

Youth Health Rights



Handbook

BY THE

MIAMILAW

UNIVERSITY OF MIAMI SCHOOL OF LAW

Children &
Youth Law
Clinic

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Introduction

Who are we?

The **Children & Youth Law Clinic** is an in-house, live-client clinic established in 1995 by the University of Miami School of Law. The Clinic represents children in foster care and former foster youth in dependency, health care, mental health, disability, independent living, education, immigration and other general civil legal matters, en-

suring that they have a voice in court proceedings.

Under the supervision of three Florida-licensed attorneys, approximately twenty-four second and third year law students each year assume primary responsibility for all aspects of a client's case. Students learn fundamental lawyering skills, substantive law and professional ethics. The Clinic seeks to instill in students a sense of professionalism and encourages them to pursue public interest law careers or to devote substantial portions of their legal practices to providing pro bono legal assistance to the poor.

Many cases have impact beyond the individual clients served by the Clinic. We view

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our educational mission as one in which students do not just *learn* the law, they help *make* the law. The Clinic is an integral player in Florida's children's legal services community, engaging in statewide impact litigation, law reform advocacy and community lawyering.

Optimizing its position within the University for the benefit of the wider community, the Clinic participates in interdisciplinary research, provides training and technical assistance for lawyers, judges, and other professionals, and produces legal scholarship and practice materials on the legal needs of children, with an emphasis on older foster youth.

Why did we create this handbook?

Through our work with clients and community groups in Miami, we became aware of how difficult it is for anyone, but especially youth, to find information about their rights as they relate to health care and services. It is our hope that this handbook will provide readers with an easy-to-use and practical guide to the basics of health rights for minors.

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I

Confidentiality and Consent

What is “consent?”

Consent means someone giving the OK or saying yes to a treatment. In certain situations, doctors need to have consent before treating you. Minors can consent to medical treatment on their own in certain situations. Other times you need consent from a parent or guardian before the doctor can treat you.

I need to see a doctor, but I'm under 18! What do I do? Do I need my parents or guardian to give me permission first?

Most of the time you'll need to get your parent or guardian's

OK before you get medical treatment UNLESS:

- You're married or have been married before
- You're over 16 and have been legally emancipated by a court (see below)

Can someone besides my parent or guardian consent for me to get treatment?

Yes, your stepparent, grandparent, adult brother or sister, or adult aunt or uncle can consent for you. In addition, any person who has “power of attorney” over you (your parents signed a document giving that person the power to make medical decisions for you) can consent for your medical treatment.¹



If I'm legally emancipated, can I consent to my own medical treatment?

Yes. If you're legally emancipated, you can consent yourself. You don't need your parent or guardian's permission to get medical treatment.

How do I become legally emancipated?

You must be at least 16 in order to get a court order. To start the process of getting a court order, you have to be at least 16 years old, and your parent, guardian, or guardian ad litem has to file a document with the

court showing the judge why you should be emancipated.² You must also show that you are independent and can support yourself (and your child if you are raising one). You need to have a specific plan for how you will support yourself without having to depend on money from the government.

If I am in foster care, who can give consent to treatment for me?

- Your parents.
- Your relatives, if you live with them and the court gave them Temporary or Permanent Custody of you.³
- A court appointed guardian.
- A person with power of attorney over you (your parents signed a document giving that person the power to make medical decisions for you).⁴
- If you are in a group home or foster home and all parental rights have been terminated, DCF (Department of Children and Families) can consent to your ordinary and necessary medical and dental examinations and treatment, including blood testing, ordinary immunizations (shots) and tuberculin testing. However, DCF CANNOT

consent for you to get surgery, anesthesia, or psychotropic medication (see page 20) without a court order.⁵

- If none of the people above are available, your DCF or DJJ (Department of Juvenile Justice) caseworker, your juvenile probation officer, or the person who is responsible for your case management may consent for you.⁶
- If you live at a delinquency residential treatment facility, the person in charge of the facility can consent for you.⁷

If I'm a minor and am in jail, can I consent to medical treatment?

If you were prosecuted as an adult and are in a state correctional institution, you can consent to all medical treatments except abortion and sterilization.⁸ If you're in a juvenile detention facility, the administrator of the facility can consent to ordinary and necessary medical and dental examinations and treatment, including blood testing, ordinary immunizations (shots) and tuberculin testing. However, the administrator CANNOT consent for you to get surgery, anesthesia, or psycho-

tropic medication (see page 20) without a court order.⁹

If I'm under 18, can I give consent to donate blood?

It depends. If you are at least 17, you can consent to donate blood. The only exception is if there is a written document from your parents saying you can not give blood.¹⁰

What Is Confidentiality?

Confidentiality means that certain things you share with your doctor are privileged, meaning that they cannot be shared with other people.

But, a doctor CAN talk to other people in certain situations about your treatment:

- If your doctor has to defend himself in court or if the judge orders your doctor to share your information.¹¹
- If your doctor needs to talk to other doctors about your treatment.
- If you say it's OK in writing for

your doctor to share your information.

What is HIPAA?

HIPAA is a federal law that protects patients' private health information. HIPAA says that patients have to be told about their rights to protected health information. Patients also have the right to see and make changes to their medical records and have the right to be told what has been shared with other people. Each state has its own version of HIPAA. Florida HIPAA laws incorporate the federal laws, and tell us what health information is protected in this state.¹²

As a minor, am I protected by HIPAA the same way that an adult is protected?

No. Normally, parents can make medical decisions for their children and control their protected health information. If you are in foster care, your guardian takes the place of your parent for the purposes of HIPAA.¹³ Minors in Florida can control their health information only when the minor is able to consent to that health care decision. Since minors in

Florida can consent to things like examinations for sexually transmitted disease themselves, the minor controls who this information is shared with. The fact that a minor was tested for a sexually transmitted disease cannot be shared with the minor's parent. The doctor is not even allowed to send a bill for the test to the parent or guardian.¹⁴

As a minor, what types of health information can I protect myself?

