



DENTAL EXPRESSIONS[®]

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Adolescent Patients: A Liability Checklist for the Dental Setting

The hallmarks of adolescence are physical changes, increasing autonomy and sometimes a proclivity for risky behavior, as those situated between childhood and adulthood seek to understand themselves and explore the larger world. Dentists and staff members who treat adolescent patients establish a professional relationship, allowing them to develop a mutual trust and thereby gain insights into an adolescent's state of health. During the course of care, a dental examination may signal certain sensitive health issues that, in turn, present a range of clinical, legal and ethical concerns. A few examples include:

- *Tooth erosion or decay* due to an eating disorder, illicit drug use or other factors.
- *Oral-pharyngeal lesions* that may indicate human papillomavirus or other exposures.
- *Inflamed and bleeding gums*, which may be associated with pregnancy or hormonal increases during puberty.
- *Signs of physical trauma*, either intraoral or visible elsewhere on the body.

In order to meet the needs of adolescent patients and minimize liability exposure, dental staff must be sensitive to developmental issues and also aware of adolescent patients' rights. Dental practice settings require a framework of written policies and procedures to help the care team safely navigate the risks associated with adolescent patients. The following self-assessment tool is designed to help examine office practices and identify areas for further investigation and possible improvement.

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Self-assessment Tool: Policies and Procedures Relating to Adolescent Patients

AREAS OF RISK	STATUS	COMMENTS
GENERAL POLICY CONSIDERATIONS		
Do office policies on adolescence conform with state law, especially in relation to the state statutory definition of a “minor” (e.g., 13 to 17 years of age)?		
Is <i>emancipated minor</i> defined in accordance with state law, e.g., a youth who is:		
<ul style="list-style-type: none"> ▪ Emancipated by court order? 		
<ul style="list-style-type: none"> ▪ Legally married? 		
<ul style="list-style-type: none"> ▪ Independent of parental financial support and/or living apart from parents? 		
<ul style="list-style-type: none"> ▪ Pregnant or seeking treatment for possible pregnancy? 		
<ul style="list-style-type: none"> ▪ A parent of a child? 		
Does the employee orientation and training program cover adolescent-related issues and policies, including confidentiality, parental notification, consent and patient education?		
Are adolescent patients who legally have the right to consent to their dental care informed of payment requirements and options in the same manner as adult patients?		
Do office policies address treatment provisions for unaccompanied minors, including consent for care?		
Are dental office staff members aware of all state mandatory reporting requirements relating to abuse and neglect?		
Are dentists and dental hygienists certified in child abuse mandated reporter training, where required by state law?		
CONFIDENTIALITY AND PRIVACY		
During the initial visit, do dentists and staff members help promote adolescents’ emerging autonomy by:		
<ul style="list-style-type: none"> ▪ Reviewing the confidentiality policy of the practice with all adolescent patients and parents? 		
<ul style="list-style-type: none"> ▪ Acknowledging that minor patients may have specified legal rights regarding consent and confidentiality? 		
<ul style="list-style-type: none"> ▪ Fostering an appropriate level of choice, responsibility, compliance and self-reliance? 		
Are sensitive health-related discussions routinely treated in a confidential manner when involving adolescent patients, e.g., substance abuse, abuse by others?		
Do patient portals meet state and HIPAA confidentiality standards for adolescents whose parents or guardians may have proxy access to their records?		
Do policies address other adolescent patient documentation issues, such as authorization to release records and access to electronic health records via patient portals?		
For adolescent patients who may consent to their own treatment, are they informed of the office privacy practices and provided with a copy?		
Are adolescent patients offered a private space away from parents/guardians for interviews and/or examinations that may involve sensitive topics or findings?		

