



CLINICAL GUIDELINES PROGRAM

NEW YORK STATE DEPARTMENT OF HEALTH AIDS INSTITUTE | HIV · HCV · SUBSTANCE USE · LGBT HEALTH

Guidance: Adolescent Consent to HIV and STI Treatment and Prevention

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Guidance: Adolescent Consent to HIV and STI Treatment and Prevention

Purpose of This Guidance

This guidance was developed by the New York State (NYS) Department of Health (DOH) AIDS Institute (AI) Clinical Guidelines Program. Its purpose is to inform NYS clinicians who provide primary care to adolescents about existing regulations that allow minors (<18 years old) to consent for and receive confidential HIV and STI screening and treatment and biomedical HIV prevention in the form of pre- or post-exposure prophylaxis (PrEP or PEP).

Many adolescents in NYS self-report being sexually active, with approximately half of high school students reporting that they engaged in sexual intercourse by 12th grade and more than 1 in 6 students reporting that they engaged in sexual intercourse by 9th grade [CDC 2020]. Sexually active youth are disproportionately affected by sexually transmitted infections (STIs) compared with adults: 65% of all reported STIs are among young people, yet this age group represents only about 14% of New Yorkers. These available data represent only a portion of the true burden because many cases go undiagnosed, unreported, and untreated [NYSDOH 2019a]. Public health concerns regarding adolescent burden of HIV also exist, given that approximately 20% of young people are not linked to care within 30 days of HIV diagnosis and those within care have lower rates of HIV viral suppression (73%) than the overall state rate (77%) [NYSDOH 2019a].

Ensuring appropriate care delivery: The primary goal for clinicians treating minors living with HIV is providing appropriate care that prevents HIV disease progression and transmission. In providing healthcare for minors at risk of acquiring HIV, clinicians play a pivotal role in helping to end the HIV epidemic by:

- Identifying minors who may benefit from *PrEP* and *PEP*
- Providing education and counseling about PrEP and PEP use, so that they may be accessed when needed
- Ensuring confidentiality and preventing accidental disclosure of HIV status
- Ensuring retention in care with provision of combination antiretroviral therapy to promote achievement of “Undetectable = Untransmittable” (U=U)

Reducing barriers to care: As of 2017, to help reduce barriers and delays in accessing care, *NYS law allows minors to seek HIV prevention and treatment* without disclosing to or obtaining consent from a parent or guardian. This guidance does not intend to minimize the role of supportive parents, guardians, or other adults who may provide additional support to help adolescent patients adhere to their treatment plans.

New York State Law

Minors are eligible to consent to HIV screening, treatment, and prevention in NYS: According to *NYS Public Health Law Article 23, Title 1, Section 2305*, individuals <18 years old may give effective informed consent for services related to screening, treatment, and prevention of STIs, including HIV (see also *New York Codes, Rules and Regulations [NYCRR], Title 10, Section 23.4*). See the NYSDOH document *Frequently Asked Questions: Guidance for Local Health Departments (LHD) and Health Care Providers on STI Billing and Minor’s Consent to Prevention Services and HIV-related Services*.

Minor consent laws vary by state, and clinicians should be familiar with state laws.¹

Immunization reporting: The 2006 NYS *Immunization Registry Law* requires healthcare providers to report the immunization history for and all immunizations administered to patients <19 years old using the NYS Immunization Information System (NYSIIS) or, in New York City (NYC), to the Citywide Immunization Registry. There are no exemptions to the reporting mandate, so vaccination against human papillomavirus (HPV) is required as well. Minors who independently consent to vaccination against HPV should be advised of these reporting requirements and further advised that any immunization-specific information reported to the NYS or NYC systems may be requested by a parent or guardian [NYSDOH 2019b].

Federal Law

Federal law *45 CFR §164.524* requires that healthcare providers give patients access without charge to all of the health information in their electronic medical records. There are many potential advantages to sharing health information with patients and families. However, there are important implications for minors who access confidential services, including but not limited to HIV screening, treatment, and prevention. Individual organizations can choose how to share information with parents of minors and with minor patients themselves, and it is the responsibility of each organization to do so in a manner that maintains the right of adolescent minors to access confidential care. Healthcare providers should become familiar with their institutional policies regarding health information sharing for minors, should advocate for policies that incorporate adolescent confidentiality protections, and should be able to provide guidance to minors on how to access and protect their health information.

Good Practices

The following good practice reminders are for care providers who provide health services to adolescents in NYS:

- Stay up to date on NYS law regarding consent and confidentiality for adolescents.
- Ensure that adolescents <18 years old receive confidential care for HIV treatment and prevention.
- Educate adolescents who have or are at risk for HIV about the law and their rights.
- Inform adolescent patients about NYS reporting requirements (see *NYSDOH Communicable Disease Reporting Requirements*).
- Ensure that institutional policies reflect NYS law regarding adolescents <18 years old who seek care for HIV treatment or prevention and who choose not to disclose this to their parents or legal guardians.
- Encourage adolescents who consent to their own care to identify an adult who can provide support.
- Make every effort to prevent disclosure of confidential information through release of medical records, pharmacy records, or explanation of benefits by creating clear policies and providing resources to help adolescent minors navigate the complexities of the healthcare system.

