

For more detailed information about the legal considerations involved in the provision of confidential contraceptives to adolescents who are minors, see *Confidential Contraceptive Services for Adolescents: What Health Care Providers Need to Know About the Law*.

This document provides an overview of why confidentiality is important, what can be learned from research findings and from the policies of health care professional organizations, what state and federal laws provide, and what it means when laws are not clear. The document is available on the Web sites of the Center for Adolescent Health the Law at www.cahl.org and Healthy Teen Network at www.HealthyTeenNetwork.org.

Specific information about the consent laws in each state is available from the Center for Adolescent Health & the Law, which has produced a detailed monograph summarizing the laws in each state. Information about the monograph is available on the Center's Web site at www.cahl.org. An overview of minor consent laws in the states is available from the Guttmacher Institute at www.guttmacher.org/statecenter/spibs/spib_MACS.pdf.

Healthy Teen Network:
www.HealthyTeenNetwork.org

Center for Adolescent Health & the Law:
www.cahl.org

Guttmacher Institute: www.guttmacher.org

Planned Parenthood Federation of America:
www.ppfa.org

Center for Reproductive Rights:
www.reprorights.org

ACLU Reproductive Freedom Project:
www.aclu.org/reproductiverights

Acknowledgements

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Healthy Teen Network

Healthy Teen Network (HTN) is a national membership organization that provides resources and services to professionals working in the field of adolescent reproductive health - specifically teen pregnancy prevention, teen pregnancy, and teen parenting.

The Center for Adolescent Health & the Law

The Center for Adolescent Health & the Law (CAHL) is a national nonprofit legal and policy organization that promotes the health of adolescents and their access to comprehensive health care.

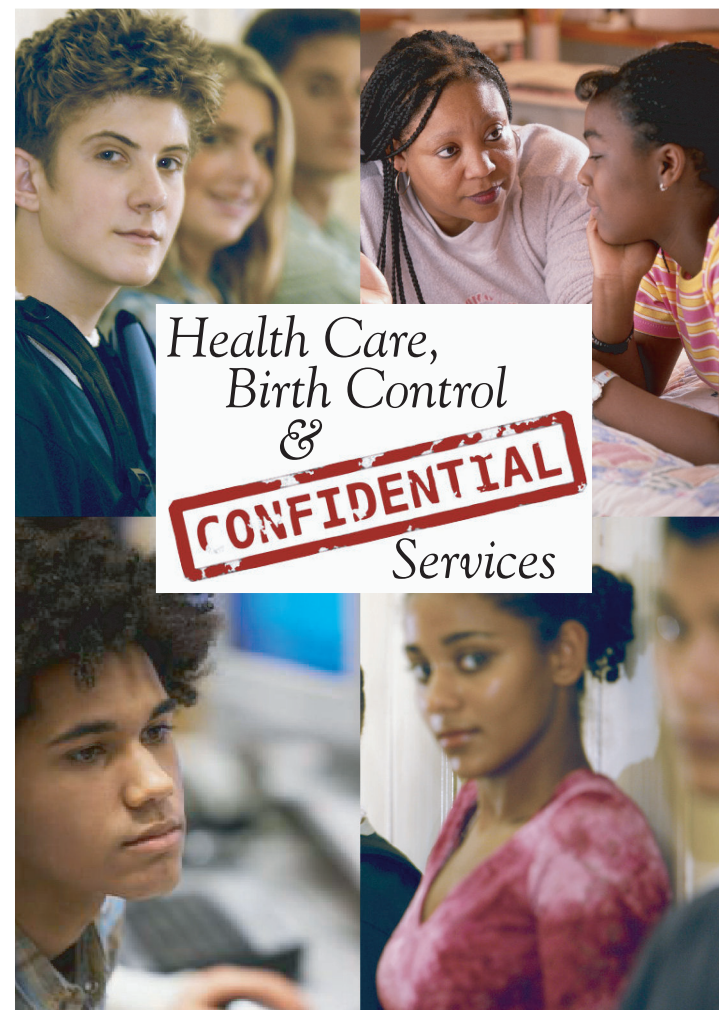
Healthy Teen Network and the Center for Adolescent Health & the Law strongly believe youth can make responsible decisions about sexuality, pregnancy, and parenting when they have complete and accurate information, resources, and support that are culturally relevant and appropriate to their age, gender, and developmental stage. HTN and CAHL believe parents and other trusted adults can be a teen's greatest support and should be engaged in every aspect of their teen's health and well-being.

