

FACTS *for* FAMILIES

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Know Your Rights: Consent and Confidentiality

Patients and families often wonder what their rights are when they see a doctor. They may have questions about what will happen to the personal and private information they share. They may also worry about whether they can refuse to follow their doctor's recommendations.

There are federal and state laws governing the rules regarding privacy, consent and confidentiality. Health Insurance Portability and Accountability Act (HIPPA) is a federal regulation requiring physicians to protect the privacy and security of medical records. Doctors also have a code of medical ethics that guides their professional behavior.

Consent

Informed consent is an important part of the doctor patient relationship. It occurs when the benefits and risks of a procedure are explained to a patient or guardian and then they give permission for a medical procedure to take place. Patients have the right to either give informed consent or to refuse. In situations where the state feels that the parents' decision to refuse treatment is not in the best interest of the child, the state can challenge the parents' decision in court.

Some states allow children 12 and older to make some of their own medical decisions without the knowledge or agreement of their parents. Twenty states and the District of Columbia give minors the ability to consent to outpatient mental health services. Forty four states and the District of Columbia authorize minors who abuse drugs or alcohol to consent to outpatient counseling without a parent's consent.

Confidentiality

Once a doctor patient relationship has been established then the patient has the following rights:

- to obtain complete information about their medical care
- to inspect their medical records within five days of making a written request
- to have their medical records kept confidential unless written consent for release is provided by the patient or legal guardian
- to sue any person who unlawfully releases their medical information without their consent

Youth over the age of 12 may ask that their information not be shared with their parents. Unless the information is specifically protected by state law the doctor is not legally required to agree to the request. Some states that allow minors to consent to certain procedures often allow care to remain confidential from parents, but there are exceptions. Adolescents may be able to provide consent to treatment but this does not guarantee privacy.

Doctors are required to release medical information even without the patient's written consent when they have concerns that the child or others may be at risk for immediate harm. Also, doctors must release information when ordered by a court. A doctor or health insurance company may also release medical records without consent to billing, claims management services for the health insurance company. Privacy rules require the doctor to make reasonable efforts to only disclose the minimal amount of information necessary for the purpose requested.

Rules about confidentiality are different in healthcare agencies, schools and social service agencies. It can be helpful to check about which rules apply when you get your care.

Consent, privacy and confidentiality are important aspects in psychiatric care. If you feel that your rights have been violated you can bring up your concerns to your doctor or the state licensing body.

For related information, see the following *Facts for Families*:

[#24 When to Seek Help for Your Child](#)

[#25 Where to Find Help for Your Child](#)

[#52 Psychiatric Evaluation](#)

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