In Florida, minors can consent to testing for sexually transmitted diseases and substance abuse treatment. Because minors can consent to these things themselves, information regarding this testing cannot be shared unless the minor says it is OK to share this information.¹⁵

When can my doctor share my health information without written permission from my parent, guardian, or myself?

- In order to give you medical treatment, or to give you information about your different

treatment options, health benefits and services. In emergencies, doctors can use their best judgment to make a decision in your best interest;

- To run their health care business, to remind you about your appointment, or to get paid for your care;
- To share your health information with your personal representative;
- To share your information with disaster relief organizations like the Red Cross in order to deal with a disaster;
- To share your information with public agencies in order to prevent or report disease, injury or disability. To report birth or death information, report reactions to medications or products that the U.S. Food and Drug Administration (FDA) regulates or to tell people about products that are being recalled. They can also share your information in order to tell people that they have been exposed to a communicable disease;
- If they reasonably believe you have been the victim of domestic abuse;
- When required by a lawsuit;
- To share your information with law enforcement officials when it is about a suspected crime victim, or related to death from

criminal activity; to identify a suspect, fugitive, witness, or missing person, or if it is about a crime committed at the doctor's office or if there is a court order or in response to a medical emergency; and

- When it is necessary to prevent a threat to the general public.¹⁶

Do certain types of health information get special HIPAA protection?

Yes. Information about a patient's mental health, HIV/AIDS, reproductive health (pregnancy-related information), or history of drug problems gets special protection under HIPAA. Doctors can refuse to share this information with others or may ask you to sign something before they will share it.¹⁷

If I tell my caseworker about my sexual orientation or my sex life do they have to keep it private?

If you tell your case worker

anything about your sexual orientation or anything about your sexual activities your case worker may tell other people about what you said to them. Your case worker does not have to keep that information private.

You should always feel like you have a safe place to discuss your sexual orientation and your sex life. If you do not feel like your caseworker is the best person for you to talk to, you can seek out a guidance counselor, teacher, foster parent, or other adult you trust. You can also look at the resources on page 60 for other sources of adults to talk to.

“Confidentiality means that certain things you share with your **doctor** are privileged, meaning that they cannot be shared with other people.”

2

Physical Health Rights and Care

Physical Wellbeing and Body Image

I want to be healthy and stay in good shape. What should I do?

You should talk to your doctor about wanting to be healthy and in shape. People come in all different shapes and sizes. Just because you may not look like the models and athletes that you see in magazines or on television DOES NOT mean that you are ugly, fat, or unhealthy.

When you visit your doctor, he

or she may calculate a number called the “body mass index” (BMI).¹⁸ You can also calculate your BMI online at www.cdc.gov/healthyweight/assessing/bmi/index.html. If you’re over 19 and have a BMI over 30, you’re considered obese. If your BMI is between 25 and 29.9 you’re considered “overweight.”¹⁹ If you’re under 19, you calculate your BMI using charts that show what’s “normal” for your age and sex.²⁰ To view these charts, speak with your doctor, and visit www.cdc.gov/growthcharts/.

It is important to remember that the BMI is just one of many tools to help evaluate your health. Even if you have a BMI that is considered something other than “normal” does not



mean that you are not at the right weight for your body. It is important to discuss your weight with a doctor, who can look at many factors that contribute to a healthy body.

Even if your weight is in the “normal” range, there are certain things you can do to stay healthy.

Eating the right foods will give you energy and strong muscles and bones. It is important to eat foods from different categories,

like vegetables, fruits, whole grains, low-fat or non-fat dairy products, and proteins like lean meats, beans or fish. The size of the portions you eat is also important.

Children and teens should also do about 60 minutes of exercise each day. Exercise can be walking quickly, playing tag, jumping rope, playing soccer, swimming, or dancing.²¹ For more information on foods to eat and exercise, visit www.bam.gov/index.html.

If I would like to have a private conversation with my doctor about my weight, but am under age eighteen, am I able to?

Most of the time you'll need to get your parent or guardian's OK before you go see a doctor UNLESS:

- You're married or have been married before
- You're over 16 and have been legally emancipated by a court

My BMI is in the "overweight" range. Should I be concerned?

Overweight people can have health problems like high blood pressure, high cholesterol and shortness of breath, and may be on the verge of becoming obese. You should talk to your doctor if you're in the "overweight" range about how to get into a healthy range.

What causes obesity?

There are many reasons for someone to become obese. One common cause of obesity is eating or drinking more calories

than your body needs.²² Often, people do not know that the things they are eating and drinking are not healthy for their bodies. Some people think they can not afford or do not have access to healthy foods like fresh fruits and vegetables and lean meats. Eating healthy can be as affordable and easy as eating unhealthy foods. Other factors like genetics and how active you are can affect obesity too.²³

Why is it important to know whether I am obese?

Obesity can bring on other diseases like diabetes, heart disease, asthma, liver problems, sleep apnea and psychological problems like low self-esteem.²⁴ Obese teens are also more likely to be obese when they are adults. To prevent these diseases and to get healthier, it is important to know whether you are obese and to get advice and guidance on how to lead a healthier lifestyle.²⁵

If my doctor and I determine that I am obese, what are my treatment options?

There are not any quick fixes to

lower your weight into a healthy range. However, your doctor can help you come up with a plan, which usually includes changing what you eat and how much you exercise. Sometimes the plan can also include counseling.

What can I do to prevent obesity?

First, you should always get your doctor's help to come up with a plan. Some options may include:

- Balancing the calories you eat with exercise.²⁶
- Eating foods with high nutritional value, including vegetables, fruits, whole grains, low-fat or non-fat dairy products, and lean meats, poultry, fish, lentils and beans.²⁷
- Eating reasonably sized portions.²⁸
- Drinking at least eight glasses of water a day.²⁹
- Limiting the amount of sugar (including sugary drinks, like sodas) and saturated fat you eat.³⁰
- Exercising more. Children and teens should do at least an hour of moderate intensity physical activity most days of the week.³¹

What Is an Eating Disorder?³²

All human beings need food to survive. But some people worry that eating food will make them “fat,” or they do not like the way they look and so they eat too little or make themselves throw up after they eat. Eating too little on purpose, or making yourself throw up after you eat can be very dangerous and even result in death. Both boys and girls suffer from eating disorders, as well as adults, teens, and children.

