O.R.C. § 3730.06(A).
- 188 Mayo Clinic, *supra* note 191.
- 189 O.R.C. § 3730.06(B).
- 190 O.R.C. § 3730.07.

The Rights and Responsibilities of Adults and Their Teen's Health

- 191 See *McFarland v. McFarland*, 2001 WL 1468920 (Ohio App. 5th Dist. 2001) (interpreting "care, custody, and control" language in Ohio parental custody statutes as including right to make medical decisions for minor).
- 192 See O.R.C. § 2919.21 (making it a crime to fail to support one's dependant minor); O.R.C. § 3109.05 (requiring divorced or separated parents to financially support children, specifically with regards to medical needs of the child).

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