

641—11.3 (139A,141A) HIV testing—obtaining consent—voluntary HIV-related tests for minors who are not pregnant.

11.3(1) A minor shall have the legal capacity to act and give consent to the provision of medical care or services for the prevention, diagnosis, or treatment of HIV by a hospital, clinic, or health care provider. Consent shall not be subject to later disaffirmance by reason of such minority. The consent of another person, including but not limited to the consent of a spouse, parent, custodian, or guardian, shall not be necessary.

11.3(2) Prior to conducting a voluntary HIV-related test on a minor, the health care provider requesting the test shall provide information to the subject of the test concerning HIV testing and where to obtain additional information regarding HIV infection and risk reduction.

11.3(3) A minor shall be informed prior to testing that, upon confirmation according to prevailing medical technology of a positive HIV-related test result, the minor's legal guardian is required to be informed by the health facility conducting the test. Health facilities where minors are tested shall have available a program to notify the legal guardian of a newly diagnosed minor. The notification process shall emphasize the need for family support and shall assist in making available the resources necessary to accomplish that goal. However, a health facility which is precluded by federal statute, regulation, or CDC guidelines from informing the legal guardian is exempt from the notification requirement.

11.3(4) Prior to the test, a minor shall give written consent for performance of the HIV-related test and to the notification of the legal guardian should the test be confirmed as positive.

11.3(5) If a minor is unable to provide consent for an HIV-related test, the minor's legal guardian may provide oral or written consent for the minor. If the minor's legal guardian cannot be located or is unavailable, a health care provider may authorize the HIV-related test when the test results are necessary for diagnostic purposes to provide appropriate urgent medical care.

11.3(6) Once a minor has been informed of a confirmed positive HIV-related test and the legal guardian has been notified, no HIV-specific consent for medical procedures and tests shall be required for subsequent medical procedures and tests involved in the care or treatment of a minor with HIV infection.