What are the most common types of eating disorders?

Anorexia Nervosa: If you have Anorexia, you may have an intense fear of gaining weight and, to avoid it, you do not eat enough to stay at an acceptable healthy weight. You may also exercise a lot to make up for any food you do eat.

Bulimia Nervosa: If you have bulimia, you may fear gaining weight but be at a healthy weight. People with bulimia usually eat a large amount of food, also known as bingeing, and then do something drastic and

unhealthy to get rid of it quickly, like vomiting, using laxatives, or exercising excessively.³³

What causes eating disorders?

Eating disorders can be caused by many different things. Some teens feel stressed or depressed, and feel like food is the only thing they can control. Other teens may feel bad about themselves on the inside and try to change on the outside to balance the bad feelings inside. You may also feel pressure to be thin from the sports you play and the images you see everyday.

I think I may have an eating disorder. What should I do?

Eating disorders are very serious conditions. Talking about your eating disorder is the first step in getting healthy again. You should talk to a doctor right away, and the doctor can help you find the right treatment. If you need help finding a doctor, call 630-577-1330 or visit www.anad.org.

Dental Rights

I have been experiencing tooth pain, what should I do?

See a dentist! You could have a cavity, a cracked tooth, an exposed root, gum disease, or another problem.³⁴ A dentist could help you fix the problem and stop the pain. The sooner you see a dentist the sooner your problem will be fixed, the longer you wait to see a dentist the more permanent the damage becomes.

Will I have to pay to see a dentist?

It depends. If you have Medicaid, it will pay for most dental services if you're under 20.³⁵ Everyone in foster care is covered by Medicaid. If you've aged out of foster care, you may still be covered by Medicaid by re-applying for it when you age out. You can ask your Case Worker or Independent Living Services Coordinator for help with this or you can re-apply at www.myflorida.com/accessflorida/.

Can I Go to Any Dentist I Want?

Yes, but if you want Medicaid to pay, you have to see a dentist that is approved by Medicaid.³⁶ You can ask your caseworker to help you find a Medicaid-approved dentist or you can call Medicaid at 305-499-2000.

Do I need consent from a parent or guardian to see a dentist?

See pages 1-2.

Physical Disabilities

What is a physical disability?

A physical disability is a physical impairment that makes it hard or impossible for a person to be able to do one or more major life activities. Examples of major life activities include: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating,

thinking, communicating, and working.³⁷

Can I get special accommodations to help me in school if I have a physical disability?

Yes! Public school districts MUST provide a “free appropriate public education” (FAPE) to every student, including those with a physical disability.³⁸ School programs for students with disabilities must be designed to meet their individual needs in the same way that the needs of



nondisabled students are met. Also, students with disabilities must be educated in the same way as with students without disabilities whenever possible. This includes in the classroom as well as during extracurricular activities, lunch and recess.³⁹

How do I get special accommodations?

At almost every school there are trained staff members who give “evaluations” to decide if a student has a disability that needs “special accommodations.” These evaluations are like tests to determine the best way to help the student. A test has to be given when a student is first determined to have a disability and then again every few months afterward to see if the student has made progress or needs different services.

What if I want to get a job?

The Americans with Disabilities Act (ADA) passed by Congress in 1990 makes it illegal for someone with a disability to be treated any differently than someone without a disability

when they are applying for a job. This rule applies whether you are applying to a private employer, state or local government, public accommodations, employment agencies, and just about everywhere else.⁴⁰

Would I be able to get special accommodations at work?

Yes. The Equal Employment Opportunity Commission (EEOC) makes sure all employers give special accommodations to people with physical disabilities.⁴¹

What do I do if I think I am being discriminated against by my employer because of my disability?

You should contact the EEOC. You need to file a charge against your employer with the EEOC within 180 days of being discriminated against or the EEOC will not pursue your claim. If you have questions or want to contact your local EEOC office, please call: (800) 669-4000.⁴²



Mental Health Rights and Care

General Mental Health Services

What if I want to talk to someone about how I'm feeling?

First, you should feel free to talk to any adults you trust, including your parents, guardians, teachers, guidance counselors, pastor, rabbi, priest, friend's parents, social worker, psychiatrist, counselor or family members. If you want to talk to someone else, then you could see a clinical psychologist. Psychologists are mental health professionals that

may treat you without prescribing medication.

If I'm having an emotional crisis and want to see a clinical psychologist, do I have to ask my parents or guardian first?

If you are 13 years or older, you do not have to ask your parents or guardian first. You may give consent to seek and receive treatment.⁴³ If you see the psychologist more than two times during a 1-week period however, your parent or guardian has to consent to more treatment.⁴⁴

Are the things I tell my therapist confidential?

Yes, the things you tell your therapist are confidential and cannot be shared with anyone, including your parents or guardian. There are a few exceptions though: A therapist, can share your information if they are asked to defend themselves in court, or if you agree in writing to let them share what you tell them with others. Therapists can also share what you tell them with others if they think there is a clear and immediate probability that you will cause yourself or another person physical harm.⁴⁵

Mental Disabilities

What is a mental disability?

A mental disability, which is also known as a mental disorder or mental illness, affects the way your mind works. Everyone's brain controls most of what their body does and how the body behaves. A person who

has a mental disability's brain does things differently from other people's brains.⁴⁶ Mental disabilities affect the way you think, the way you feel, and your mood.⁴⁷ Keep in mind that there are all different types of mental disabilities. Many times you cannot tell if someone has a mental disability from looking at them or even interacting with them. Having a mental disability does not mean that you are stupid or that anything is "wrong" with you. Many mental disabilities can be treated with help from a doctor or other health professional and sometimes with medicine.

Could I have a mental disability?

