

Medical Treatment of Minors – Consent

TOPIC	LAW	DESCRIPTION
CONSENT FOR MEDICAL TREATMENT IN GENERAL, INCLUDING HIV TREATMENT	N.Y. PHL § 2504(1), (3), (4), (6).	<p>PHL § 2504 provides that parental or guardian consent is generally required for a physician to treat a person who is under 18, including for HIV/AIDS. However, there are exceptions:</p> <p>§ 2504(1): A person who is a) 18 or older; b) the parent of a child; or c) has married may give consent for medical, dental, health and hospital services for himself or herself, and the consent of no other person shall be necessary;</p> <p>§ 2504(3): A person who is pregnant may give consent for medical, dental, health and hospital expenses relating to prenatal care;</p> <p>§ 2504(4): Medical, dental health and hospital services may be rendered to persons of any age without the consent of a parent or legal guardian when in the physicians judgment an emergency exists and the person is in immediate need of medical attention and an attempt to secure consent would result in delay of treatment which would increase the risk to the person’s life or health.</p> <p>§ 2504(6): Anyone who acts in good faith based on the representation by a person that he or she is eligible to consent pursuant to the terms of this section shall be deemed to have received effective consent.</p>
HIV SCREENING	N.Y. PHL § 2780(5) and § 2781	<p>PHL 2781 states that an HIV-related test may not be ordered without the informed consent of the subject, if the subject has the capacity to consent, or, if he/she does not, the consent of a person authorized to consent to health care for the subject.</p> <p>However, PHL § 2780 provides that the “capacity to consent” to HIV testing means an individual’s ability, determined without regard to the individual’s age, to understand and appreciate the nature and consequences of a proposed health care service, treatment, or procedure, or of a proposed disclosure of confidential HIV related information, and to make an informed decision.</p>
HIV TREATMENT OF SURVIVORS OF A SEXUAL OFFENSE	N.Y. PHL § 2805-i(1)(c)	Every hospital providing treatment to alleged victims of a sexual offense is responsible for offering and making available appropriate post HIV-exposure treatment therapies in cases where it is determined, in accordance with guidelines issue by the commissioner that significant exposure to HIV has occurred.
STD SCREENING AND TREATMENT	<p>N.Y. PHL § 2305</p> <p>N.Y. PHL § 2311</p>	<p>A licensed physician may diagnose, treat or prescribe for a person under 21 without the consent or knowledge of the parents or guardian of said person, where such person is infected with a sexually transmitted disease, or has been exposed to infection with a sexually transmitted disease.</p> <p>PHL § 2311 requires the Commissioner of DOH to promulgate a sexually transmitted disease list. HIV is not on the list.</p>
	N.Y. PHL § 17	Records concerning the treatment of a minor for a sexually transmitted disease or the performance of an abortion upon such minor patient shall not be released or made available to the parent or guardian of such minor.
ACCESS TO PATIENT INFORMATION REGARDING MINORS	<p>N.Y. PHL § 18(2)(c)</p> <p>N.Y. 18(3)(c)</p>	<p>A health care provider must provide a parent or guardian access to any patient information concerning 1) the treatment of a minor for which the consent of the parent or guardian was obtained; or 2) care provided without consent in an emergency, that was a result of an accidental injury or the unexpected onset of serious illness. However, a parent/guardian is not entitled to inspect patient information concerning the care and treatment of a minor if the health care provider determines that access to the requested information would have a detrimental effect on the provider’s professional relationship with the minor, the minor’s care or treatment, or the minor’s relationship with his/her parent or guardian.</p> <p>A subject over the age of 12 may be notified of a request by a qualified person (including a parent or guardian) to review his or her patient information, and if the subject objects to disclosure, the physician may deny the request.</p>