

HIV Modernization Task Force Report Section: Age of Consent

Submitted by André Wade

The rates of new HIV diagnosis (and STI's more broadly, including HPV) amongst youth is of concern in the state of Nevada. To address this health issue, a law was passed in 1971 and amended in 1989 to allow minor children to receive HIV and STI treatment and testing without the consent of a parent or guardian.¹ A minor is defined as someone who is under the age of 18. Informed consent is the active information-sharing and decision-making process for health care, through which a provider engages the patient—and often, in the case of minors, a surrogate decision maker—to discuss the nature of care, its associated benefits, risks and alternatives, while concurrently assessing patient/surrogate decisional capacity and values.² To better fight against the high rates of STI diagnosis, including the high rates of new HIV diagnosis in Nevada, it is important to allow adolescents under the age of 18 to also receive preventative medication and services to prevent them from getting an STI of any type. Although, ideally, the adolescent and the parent/surrogate decision-maker would agree that an adolescent getting preventative care and treatment is in the patient's best interest, in circumstances where the parent/surrogate refuses to grant consent, or is unavailable, clinicians may not feel comfortable delivering care to the minor absent clear legal as well as ethical approval.^{3,4} Changes in the law will support a clearer approval.

According to the Centers for Disease Control (CDC), the number of adolescents ages 13-14 diagnosed with HIV in 2018, across the U.S., was 87. Youth ages 15-19 diagnosed with HIV was 20. Although the Nevada Department of Health and Human Services Division of Public Health does not specifically report on the discrete rate of young people ages 13-17 who are newly diagnosed or living with HIV, the data does illustrate that minor youth are living with and impacted by HIV.⁵ Even with the data that exists, Nevada law does not allow a minor to consent to receive preventative services like HIV prevention medication without their parents' consent.

¹ Nevada Revised Statute. Judicial Emancipation of Minors. <https://www.leg.state.nv.us/NRS/NRS-129.html#NRS129Sec060>

² Zimet, G. D., Silverman, R. D., Bednarczyk, R. A., & English, A. (2021). Adolescent Consent for Human Papillomavirus Vaccine: Ethical, Legal, and Practical Considerations. *The Journal of pediatrics*, 231, 24–30. <https://doi.org/10.1016/j.jpeds.2021.01.026>

³ American Academy of Pediatrics Committee on Bioethics. Informed consent in decision-making in pediatric practice. *Pediatrics*. 2016;138:e2 0161484. [[PubMed](#)] [[Google Scholar](#)]

⁴ Michaud PA, Blum RW, Benaroyo L, Zermatten J, Baltag V. Assessing an adolescent's capacity for autonomous decision-making in clinical care. *J Adolesc Health*. 2015;57:361–6. [[PubMed](#)] [[Google Scholar](#)]

⁵ Nevada Department of Health and Human Services Division of Public and Behavioral Health Office of HIV - HIV Prevention and Surveillance Program, Office of Analytics. Nevada 2020 HIV Fast Facts. https://dhhs.nv.gov/uploadedFiles/dhhsnvgov/content/Programs/Office_of_Analytics/Nevada%202020%20HIV%20Fast%20Facts.pdf

Most youth who acquire HIV during adolescence do so through sexual transmission.⁶ And many are unaware that they are living with HIV⁷. Although condoms can be purchased by minors and free condoms can be obtained at sexual health clinics and at some community-based organizations, it is reported that there is a low rate of condom use amongst youth.⁸ This data suggests that young people should continuously be encouraged to use condoms and be educated on how to access condoms. The data also suggests that other interventions are necessary to help prevent the transmission of HIV for minor youth who are engaging in sex. HIV preventative medication like PEP and PrEP are viable tools in the fight to end the HIV epidemic. Studies show that PEP is 99 percent effective in stopping the transmission of HIV⁹ and PEP can also greatly reduce exposure.¹⁰ Therefore, minor youth who are engaging in sex should have the option to receive PEP and PrEP, without their parents' consent, to protect their sexual and overall health, which, in turn, helps to protect public health. To address the sexual health of young people, it is encouraged to allow young people to consent to access HIV prevention medication like PEP and PrEP to mitigate new rates of HIV infections amongst this vulnerable population.

The ability of minors to access PrEP and PEP without parental consent is interpreted by some to fall under NRS 129.030(3), which allows minors seeking physical, behavioral, dental, or mental health services without the consent of a parent. In this scenario, the minor would understand the nature and purpose, probable outcome, and voluntarily request the proposed services. As a result, there may be a question as to whether or not new legislation is needed or if current legislation needs to be clarified to be specific on this matter.

“While adolescent and young adult perspectives on using PrEP are diverse—as expected given variations in values, knowledge, cultural norms, and concerns about stigma—youth are generally open to and interested in PrEP. A systematic review described strong interest and support for PrEP use among many younger populations at risk of HIV infection including adolescent girls and young women, youth who identify as transgender, and, to a lesser extent, youth who inject drugs [26].”¹¹

⁶HIVinfo.org NIH.gov. (2021, August 19). HIV and Specific Populations. Retrieved August 11, 2022 from <https://hivinfo.nih.gov/understanding-hiv/fact-sheets/hiv-and-children-and-adolescents>

⁷ ibid

⁸ ibid

⁹ U.S. Centers for Disease Control & Prevention, Pre Exposure Prophylaxis (PrEP), CDC.gov (Aug 13, 2022), <https://www.cdc.gov/hiv/risk/pep/index.html>;

¹⁰ U.S. Centers for Disease Control & Prevention, PEP, CDC.gov (Aug 13, 2022), <https://www.cdc.gov/hiv/basics/pep.html>.

¹¹Allen, E., Gordon, A., Krakower, D., & Hsu, K. (2017). HIV preexposure prophylaxis for adolescents and young adults. *Current opinion in pediatrics*, 29(4), 399–406. <https://doi.org/10.1097/MOP.0000000000000512>

In addition to HIV preventative services, minors are in need of access to broader STI preventative services, including those that protect against HPV. HPV is the most common STI,¹² which can lead to cancer.¹³ Immunize Nevada, a statewide nonprofit dedicated to immunization advocacy and education, recommends that minors between the ages of 11 and 12 should receive the HPV vaccine in addition to older minors who did not receive their initial dose during the previously stated age range. However, if minors who are sexually active do not get the vaccine under their parent's guidance, they are unable to do so for themselves, without their parents' consent, to protect against HPV.

The recommendation for adolescent minors to have access to HIV and STI preventative services and medication does not come without the recognition of ethical and legal considerations, messaging and unintended consequences.¹⁴ Laws should be enacted to support adolescent access to preventative services and be in consideration of insurance provider policies, and patient confidentiality.

¹² Center for Disease Control and Prevention. Genital HPV Infection - Basic Fact Sheet. Retrieved August 11, 2022 from <https://www.cdc.gov/std/hpv/stdfact-hpv.htm>

¹³ Immunize Nevada. Human Papillomavirus (HPV). Retrieved August 11, 2022 from <https://www.immunizenevada.org/hpv>

¹⁴ Zimet, G. D., Silverman, R. D., Bednarczyk, R. A., & English, A. (2021). Adolescent Consent for Human Papillomavirus Vaccine: Ethical, Legal, and Practical Considerations. *The Journal of pediatrics*, 231, 24–30. <https://doi.org/10.1016/j.jpeds.2021.01.026>