Yes. Mental disabilities can affect anyone. People of all races, ages, religions, and sexes can have a mental disability.⁴⁸ It is estimated that one out of every ten minors has a mental disability. That means that out of any group of ten kids you see, one is likely to have a mental disability.⁴⁹

How do I know if I have a mental disability?

To find out if you have a mental disability, you have to visit a licensed mental health care provider. Even if you think that you may have a mental disability, you cannot be sure without seeing a mental health care provider.

What are some of the most common mental disabilities that a minor can have?

▪ Attention Deficit Hyperactivity Disorder (ADHD)

→ Kids with ADHD are often easily distracted and act quickly without thinking about what they are doing first. For instance, someone with ADHD may have trouble sitting still or staying quiet. For your licensed mental health care provider to say that you have ADHD, they must observe that you have symptoms in two different settings, like at home and at school.⁵⁰ A minor may also have Attention Deficit Disorder (ADD). ADD is a disability similar to ADHD, but it typically affects adults.

▪ Anxiety Disorder

→ Some anxiety is normal in life. It helps you deal with problems and other everyday situations. However, too much anxiety can make everyday life difficult.⁵¹ There are five types of anxiety disorders:⁵²

- **Phobias:** unrealistic and overwhelming fears of objects or situations.
- **General anxiety disorders:** these cause you to have excessive, unrealistic worry that seems to come out of nowhere.
- **Panic disorder:** this may cause you to have “panic attacks” that may include your heart beating faster and dizziness.
- **Obsessive-compulsive disorder:** may cause you to repeatedly do the same thing over and over, like washing your hands.
- **Post-traumatic stress disorder:** when something really bad happens to you, like if someone hurt you, you may see the event over and over again.

▪ Autism

→ If you have autism, you may have difficulty communicating with others. Usually, you would show signs before your

third birthday and it may be hard for you to communicate your feelings or needs to others. If you have autism, you are more likely to have another mental disability as well.⁵³

■ **Bipolar Disorder**

→ If you have bipolar disorder, you may have mood swings that range from very happy and excited to very low and depressed. Between these two extremes, your moods may be normal.⁵⁴

■ **Depression**

→ You may show signs of depression if you try to avoid “normal” places that minors like to go (like school), or regularly get in trouble at school, or you feel misunderstood. If you feel like you are depressed it is important that you tell someone you trust. Kids with depression can be at a high risk for suicide, and treatment is essential.⁵⁵

■ **Schizophrenia**

→ You may have hallucinations, hear voices no one



else does, and be out of touch with reality if you have schizophrenia.⁵⁶

Are mental disabilities treatable? What are the different types of treatments for each type of mental disability?

Mental disabilities are treatable but you must ask for help first.

- **ADHD:** Behavioral treatment and medications are possible treatments.⁵⁷
- **Anxiety Disorder:** Medication and types of psychotherapy are possible.⁵⁸
- **Autism:** There is no single recommended treatment. Your licensed mental health care provider and your parent/guardian will have to discuss the possibilities based on your needs.⁵⁹
- **Bipolar Disorder:** Medication and psychosocial therapy are possible treatments.⁶⁰
- **Depression:** Medication and therapy are possible treatments.⁶¹
- **Eating disorders:** Therapy with a licensed mental health care provider is a possible treatment.⁶²
- **Schizophrenia:** Medications and therapy are possible treatments.⁶³

For consent information, please See pages 1-3.

How will I pay for treatment?

If you have private insurance, through your school, work, or parents, you should contact a representative to find out what your health insurance plan covers. Medicaid will cover your diagnosis and treatment.⁶⁴

Baker Act

What is the Baker Act?

The Baker Act allows a person to get emergency mental health services like being examined by a doctor or clinical psychologist, with or without the person's consent, if the person is a danger to themselves or to others.⁶⁵ Sometimes people are taken to the hospital to be examined without their consent. This is called "involuntary commitment" or "involuntary examination" and is also known as getting "Baker Acted."

How does a person get Baker Act?

A person can only get Baker Acted under two circumstances. The first is if there is reason to believe that they have a mental illness that makes them a harm to themselves or to others. The second is if there is reason to believe the person has a mental illness that causes them to not be able to determine for themselves when they need to be examined, and without treatment the person can't take care of themselves.⁶⁶ For example, a person can get Baker Acted if it is likely that they may commit suicide, may hurt or kill another person, or if they are unable to feed, bathe or clothe themselves.

Who decides if someone should be Baker Acted?

Judges and police officers can Baker Act someone based on what they see themselves, or based on what the person's family or close friend tells them.⁶⁷ Doctors and other mental health professionals who have examined someone can also Baker Act them within 48 hours of examining them.⁶⁸ Your

parents or guardians DO NOT need to consent to you being Baker Acted.⁶⁹

If I get Baker Acted, how long can they keep me for examination at the hospital?

The doctor or psychologist has to examine you within 24 hours,⁷⁰ and if they want to keep you in the hospital longer than that, they have to get permission from the court.⁷¹

If I get Baker Acted, what happens after I get examined?

It depends. The doctor or clinical psychologist could determine that you are not a danger to yourself or someone else and send you home.⁷² The doctor could also recommend that you get more treatment in a hospital (inpatient) or at a doctor's office for counseling and medication (outpatient).⁷³ If the doctor thinks you need more treatment and you refuse to get it, the doctor could ask the court to order you to get that treatment.⁷⁴

What rights do I have if I'm Baker Acted?

If you are examined or treated under the Baker Act, you are entitled to the following protections:⁷⁵

- The right to dignity. In other words, the right to respect and ethical treatment.
- The right to be treated, even if you cannot pay for it.
- The right to be examined within 24 hours of arriving at a receiving or treatment facility.
- The right to help create and review your treatment plan.
- The right to quality services that match your needs, and the right to have these services done safely and with respect for your personal dignity.
- The right to communicate freely and privately with others within the limitations of the service provider policy.
- The right to care and custody of your personal belongings.
- If you're a minor, you have the right to continue your education while you're in treatment.
- The right to keep your records confidential.
- The right to have a lawyer during the court proceedings. If you are a minor, your parent, legal guardian, or legal custodian

may apply immediately to have the court appoint a lawyer for you if you can't afford one.