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Making a Difference...

Helping Teens Stay Healthy & Safe



A guide for providers



Confidential contraceptive services are an important part of comprehensive health care for adolescents and of teen pregnancy prevention efforts. Numerous laws at the state and federal level help ensure adolescents' access to contraceptive services and provide confidentiality protections.



Federal Law Support for Confidential Services

Federal laws provide important legal protections related to confidential contraceptive services in several ways, through the Title X Family Planning Program, Medicaid, the HIPAA Privacy Rule, and the constitutional right of privacy.

The importance of confidentiality for adolescents has been documented in research studies, confirmed by the experience of health care professionals, and reflected in the policies of health care professional organizations. A majority of young people share information about sensitive issues such as sexual activity and contraception with their parents and other adults in their lives, but sometimes adolescents need or want confidential services. When adolescents are discouraged from seeking health care because that care will not be confidential, the result can lead to adverse health outcomes and significant social and economic costs.

Importance of Confidentiality

Many professional health care organizations have adopted ethical codes, issued organizational policy statements, and developed practice guidelines that affirm the importance of providing confidential care - including confidential contraceptive services - for adolescents. These policies are supported by provisions of both state and federal law. Under current law there is likely to be a legal basis for minors to receive confidential contraceptive services in any state, at least in some settings.

Professional Organization Policies

Evidence from research confirms that concerns about privacy can act as an important barrier when adolescents seek health care. For example, many young people indicate that they would not use the services of a family planning clinic if their parents had to be informed, but few say they would stop having sex.

Research Findings

State Law Support for Confidential Services

State Minor Consent Laws

Every state has some “minor consent laws” that allow adolescents under age 18 to give their own consent for health care. Some of these laws are based on the status of the adolescent—for example, as an emancipated or mature minor, a minor living apart from family, or a minor parent. Other minor consent laws are based on the services being sought—such as contraceptive services, diagnosis or

treatment of sexually transmitted infections, or substance abuse counseling. Both types of laws are important in determining minors' access to confidential contraceptive services. It is essential to know what the laws provide in a specific state.

The mature minor doctrine may provide an important basis for minors to consent for their own health care, including contraception, when there is no explicit state statute authorizing them to do so, although when state courts have not previously considered the doctrine there is not a guarantee that they will accept it.

State Confidentiality Protections

State laws often provide confidentiality protection when minors receive contraceptive services. These protections may be contained in the minor consent laws, in state medical records or medical privacy laws, or in professional licensing laws. Sometimes some state laws allow health care professionals the discretion to share information with parents even when minors have been able to consent for the care.

Title X

The Title X Family Planning Program provides minors with access to confidential family planning services based on their own consent in Title X funded sites in all states. Title X is especially important in states that do not have explicit protections under state law for confidential contraceptive services for minors or that place limitations on which minors may give their own consent for contraceptive services or on the circumstances in which they may do so.

Medicaid

Medicaid includes coverage for “family planning services” for women and adolescents who are sexually active and eligible for Medicaid. The Medicaid program includes confidentiality protections.

HIPAA Privacy Rule

The HIPAA Privacy Rule contains specific provisions for minors. Regarding disclosure of confidential information to a minor's parent, the Rule defers to other laws, such as state minor consent laws or Title X regulations.

Constitutional Law

The constitutional right of privacy protects minors as well as adults, and includes the right to choose contraception. The constitutional privacy protection for contraceptive choices can be looked to for additional support in providing confidential contraceptive services to minors, when there is not an explicit statute authorizing minors to consent for such services.