

Your Health and the Law: A Guide for Teens

(4th Edition)

Presentation Outline

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ACLU Presentation Outline

This presentation covers the main topics of the booklet related to legal rights of minors. Encourage the audience to read it through completely for topics not covered. There is ordering information at the end.

1) Purpose

- a) Provide broad guidelines on minor's rights
- b) Empower teens to participate in own care
- c) Offer resources for health concerns
- d) Caution: Law is always changing

2) Rights and Responsibilities

- a) Parents
- b) Minors
- c) Health providers
- d) Educators
- e) Courts

3) What is a minor?

- a) Under Ohio law, any person who is under the age of 18 is considered a minor.

4) Who is an Adult?

- a) Any person 18 years of age or older, except:
 - i) Mental or physical disabilities
 - ii) Competency determined by doctor, courts

5) Medical Rights of Minors

- a) Limited circumstances without parent consent
- b) Contract is enforceable
- c) Responsible for payment

6) Medical Confidentiality

- a) Information about the treatment cannot be disclosed without the permission of the person who consented to the care.

Notes:

- This information should not be taken as legal advice.
- Civil rights law is complex and often depend on individual circumstances. Seek an attorney if you have questions.
- Attorneys will not often represent minors. Teens could talk with a trusted adult or the legal clinic at a local college or university.

- Many people have rights and responsibilities of teens when it comes to minors' health care.
- A "parent" may be the minor's natural parent, legal guardian, or any other adult with legal responsibility for a minor.
- If parents are separated or divorced, only the parent with legal custody can consent.

- Even though of age, an adult must be competent to understand his/her medical condition and treatment options. We will discuss "informed" consent shortly.

- There are "free" clinics or agency programs in many larger cities where teens can get low cost or free health care.

- Typically, this is true. We will be talking about exceptions next. The minor or their parent (whoever consented to the treatment) must give their permission to share related medical information.
- This confidentiality covers treatment at a doctor's office, school, clinic, hospital, etc.

- b) HIPAA sets national privacy standards:
 - i) Generally does not affect minors' consent
 - ii) Where Ohio law is unclear, allows doctor to decide

➤ HIPAA: The Health Insurance Privacy and Accountability Act

7) When information may be disclosed to others:

- a) Local, state, or federal government reporting
- b) Third party at risk (STD, HIV)
- c) Court proceeding
- d) Abuse or danger to minor suspected

➤ The Ohio Child Abuse Reporting Statute governs reporting requirements for health professionals and social workers.

8) Informed consent

- a) Patient understands and voluntarily agrees to a suggested treatment
- b) Verbal consent
- c) Written consent (best)

9) Informed about what?

- a) Why the procedure is necessary
- b) The nature and purpose of the procedure
- c) The risks and benefits of the procedure and any possible alternatives, including no treatment.
- d) Cost of procedures
- e) Post procedure care
- f) Second opinion

➤ A patient who does not understand these cannot give informed consent.

10) Consent- Parents

- a) Parents who do not consent to medically necessary care could be charged with neglect or child endangering
- b) Parents do not have the right to refuse medical treatment for their child based on their religious beliefs
- c) Emergency- do not need parental consent

- Parental consent is not needed in an emergency (i.e. parents cannot be reached or are delayed).
- The minor can give permission, or if he/she is unable to (unconscious), the doctor can decide.
- The emergency treatment can be revealed to parents if the parents' consent would have been necessary had there been no emergency. (i.e., seizure, car accident)

11) What is Emancipation?

- a) Minor lives independently from parents, and can **legally** consent to all of his or her medical care and treatment.
- b) Parents no longer have financial control over the child.
- c) Court ordered emancipation is **rare** and **hard to obtain**

12) Emancipation & Ohio Law

- a) Law only lists emancipation by marriage
- b) Assumes that a minor child living with his or her parents is not emancipated

13) Conditional Cases of Emancipation

- a) When a teen was married
- b) Had a baby
- c) Enlisted in the armed services
- d) Was incarcerated
- e) Left home and provided financially for him/herself

14) Marriage in Ohio

- a) Between a man and a woman only
- b) A man must be at least 18 and a woman at least 16 years old
- c) Female under 18 needs parent consent

15) Scenario - Erin

16) Scenario- Nurse Smith

17) Scenario- Maria

- Even though Ohio officially recognizes in law only marriage, there are additional conditions for emancipation that have been recognized by courts. (Next)

- Ohio's marriage amendment, passed in 2004, defines marriage as only between one man and one woman. It also bars legal recognition of any unmarried couples attempting to "approximate" marriage. The exact meaning of this is still being tested in the courts.