- The right to habeas corpus. Habeas corpus means that you can ask the court to review your case to see if the involuntary commitment was legal.

Do I have the right to an attorney if the court is deciding whether to involuntarily admit me?

Yes! You have the right to an attorney at EVERY stage of the process!⁷⁶ You have the right to have the court appoint a lawyer for you if you can't afford to pay for one.⁷⁷ If you are a minor, the court will appoint a guardian ad litem to represent you.⁷⁸

Psychotropic Medicine

What are psychotropic medications?

The word "psychotropic" refers to chemicals you take that change the way you think,

feel, and act. This includes substances like alcohol, marijuana and cocaine, and also covers things like anesthesia and pain medication. Another category of psychotropic medications are “psychotherapeutic” medications that doctors prescribe to treat mental and emotional disorders, like antidepressants, antipsychotics, lithium, anticonvulsant mood stabilizers, stimulants, other ADHD drugs, and sedative-hypnotics.⁷⁹

Who can prescribe me these medications?

If you think you may need one of these types of medications, you should go see a psychiatrist, a specialist in pediatric neurology or behavioral pediatrics, or a primary care provider like a pediatrician. Your doctor will need your parent, guardian, or the court’s consent before they can prescribe you these medications, however.

Does Medicaid cover my prescription medication needs?

Yes. Until you are 21, you are

eligible for the EPSDT (Early, Periodic, Screening, Diagnosis and Treatment) coverage through Medicaid. That means Medicaid will pay for all medical care and services that are “medically necessary,” including prescription medication. Medically necessary means that a doctor has determined that you need the service and has written a prescription saying that it is medically necessary for you to receive the care, medication or services.

Will my insurance cover my psychotropic medication costs?

If you have Medicaid, your medications are almost always covered. If you have private insurance, you will need to check with the insurance company to see if they will cover the cost of these medications.

Is consent required for prescribing psychotropic medication to people in foster care?

Yes. If you are in foster care, your doctor will need consent from your parent, guardian or someone else who has authority

to make health decisions for you before he can give you psychotropic medications.⁸⁰ (see pages 1-3) To be able to consent, your parent or guardian needs to know why you're being treated, how the medicine will help you, the side effects (including what happens when you stop taking the medicine), the dosage of the medicine, how long you'll need to take the medicine, alternative treatments, and how you'll be monitored. Your parent or guardian will also need to know that they can take back the consent and say no to you getting the medicine at any point.

Who can consent for me to get these medicines if I don't know who my parents are, can't find my parents, or if my parent's rights are terminated? What about if my parents won't consent?

DCF will have to request a court order giving the okay for you to get the medication. Except in emergency, a judge must say that it's okay before you take the medication to ensure your best interests are taken care of.

“[If you want to talk to someone] you should feel free to talk to any adults you trust, including your parents, guardians, teachers, guidance counselors, pastor, rabbi, priest, friend's parents, social worker, psychiatrist, counselor or family members.”

4

Emotional and Behavioral Health Rights and Care

Emotional Disabilities

What is an Emotional Disability?

According to the Individuals with Disabilities Act (IDEA), an Emotional Disability is "...a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

- An inability to learn that cannot be explained by intellectual, sensory, or health factors.
- An inability to build or main-

tain satisfactory interpersonal relationships with peers and teachers.

- Inappropriate types of behavior or feelings under normal circumstances.
- A general pervasive mood of unhappiness or depression.
- A tendency to develop physical symptoms or fears associated with personal or school problems."⁸¹

What behaviors does someone with an Emotional Disability show?

Some examples of behaviors seen in people who have emotional disabilities include:

- Hyperactivity (short attention

- span, impulsiveness);
- Aggression or self-injurious behavior (acting out, fighting);
 - Withdrawal (not interacting socially with others, excessive fear or anxiety);
 - Immaturity (inappropriate crying, temper tantrums, poor coping skills); and
 - Learning difficulties (academically performing below grade level).⁸²

How do schools decide if I have an Emotional Disability?

Schools usually look at grades, discipline records, and performance on achievement tests to measure how your grades are being affected. In order to decide whether you can get special education services because of an Emotional Disability, your school will do some psychological tests, including cognitive (having to do with your thinking abilities), social/emotional, and educational tests. They will also have you interview with a school social worker.

Does the school need my parents' consent to conduct these tests?

Yes. If you are in foster care and

your parent is unavailable or his/her parental rights have been terminated, your foster parent can sign for you to be evaluated.

What if my foster parent doesn't want to act as my parent?

If your foster parent doesn't want to participate, the school district will appoint you a surrogate parent. A surrogate parent acts as a parent and has all the rights of a parent in the school setting. A surrogate parent can be anyone over 18 who is not employed by the school district, the Florida Department of Education, or an agency involved with education or care of a child, including a child welfare agency. The school district must appoint you a surrogate parent within 30 days of your foster parent deciding not to participate. The state court also may appoint you a surrogate parent, because you are in foster care.

How will my school help me if I have an Emotional Disability?

If you have an Emotional Disability

ity, you are eligible for special educational services in school. Usually, the school will get a team together to develop an Individual Education Plan (IEP) that will include positive behavioral interventions, strategies, and supports. Your IEP may also include psychological or counseling services. Depending on your age, career education may also be included.

Comprehensive Behavioral Health Assessments⁸³

What are Comprehensive Behavioral Health Assessments (CBHA)?

The CBHA is a test that is done if you are in foster care. It helps decide the best place for you to live, strategies to preserve or reunify your family if possible, and helps decide what type of services might help you. These services might include seeing a therapist, psychiatrist, or doctor, for example.

What is done during a CBHA?

The person doing your CBHA will observe you at home, at school, and in the community (like during after school activities). They will look at your family history, your history in the foster care system, and your medical or mental health treatment history. They will also be looking to see how you get along with your friends, your foster family, and people at school.

