



MINOR CONSENT FOR MEDICAL AND MENTAL HEALTH TREATMENT

This fact sheet will address two main issues:

1. When may a sexual assault advocate or medical professional provide services to a minor without consent from the minor's parent?
2. When is the advocate or medical professional required to keep the services confidential, even from the minor's parent?

1. General rule: Parent's consent required	In Minnesota as with most other states, the general rule is that a parent must be informed about and give consent for medical treatment for her child.
Exceptions to general rule:	In the following situations, a minor (an individual under 18 years of age) may consent to medical or mental health treatment by herself without separate permission from a parent or guardian:
Pregnancy/STD	<p>Any minor may consent to medical or mental health services to diagnose either pregnancy or STD's. Minn. Stat. §144.343 subd. 1</p> <p>A minor (whether sexually assaulted or not) may obtain a medical examination to diagnose or treat these conditions. Her parents need not give consent.</p> <p>See also SVJI fact sheet on emergency contraception and compassionate care for sexual assault victims.</p>
Contraceptive care	Providing contraceptive care to a minor without consent of her parents is not a criminal act, and thus medical personnel may not be punished criminally for treating a minor seeking contraceptive services, including after a sexual assault.
Emergency care	A minor may seek medical treatment without parental consent if her life or health is at such risk that treatment should be given without delay associated with contacting parents. Minn. Stat. §144.344. Thus, a minor who was sexually assaulted and received injuries which risk her life or health need not obtain parental consent for the medical treatment.
Abortion	The set of procedures for abortion services for minors are outside the scope of this fact sheet.
Drug/alcohol counseling	A minor may seek medical or mental health services to diagnose and treat drug or alcohol dependency issues without the consent of a parent.

Emancipated minor	While no formal system exists in Minnesota for a judge to legally emancipate a minor, a minor living separate from parents or guardians, and managing her own financial affairs, may seek medical treatment without the consent of a parent or guardian. Minn. Stat. §144.341
Married/borne child	A minor who has been married (even if not currently), or who has given birth to a child, may give consent for medical or mental health procedures for herself or her child. Minn. Stat. §144.342
2. General Rule: Parent must be informed and is responsible for the bill.	Generally, a parent must be informed about medical or mental health procedures regarding their minor children, must be given copies of medical records, and is responsible to pay for the services.
Two Exceptions to General Rule:	In certain circumstances, the rule that parents are to be informed about treatment of a minor does not apply:
Confidentiality of consenting minor must be maintained	If a minor properly consented to a medical or mental health procedure under the situations described in issue 1 above (for pregnancy/STD, emergency, etc.), then the medical or mental health personnel may not release medical information or records even to the parent or guardian. See the Minnesota Health Records Act at Minn. Stat. §144.291(g) for requirements and exceptions.
Payment for medical or mental health services is responsibility of consenting minor	When a minor properly consents to medical or mental health care as in issue 1 above, the bill for those services becomes the financial responsibility of the minor alone. Minn. Stat. §144.347
Other confidentiality requirements:	<ul style="list-style-type: none"> • The statutes discussed above probably apply to sexual assault victim advocates, as they are arguably mental health treatment providers. • However, most non-profit advocacy programs also have own by-laws setting out policies and procedures regarding confidentiality. Advocates must follow the program policies as well as the statute. • Further, many programs contract with the State of Minnesota, especially if they provide “per diem” shelter services. If that is the case, Minnesota Chapter 13, the Data Privacy statute, also applies to provide privacy/confidentiality requirements for advocates. • See the SVJI fact sheets on advocate confidentiality. • If you are unsure about your program’s confidentiality requirements, the Minnesota Council of Non-Profits or a local attorney may be of help.
Q&A	<p>Q. A 14 year old adolescent contacts our program and wants to know what to do. She says her boyfriend “went too far” and had sex with her when she didn’t want to. She does not want to tell her parents, but wants help. If she has a medical exam and speaks to my program, will either the hospital or our program need to discuss the matter with her parents? Who will pay the bill?</p> <p>A. She can have a medical/forensic exam and have advocacy throughout the process, and both the medical and victim advocacy information are confidential from anyone else – including her parents. Because she properly consented to the treatment, the financial responsibility for the bill (the parts not involving the</p>

evidentiary exam) belong to her. If she has received the sexual assault evidentiary exam she should have no payment obligation for costs directly related to the exam. See Fact Sheet on the Evidentiary Exam and Minn. Stat. § 609.35.

Q. A 16 year old contacts our program and says she left her home last year because of abuse. She has been living on her own, staying with friends and relatives, and working a job to support herself. She wants to talk to our program about sexual abuse that has happened since she was a kid, but she wants to know if we have to tell her parents?

A. No. She is emancipated since she is supporting herself and living away from parents, and may therefore talk to your program confidentially without parents having access to the information.

Q. What about mandatory reporting? Don't I *have* to report some abuse of minors?

A. Yes. Please refer to SVJI's separate Fact Sheet on Mandatory Reporting, outlining the situations when confidentiality must be broken to report abuse to authorities.

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