Scenario Options.

- Read the scenario to the audience and discuss.
- Divide into groups, give each group a scenario, and let them discuss for 5 minutes. Then have them report to everyone.

18) Consent - Summary

- a) Some minors are enabled by law to consent to all of their own health care.
- b) Most minors can consent to only certain procedures.
- c) Teens who cannot adequately understand the risks and benefits of treatment cannot consent to their own care, regardless of their legal status.

19) Minors and Sexual Health

- a) Do not need parental consent for:
 - i) Testing & treatment of STDs, HIV/AIDS
 - ii) Pregnancy
 - iii) Birth control
 - iv) Emergency Contraception (EC) – must be used within 72 hours of intercourse
- b) Anonymous vs. Confidential Testing:
 - i) Anonymous: Recorded by code number - most private
 - ii) Confidential: Recorded in patient's medical record - more easily accessible
- c) HIV/AIDS Legal Requirement in Ohio:
 - i) If infected, must inform future sexual partners or needle sharers, or face felony
- d) Disclosure of HIV/AIDS information with written release may be made to:
 - i) Physician
 - ii) Police officer
 - iii) Legal guardian
 - iv) Spouse or sexual partner
- e) Disclosure of HIV/AIDS information-without consent:
 - i) In emergency for patient or child of patient
 - ii) Government health officer

- When someone tests positive for HIV, health workers will ask for names of sexual partners so they can warn them of possible infection.
- Under emergency and or criminal circumstances, the results of HIV tests, treatment, or the identity of a minor infected with the AIDS virus may be released only to these people.
- In addition, this information may be revealed:
 - to a health provider to properly treat the minor, or
 - to a government health officer, when required by federal or state law

- f) Abortion:
 - i) Need parent consent (unless exempt)
 - ii) Must meet physician 24 hrs in advance
 - iii) Can't be forced
- g) Abortion- Judicial Bypass:
 - i) Must convince Juvenile Court judge that:
 - (1) Minor is mature enough to decide or
 - (2) Safety of minor is at risk if parent(s) involved
- h) Abortion Funding:
 - i) Can't use state or local public funds to subsidize cost of abortion unless needed to save physical or mental health of the mother

- The minor should plan to have two appointments at a clinic or doctor's office, spaced 24 hrs apart.
- The first meeting covers the procedure, method, purpose, age of fetus, and risks, as well as alternatives to abortion.
- A woman **does not** have to inform the father.
- Woman can choose a surgical or medical abortion (RU486- the "abortion pill").
- No medical abortion allowed after 7 weeks.

20) Minors and Mental Health

- a) Outpatient counseling without consent:
 - i) At least 14 years old
 - ii) Limited to 6 sessions or 30 days
 - iii) No medication
- b) After treatment limit:
 - i) Stop or tell parents
 - ii) Provider must notify teen if parents will be told

21) Scenario- Rebecca

22) Scenario- Rahim

- Parents who refuse needed health care for their child may be found guilty of child abuse.

23) Consent - Other Care

- a) In Ohio, a minor can also consent to:
 - i) Alcohol, tobacco, & drug abuse treatment
 - ii) Family planning services

24) Summary

- a) Some minors can consent to all of their own health care.
- b) Most minors can consent to only certain procedures.
- c) All must understand risks and benefits of treatment to give “informed consent”
- d) Adults must protect confidentiality

25) Conclusion

“Health is not merely the absence of sickness.”

Hannah Green, Author

26) Acknowledgements & Ordering

- a) Thank You to:
 - i) Friedman-Klarreich Family Foundation for help with funding this project
 - ii) ACLU volunteers and student law interns who researched Ohio law
- b) Ordering:
 - i) www.acluohio.org (Publications)
 - ii) (216) 472-2200
 - iii) Email: contact@acluohio.org

These topics are not covered in this presentation but are discussed the book:

- Adoption
 - Eating disorders
 - Self-injury
 - Drunk driving
 - Domestic violence
 - Rape & sexual assault
 - Sexual harassment
 - Sexual orientation
 - Violence
 - Child abuse
 - Body art- tattoos, piercing
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- The lives of teens are complex, including the decisions about health care. We hope that this booklet will provide teens, parents, and health care providers with information that encourages communication to ensure that teens receive the medical care they need and deserve.
 - Again, this is not a comprehensive guide of teen health issues, but contains highlights of the law at the time of writing. Individual circumstances will affect the outcome. If there are questions, agencies as well as minors should consult a legal professional.
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- Go to “Publications” section on the website
 - Booklets cost \$2.00 each (25 or more, \$1.00 each)