Do I have to pay for a CBHA?

No. Because you are in foster care, your CBHA will be covered by Medicaid.

How do I know if I'm supposed to have a CBHA?

If you came into the foster care system through a shelter, you are supposed to automatically have a CBHA within 30 days of getting to the shelter. You do not automatically have a CBHA if you are placed with relatives or another foster family right away. This does not mean you cannot have a CHBA though. If you would like to have one, you can

ask your foster parent or case worker to request one for you.

Who gives me my CBHA?

A CBHA must be performed by a licensed mental health practitioner like a therapist, psychologist or psychiatrist. He or she must observe you at home, at school, and in your community.

How often will I get a CBHA?

It depends. Based on what your needs are, you may qualify to get one every year. If your life or environment has changed a lot in the last year, your foster parent or case worker may request one. For example, your case worker may request that you get a CBHA if he or she notices that you've been having more behavior problems at school, or if your living situation has changed.



5

Disability Rights and Services

Agency for Persons with Disabilities (APD)⁸⁴

What does APD do?

APD provides mostly free services for people with developmental disabilities in the state of Florida.

What is a developmental disability?

Under Florida law, developmen-

tal disability is defined as a disorder that is caused by mental retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome. The person has to have the disorder before they turn 18 years of age, and a doctor has to expect that the disorder will never go away.⁸⁵

How can a person get services through APD?

If it is likely that a person has a developmental disability, the person, or a representative of the person, can fill out an application for services with a local APD. The agency will review the application and decide whether the person qualifies for APD services. The agency must decide

if a child under six is eligible for services within 45 days and can take up to 60 days to decide for everyone else.⁸⁶ Even if the Agency decides that a person qualifies for APD services, the person may not receive services right away. The person could be put on a waitlist until a space opens up for him or her to start receiving services.⁸⁷

If a person qualifies for APD, what kind of services does that person get?

Children 18 years of age and younger are supposed to get all the services that a developmentally disabled child needs. These types of services include doctor visits and dental services; medical equipment and other supplies; physician, occupational, respiratory and speech therapies; nursing services; transportation; medical foster care; and personal care assistance. When you age out of foster care you can still get many of the same services, but can also get services geared toward adults, such as employment services.

If a person thinks they have a developmental disability,

but the Agency decides that they do not qualify for APD services, what can the person or their representative do?

The person or their representative has the right to appeal any decision about services by the agency. The person or representative must request a hearing from the Agency within 30 days of receiving the Agency's decision.⁸⁸

Individual Education Plan (IEP)

What is an IEP?

Every person who is enrolled in special education classes in a public school must have an IEP.⁸⁹ Each IEP must be written for the specific student, and a new, updated plan must be written each year. Each student must have their own, individual IEP.⁹⁰ An IEP is designed to help each student be as successful as they can be.

What is the purpose of an IEP?

The purpose of an IEP is to provide the best possible education for you. Each year, the school holds a meeting to decide what the best education plan for you should be. One of your parents/guardians/foster parents, your teacher, other school administrators and you should all attend the meeting and discuss what the best education plan for you is.⁹¹

How do I know I qualify for an IEP?

If you are enrolled in any form of special education (gifted or ESE programming), you qualify for an IEP. If you are not enrolled in special education, but you think that you may benefit from having an IEP, you, your parent or your teacher may ask the school to test you for special education services.⁹²

What is the process to get an IEP?

Once you are identified for testing, you will be tested in all of the areas related to your

suspected disability.⁹³ These tests will be used to decide your special education needs.⁹⁴ If you disagree with the results of your IEP, you can have an Independent Educational Evaluation performed.⁹⁵ However, please keep in mind that you may have to pay for the Independent Educational Evaluation yourself.

After you are tested, you, a group of teachers from your school, and your parents have a meeting to talk about the results of the test.⁹⁶ Together, you will decide if you have a disability and need special education.⁹⁷ If you disagree with the outcome of this meeting, you may request a hearing to challenge it.⁹⁸

If you qualify for special education, your school must schedule an IEP meeting.⁹⁹ Before the meeting occurs, your school must contact all participants and explain the purpose of the meeting. Specifically, the school must contact your parents early enough to make sure they can attend; schedule the meeting at a time and place convenient for your parents and the school; tell your parents the purpose, time and location of the meeting; and tell your parents who will be attending and that they may in-

vite people to the meeting who have knowledge about you.¹⁰⁰

The IEP team, including you and your parents, will then meet to discuss your needs and to write the IEP.¹⁰¹ You (if you are over age 18) and your parents must consent to the IEP before it is submitted to the school.¹⁰² If you or your parent disagrees with the IEP, you should discuss it with the IEP team and try to work it out.¹⁰³ If you are unable to reach an agreement, you may request mediation or may file a complaint for a due process hearing with the state.¹⁰⁴ You and your parents have the right to receive a copy of the IEP before leaving the meeting.¹⁰⁵

After the IEP is written, the student should receive the services required by the IEP. The IEP is a contract between the school and the student. During your IEP meeting, you, your parents and the IEP team will write goals in the IEP to measure your success.¹⁰⁶ You should be tested annually during the school year to measure your progress towards these goals, and these results should be recorded in your IEP.¹⁰⁷ You and your parents should be given annual updates about your progress.¹⁰⁸

At least once a year, you, your parents, and the IEP team should review, and if necessary, revise your IEP.¹⁰⁹ You and your parents have the right to request a review more than once yearly.¹¹⁰ Every three years, you must be reevaluated (called a “triennial evaluation”) to determine what your educational needs are.¹¹¹

What should my IEP say?

Each IEP should describe, among other things, the educational plan that has been created to meet your unique educational needs.¹¹² By law, the IEP MUST include the following sections:

- **Current Performance:** The IEP must state how you are currently doing in school.
- **Annual Goals:** Goals that you should be able to accomplish in a school year. The goals are broken down into short-term goals and “benchmarks.”
- **Special Education and Related Services:** The IEP must list the special education and related services and supports that you need from your school to help you do your best.
- **Participation with Non-Disabled Children:** The IEP must explain the extent that you will

participate (or not participate) in non-special education classes.