AREAS OF RISK	STATUS	COMMENTS
CONFIDENTIALITY AND PRIVACY (CONTINUED)		
Are adolescent patients permitted to invite a family member, peer or other chaperone to be present during discussions and examinations, as well as to consult with others when making dental care decisions?		
Are adolescent patients apprised of the information that will be shared with parents or guardians, as well as the rationale for such information sharing – e.g., a clear and specific intent to cause harm to self or others, an instance of reportable abuse (physical, sexual or emotional) or the presence of a communicable disease?		
Are adolescent patients asked if they may be contacted at the indicated telephone number, emailed or texted, and if messages may be left at the telephone number?		
INFORMED CONSENT		
Is there a policy regarding when verbal consent from a parent/guardian suffices, and does this policy comply with state informed consent laws and regulations?		
In those states where verbal parental consent is permitted or required, is the process documented comprehensively – i.e., do dentists and staff members note in the dental record that the parent giving consent understands the treatment alternatives (including no treatment), benefits, risks and consequences of the procedure?		
Is there an office protocol addressing emergency treatment of a minor where a parent may not be available or authorization is not possible due to the emergent nature of the condition?		
Is there a written policy addressing informed consent by “mature minors,” if the practice is located in a state that has enacted a mature minor statute? (See “Determining Mature Minor Status,” on page 5 .)		
If applicable, does the informed consent policy for mature minors:		
<ul style="list-style-type: none"> ▪ Assess the patient’s decision-making ability and degree of autonomy? 		
<ul style="list-style-type: none"> ▪ Discuss risks and benefits of the proposed treatment in an age-appropriate manner? 		
<ul style="list-style-type: none"> ▪ Evaluate and document the patient’s understanding of the information given? 		
Is the information provided by parents or guardians authorizing treatment of an adolescent examined for authenticity, and does the verification process confirm that:		
<ul style="list-style-type: none"> ▪ The author/signatory is in fact a parent or legal guardian? 		
<ul style="list-style-type: none"> ▪ The author is legally able to give permission to treat? 		
<ul style="list-style-type: none"> ▪ The document has been notarized, if necessary? 		
Is the decision-maker’s name prominently noted in the dental care record, whether it is the patient, a parent or a legal guardian?		
Is there a protocol in place for settling disputes between parents/legal guardians and the adolescent patient?		
Is there a protocol in place for settling disputes between the two parents about a proposed treatment or procedure for their adolescent child?		
Do office policies address parental consent for divorced parents and single parents, and are safeguards in place to ensure that court orders regarding legal custody and shared rights are followed?		
Is a policy in effect concerning the rights of stepparents and foster parents, including a process to verify their legal authority to grant consent for medical treatment?		

AREAS OF RISK	STATUS	COMMENTS
PATIENT HISTORY, PSYCHOSOCIAL ISSUES AND HEALTH EDUCATION		
Are common adolescent oral-related problems included in history and clinical assessment, including:		
<ul style="list-style-type: none"> ▪ Enamel erosion (bulimia, other factors)? 		
<ul style="list-style-type: none"> ▪ Severe decay (methamphetamine abuse, opioids or other medications that cause dry mouth)? 		
<ul style="list-style-type: none"> ▪ Oral/periodontal effects of oral contraceptives or antibiotics? 		
<ul style="list-style-type: none"> ▪ Effects of intraoral/perioral piercing? 		
Are adolescent patients offered current information on relevant health issues, including:		
<ul style="list-style-type: none"> ▪ Nutrition and overall health? 		
<ul style="list-style-type: none"> ▪ Importance of oral health and oral hygiene motivation? 		
<ul style="list-style-type: none"> ▪ Impact of negative behaviors on oral and overall health (tobacco, alcohol and illicit drug use, prescription drug diversion, etc.)? 		
<ul style="list-style-type: none"> ▪ Patterns of oral/dental growth and development? 		
<ul style="list-style-type: none"> ▪ Potential for traumatic injuries and protective measures (athletics and other factors)? 		
Is health-related information offered in a variety of convenient and engaging formats, including age-appropriate brochures, videos, websites and online tutorials?		
Are sensitive health-related issues discussed in a private area where adolescents can feel comfortable?		

