

## Alabama Youth Consent and PHI

*What can adolescents consent to at what age?*

Age	Consent for treatment and procedures	Consent for sexual conduct or related issues	Disclosure of PHI to parents
<b>0-11 years</b>	May not give consent	Deemed incapable of consent <sup>1</sup>	MD <b>must</b> disclose PHI to parents <sup>††</sup>
<b>12 years</b>	May not give consent	Cannot consent to have sex, <i>even</i> if the sex is “consensual” and not forced <sup>2</sup>	Same as 0-11 years
<b>13 years</b>	May not give consent	Can consent to sex with another party from 13-15 years of age (two-year age difference)*	MD <b>must</b> disclose PHI to parents <sup>††</sup> If there is an STD, we are <i>permitted to disclose</i> to the parent, but are <i>not required</i> to do so. We do not need to affirmatively seek out the parent to disclose the STD information.
<b>14 years</b>	May consent to medical treatment. May consent to medical procedures <sup>** and 3</sup>	Can consent to sex with another person from 13- 16 years of age (within a two-year age difference)*	MD may disclose PHI to parents <sup>††</sup> as AL law does not prohibit disclosure. In setting of STD we are <i>permitted to disclose</i> to parents, but are <i>not required</i> to do so. We do not need to affirmatively seek out the parent to disclose the STD information.
<b>15 years</b>	May consent to medical treatment. May consent to medical procedures. <sup>** and 3</sup>	Can consent to sex with another person from 13- 17 years of age (within a two-year age difference)*	Same as at 14 years
<b>16 years</b>	May consent to medical treatment. May consent to medical procedures <sup>** and 3</sup>	Can consent to sex with another person as young as 14 (two-year age difference) or any adult of any age	Same as at 14 years
<b>19 years</b>	Must consent to any procedure and also must consent to form contracts including payments <sup>4</sup>	Can consent to have sex with anyone ≥16 years of age	MD must have authorization from the patient to disclose PHI to anyone other than the patient.

***May I reveal drug testing results to the parents of an adolescent patient ≤18 years of age?***

-Drug testing results that are not part of substance abuse treatment records have *no special protection* if the patient is not in a specialized drug or alcohol unit of the hospital, or being cared for

by medical personnel whose primary function is to provide services for alcohol or drug abuse. If your facility or clinic do not have specialized substance abuse treatment, drug testing results are not protected and so there is no legal block to sharing those results.

***Sexual acts that are illegal in the state of Alabama regardless of age or consent:***

- A person with one of their siblings (either whole or half siblings)
- A person with their aunt, uncle, niece, nephew
- A person with their own child (blood or adopted)
- A person with their stepchild (while the marriage creating the relationship exists)
- A foster parent with their foster child up to 18 years of age (while foster placement is active)

**Appendix:**

\*By statute the age difference cannot be greater than 2 years -Alabama Criminal Code 13A-6-62. The “within the two years” age difference is the close in age exemption in Alabama.

\*\*Adolescents  $\geq$  14 years may give consent for medical procedures under Alabama state law, but they cannot form contracts, including payments.

- The biggest issue is whether, for procedures requiring informed consent, they can truly comprehend the risks and benefits, and thereby be adequately informed to give the sole consent. In our routine practice, we should get consent from a parent or legal guardian for procedures with any significant risk or benefit requiring consent, even though legally the child can consent to procedures starting at age 14. **Exceptions** may occur occasionally.
- If an adolescent refuses to consent for a procedure, the parent or legal guardian *can* override their refusal, **except** in the setting of sexual assault exams.
- If in doubt, contact your legal advisor.

†† Unless MD believes revealing that PHI will endanger the child

**Relevant Laws:**

<sup>1</sup> § 13A-6-70, § 13A-6-61, Alabama Criminal Code

<sup>2</sup> § 13A-6-61, Alabama Criminal Code

<sup>3</sup> § 22-8-4

<sup>4</sup> Alabama Code § 26-1-1

<sup>5</sup> See R.J.D. v. Vaughan Clinic, P.C., 572 So.2d 1225 (Ala. 1990)

This document is for general guidance and does not replace legal guidance. 2022