¹ Clinicians who practice outside of New York State should be familiar with local and state laws, as well as with institutional policies to obtain guidance on how to care for minors living with or at risk for HIV who are unable or unwilling to disclose this to their parents or guardians, with the understanding that current evidence strongly favors early treatment for improved individual and public health outcomes.

NYSDOH RESOURCES

- [HIV Testing, Reporting and Confidentiality in New York State 2017-18 Update: Fact Sheet and Frequently Asked Questions: Question 5: Expansion of Minor Consent for HIV Treatment and Preventive Services](#)
- [December 19, 2017 Dear Colleague Letter regarding recent changes to NYS law regarding the right of minors to consent for sexually transmitted disease \(STD\) and HIV prevention and treatment services](#)
- [Frequently Asked Questions: Guidance for Local Health Departments \(LHD\) and Health Care Providers on STI Billing and Minor's Consent to Prevention Services and HIV-related Services](#)

Disclosure

It is important that clinicians engage adolescent patients in dialogue about the potential advantages or disadvantages of disclosing their HIV status to parents, legal guardians, or any other adult who may provide support and that they facilitate such conversations at a patient's request.

Determining whether a minor's health or well-being may be at risk if they disclose their HIV status to their parent or legal guardian is crucial to establishing a framework for patient care. It is important to know, for example, if a young man who has sex with men may risk being forced out of his home if he discloses his HIV status or his sexual identity to his parents or legal guardians or if a young woman who has acquired HIV through sexual transmission may fear physical abuse if her family learns of her sexual activity.

→ KEY POINTS

- Adolescents may be at risk for abuse if they disclose that they have HIV or are at risk of acquiring HIV. Appropriate referrals and assistance should be offered to patients reporting such risk.
- Discussions about disclosure and possible risks to the adolescent can be documented in the medical record.
- Supportive adults may be an important resource to help adolescent patients remain engaged in care. Clinicians can help patients identify supportive adults and facilitate conversations around disclosure if requested.

Consent Process and Confidentiality

Many healthcare facilities have established policies and procedures for obtaining consent for minors to receive HIV care, including prevention. In the absence of such policies and procedures in their respective facilities, clinicians can consult their facility's legal or risk management departments. A lack of institutional policies that address consent and confidentiality for minors should not prevent clinicians from offering services that minors are legally allowed to access independently.

Education about and assistance with an insurance plan's member services regarding the following rights is essential so adolescents are able to:

- Opt out of explanations of benefits or other communications (e.g., prior authorization notices) that are mailed to their parents or legal guardians regarding HIV care.
- Request that insurance cards be mailed to the address of their choice (e.g., an alternate to family address).
- Ensure that information is not inadvertently disclosed through electronic portals that parents or legal guardians are able to access (see discussion of *Federal Law*, above).

Care providers are encouraged to provide hands-on assistance to adolescents when they need it to complete these tasks. Requirements vary across insurance companies and are not always straightforward. The [NYSDOH AI Dear Colleague Letter \(May 21, 2012\)](#) provides information about minors' confidentiality rights with insurance companies. See [NYSDOH HIV/AIDS Laws & Regulations](#) for information on laws pertaining to HIV testing, reporting, and confidentiality.

→ KEY POINT

- Coordination with insurance companies is necessary to ensure that confidentiality is managed according to the wishes of an adolescent patient.

Retention in Care

Adolescents with HIV should be encouraged to remain in care and keep scheduled appointments. Adolescents may consent to and are eligible for all of the following essential medical services:

- Prescription and management of antiretroviral therapy
- Standard disease monitoring (e.g., physical and laboratory assessments such as CD4 counts and viral load tests)
- Screening and treatment for STIs
- Recommended immunizations, including for human papillomavirus (see *Centers for Disease Control and Prevention > Immunization Schedules*)
- Sexual health and family planning services. In NYS, minors can consent to all forms of contraception, including condoms, emergency contraception, and long-acting methods, such as implants. Minors may also consent to abortion services without parental involvement (see *New York Civil Liberties Union: Teenagers, Health Care, and the Law: A Guide to the Law on Minors' Rights in New York State*)
- Counseling and treatment for risk reduction, mental health, and substance use, as permitted by law

RESOURCES

- **NYSDOH AIDS Institute:** *Talking with Young People: Why it is important to talk with young people about HIV, STDs, hepatitis, and sexual health*
- **Legal Action Center:** *Help with legal policy for people with criminal records, substance use disorders, and HIV or AIDS*
- **New York Civil Liberties Union:** *Teenagers, Health Care, and the Law: A Guide to Minors' Rights in New York State*
- **CEI Line:** *Clinical Inquiry for HIV, HCV, STD, PEP, PrEP* ● Toll-free: 1-866-637-2342
- **NYSDOH AIDS Institute:** *New York State Youth Sexual Health Plan*

References

CDC. Youth Online: Youth Risk Behavior Surveillance System. 2020

<https://nccd.cdc.gov/YouthOnline/App/Default.aspx?SID=HS> [accessed 2020 Nov 13]

NYSDOH. Frequently asked questions: guidance for local health departments (LHD) and health care providers on STI billing and minor's consent to prevention services and HIV-related services. 2019a Nov.

https://www.health.ny.gov/diseases/communicable/std/docs/faq_billing_consent.pdf [accessed 2020 Dec 11]

NYSDOH. 2019b. Unpublished data.