This tool provides a reference for organizations to evaluate risk exposures associated with adolescent dentistry. The content is not intended to be a complete listing of all actions needed to address the subject matter, but rather is a means of initiating internal discussion and self-examination. Your clinical procedures and risks may be different from those addressed herein, and you may wish to modify the tool to suit your individual practice and patient needs. The information contained herein is not intended to establish any standard of care, serve as professional advice or address the circumstances of any specific entity. The statements expressed do not reflect a risk management directive from CNA. No organization or individual should act upon this information without appropriate professional advice given after a thorough examination of the individual situation as well as relevant laws and regulations. CNA assumes no responsibility for the consequences of the use or nonuse of this information.

Determining Mature Minor Status

A “mature minor” is generally defined as a minor who lives under the supervision of a parent or guardian, and whose emotional and intellectual maturity is sufficient to give informed consent.

In some states that have articulated a mature minor doctrine, minors are permitted to consent for their own dental care when a dentist deems the minor competent to provide informed consent. Still other states establish statutory criteria to declare a minor mature, which are applied by the courts on a case-by-case basis. These criteria include:

- Minor's age
- Medical condition
- Emotional and intellectual maturity
- Risk of treatment
- Necessity of the treatment

The mature minor rule is recognized by leading medical organizations with medical ethics policies, including the **American Medical Association** and the **American Academy of Pediatrics**. These organizations urge providers to permit a minor with adequate decision-making capacity the right to consent to medical and other health-related care, and to notify parents only with the minor's consent. These organizations justify a mature minor status in order to avoid unnecessary harm in the event a minor will not receive needed care because he/she cannot or will not involve a parent.

Dentists are encouraged to review their respective state laws regarding treatment of a mature minor. For samples of state-specific guidelines, see:

- **“Consent for Care and Confidential Health Information.”** Network for Public Health Law, August 2014.
- **“Minor Rights: Access and Consent to Health Care.”** Oregon Health Authority, September 2012.
- **Teenagers, Health Care and the Law: A Guide to the Law on Minors' Rights in New York State.** The New York Civil Liberties Union.

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QUICK LINKS

- ["Adolescent Dental Health: Maintaining Confidentiality While Keeping Patients Involved."](#) Network for Public Health Law.
- ["Confidentiality in Health Care: Adolescent Young Adult Clinical Care Resources."](#) Society for Adolescent Health and Medicine, updated August 2015.
- [Ford, C. et al. "Confidential Health Care for Adolescents: Position Paper of the Society for Adolescent Medicine."](#) *Journal of Adolescent Health*, August 2004, Volume 35:1, pages 1-8.
- [Guideline on Adolescent Oral Health Care.](#) Council on Clinical Affairs, Committee on the Adolescent, American Academy of Pediatric Dentistry, revised 2015.
- [Guideline on Oral Health Care for the Pregnant Adolescent.](#) Council on Clinical Affairs, Committee on the Adolescent, American Academy of Pediatric Dentistry, revised 2012.
- [State-by-State Review Regarding Ability of Minors to Consent to Routine Medical Care.](#) National Association for the Education of Homeless Children and Youth, March 1, 2015.

CNA Risk Control Services

LOOKING FOR ADDITIONAL RISK MANAGEMENT INFORMATION?

Visit the CNA Web site at www.cna.com/dentists for additional resources. You will find information about risk management support and education, including the availability of online and live seminar course options.

Dental Risk Management Seminars

The CNA Dental Professional Liability Risk Management Seminar, developed by dentists for both dentists and their staffs, will provide you with skills, tips and techniques to help you better manage patient care, as well as strengthen your leadership role in the practice. Consult the course listing below or access www.cna.com/dentists for the latest course schedule.

When it comes to understanding the risks faced by dentists ... **we can show you more.®**

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