- **Dates and Places:** The IEP must state when services are to begin, how often they will be provided, where they will be provided, and how long they will last.
- **Transition Services:** Once you turn 14, the IEP must address the courses you must take to reach your after high school goals.
- **Needed Transition Services:** Once you turn 16, the IEP must state what transition services are needed to help you prepare to leave school and continue into your career.
- **Measuring Progress:** The IEP must state how your progress will be measured and how your parents will be told about this progress.

Who are the “IEP Team Members?”

Your IEP Team Members may include:¹¹³

- Parents (or guardian or foster parent);
- Teachers;
- A person who can interpret what your evaluation results mean;

- Individuals representing the school system;
- Individuals with knowledge or special expertise about you;
- Representatives from transition agencies;
- YOU!

What if someone who I would like to bring to the IEP meeting needs an interpreter?

If you or your parent needs an interpreter, your school **MUST** try their hardest to arrange for an interpreter to be present during your meeting.¹¹⁴

What if my parents or I disagree with the IEP?

If there is any disagreement about the IEP, you may want to consider the following solutions:¹¹⁵

- First, try to reach an agreement. You and your parents can talk to the school about your concerns to try to reach an agreement.
- Ask for mediation. If you cannot reach an agreement with your school, you should request mediation. During mediation, you, your parents and the school

sit down with someone not involved in the IEP to try to reach an agreement.

- **File for Due Process.** If you are unable to reach an agreement during mediation, you should request a due process hearing. During a due process hearing, you, your parents and your school appear before a neutral hearing officer, and each of you presents your side of the story. The hearing officer acts as a judge and decides how to solve the problem.

If I am in foster care do my biological parents have to attend my IEP meeting?

If you are in foster care, your caseworker can attend your IEP meeting in place of your biological parent. Your foster parents or guardians can also attend these meetings.

Do I have to attend my IEP meeting?

If you are under age 18, you are NOT required to sign your IEP. However, if you are age 18 or older, you must attend your IEP meeting and sign your IEP.

Do I have a right to have an attorney present at any point in the IEP process?

YES! You have the right to have an attorney present with you during all points of the IEP process.

Where can I get more information about IEPs?

Parent to Parent
7990 SW 117th Ave. # 200
Miami, Florida 33183
305.271.9797
info@ptomiami.org
www.ptopmiami.org/

“APD

[Agency for Persons with Disabilities] provides mostly free services for people with developmental disabilities in the state of Florida.”

6

Substance Abuse Rights and Care

Smoking

I'm under 18. Am I allowed to buy or possess tobacco?

No. It is illegal for anyone under 18 to possess any tobacco product or lie about their age in order to buy tobacco.¹¹⁶

Where can I go to get help to quit smoking?

Smoking harms nearly every organ of the body. Smoking causes many diseases and reduces your health in general.¹¹⁷ If you want help to quit smoking, you can

call 1-877-U-CAN-NOW or visit www.mdahec.org/quitnow/.

Substance Abuse

I want to get help because I think I may have a problem with drugs or alcohol.

If you're over 13, you can see a mental health professional (a therapist, psychologist, or psychiatrist for example) without your parent's permission. BUT if this treatment involves medication or other treatments that affect your body, OR if you're going to visit the professional more

than twice within one week, you need to get your parent's permission.¹¹⁸

Marchman Act

What is the “Marchman Act”?

The Marchman Act is a law that helps people with substance abuse (drug or alcohol) problems get the emergency help they need. It allows doctors to evaluate and treat them, either with their permission (voluntary) or without their permission (involuntary).¹¹⁹

Can I be involuntarily admitted to treatment under the Marchman Act?

Yes. First the person requesting that someone else be involuntarily admitted needs to petition the court (ask them in writing) to admit the person involuntarily. The court looks at different factors to see if there is a good enough reason to admit someone for treatment without their consent.¹²⁰ The court has to find that the person has lost self con-

trol over their substance abuse problem and because of it, has either threatened to or tried to harm someone else or that they are not able to make a rational decision about needing these services for themselves.¹²¹

Do I have the right to an attorney if the court is deciding whether to involuntarily admit me?

Yes! You have the right to an attorney at EVERY stage of the process!¹²² You have the right to have the court appoint a lawyer for you if you can't afford to pay for one.¹²³ If you are a minor, the court will appoint a guardian ad litem to represent you.¹²⁴

Who can file an involuntary Marchman Act Petition?

In the case of a minor, the minor's parent, legal guardian, legal custodian or licensed service provider can file a Marchman Act Petition. A parent's consent is usually needed to file an involuntary petition to the court, unless it is a law enforcement officer who is involuntarily committing the minor.¹²⁵ If you are in foster care and your parent's rights

have been terminated, and you have not been adopted, DCF has the right to file an involuntary Marchman Act Petition.¹²⁶

How can a law enforcement official (police officer) involuntarily admit me to treatment?

When a law enforcement official involuntarily admits a person, this is called “protective custody.”¹²⁷ They have to believe you have lost self control over your substance abuse problem and because of it, have either threatened to or tried to harm

someone else or that you're not able make a rational decision about needing these services for yourself.¹²⁸ The officer can take you to your home, a hospital, or a licensed detox.¹²⁹ But, the officer MAY NOT use unreasonable force in taking you to the facility.¹³⁰ Also, you have to be released when you no longer lack self-control over your substance abuse, or if 72 hours have passed, or if you consent to stay at the treatment center.¹³¹ You must be released to either your parents or legal guardian, the Department of Children and Families (if you are in foster care), or the Department of



Juvenile Justice (if you are in detention).¹³² However, a court may order you remain beyond the 72 hour period.¹³³

What rights do I have if I am Marchman Acted?

If you are hospitalized, either voluntarily or involuntarily, under the Marchman Act, you are entitled to the following protections:

- The right to dignity.¹³⁴ In other words, the right to respect and ethical treatment.
- The right to not be discriminated against because of your race, gender, ethnicity, sexual preference, HIV status, prior service departures against medical advice, disability, or number of relapse episodes.¹³⁵ You also have the right to help create and review your treatment plan.¹³⁶
- The right to quality services that match your needs, and the right to have these services done safely and with respect for your personal dignity.¹³⁷
- The right to communicate freely and privately with others within the limitations of the service provider policy.¹³⁸
- The right to care and custody of your personal belongings.¹³⁹

- If you're a minor, you have the right to continue your education while you're in treatment.¹⁴⁰
- The right to keep your records confidential.¹⁴¹
- The right to have a lawyer during the court proceedings. If you are a minor, your parent, legal guardian, or legal custodian may apply immediately to have the court appoint a lawyer for you if you can't afford one.¹⁴²
- The right to habeas corpus.¹⁴³ Habeas corpus means that you can ask the court to review your case to see if the involuntary commitment was legal.¹⁴⁴

How do I voluntarily commit myself under the Marchman Act?

If you want to get help for your substance abuse problem, you can apply to a service provider to be voluntarily admitted under the Marchman Act.¹⁴⁵ The treatment facility **MUST** admit you if they have the space for you and can financially afford to accept you.¹⁴⁶ If you're under 18, you **DO NOT** need your parent or guardian's consent to get voluntary treatment from a licensed service provider.¹⁴⁷

7

Sexual Health Rights and Care

Sexual Health Basics

What is sexual health?

The combination of physical, emotional, mental and social well-being in relation to sexuality makes up your sexual health. Sexual health does not only mean that you do not have diseases. Sexual health requires a positive and respectful approach to sexuality and sexual relationships, both from yourself and anyone you have sexual contact with. Sexual health also includes having pleasurable and safe sexual experiences,

free of someone trying to convince you to do something you don't want to do and free of violence.¹⁴⁸

What is sexual contact?

Sexual contact generally means any kind of touching of your sex organs (including the penis, vagina, and anus) with someone else's sex organs or their . Sexual contact includes touching of your sex organs with other parts of someone else's body, including the mouth and anus. Sexual contact can also include fore-play, such as a hand job or oral sex.



Why should I care about my sexual health?

There are many reasons to care about your sexual health. Having sexual contact with others puts you at risk for sexually transmitted diseases and pregnancy. Sexual interactions with others can be positive experiences, but they may also lead to negative experiences including sexual abuse, rape, and emotional insecurity. Whether or not you are having sexual contact with others, your sexual health is important. For girls and women,

yeast infections, urinary tract infections, and menstruation (having your period) are also a part of sexual health.

Sexual Transmitted Diseases

What are Sexually Transmitted Diseases?

Sexually Transmitted Diseases

(STDs) are diseases that are usually spread through contact with someone's sexual organs and fluids. This means touching of the skin on and around the penis, vagina or anus and contact with semen, vaginal fluids or blood. Some STDs can be cured, and some cannot be cured, but all STDs require treatment.

How do I know if I have an STD?

Many people don't know that they have an STD because there are not always outward physical signs. The only way to know for sure whether you have an STD is to see a doctor and get tested. If you are sexually active it is important to have regular STD testing even if you are in a relationship with only one other person (monogamous).

What happens if I find out that I have an STD?

If you find out that you have an STD, you should talk to your doctor about your options for treatment. You should also talk

to your doctor about ways to prevent spreading STDs to others, or getting other STDs.

How can I protect myself from STDs?

The only 100% effective way of preventing STDs is to avoid sexual contact and the exchange of sexual fluids with others. If you choose to put yourself in sexual contact with others, you should consider getting yourself and your sexual partner tested for STDs before having sex. You can also use condoms and dental dams to help prevent STDs during oral, vaginal, and anal sex. You may also want to discuss with your sexual partner whether you will be having a monogamous sexual relationship or not.

What is a dental dam?

Dental dams are small, thin, square pieces of latex used during oral sex. They can also be placed on vagina or anus to prevent the exchange of body fluids and skin-to-skin contact between the vagina or anus and the mouth.¹⁴⁹

What is monogamy?

Monogamy means having sexual contact with only one other person for an extended period of time. When you are in a monogamous sexual relationship, you trust that your partner is not having sex with other people who may have STDs that your partner could then give to you. However, there is no way to know with 100% certainty that your partner is only having sexual contact with you. This means that even when you consider your relationship to be monogamous, there is always a possibility that you could get an STD. A monogamous relationship is built out of trust over a long period of time.

Common Sexually Transmitted Diseases (STDs):

- HIV/AIDS
- HPV (Human Papilloma Virus)
- Herpes
- Hepatitis B
- Gonorrhea
- Chlamydia
- Syphilis
- Trichomoniasis

If I have a Sexually Transmitted Disease, do I have to tell my sexual partners?

Yes. If you know that you have an STD or HIV and have been informed that you can infect others through sexual intercourse, you are required by law to tell your sexual partners. Once you tell your sexual partner that you have an STD or HIV, your partner must consent to having sexual intercourse with you.¹⁵⁰

If I get tested by a doctor for STDs, can the doctor tell my test results to anyone?

Your doctor is required by law to report a positive test for an STD or HIV to the Department of Health. However, this report will not include your name or any other information that will identify who you are. Your doctor is not allowed to tell anyone else this information without your permission.¹⁵¹

Infection	Female Symptoms	Male Symptoms	Possible Consequences	Other Thoughts	Annual New Cases Estimated
Gonorrhea * Curable	Pus-like vaginal discharge, lower abdominal pain, painful urination or no symptoms at all.	Pus discharge from penis. Pain when peeing. May have no symptoms.	Infertility (not able to have babies), repeated pelvic infections in women, damage to newborns.	Symptoms show up 2-21 days after sex. Curable with proper treatment.	700,000
Chlamydia * Curable	No symptoms for 60-80% of women. Some have vaginal discharge, pain when peeing, dull pelvic pain or bleeding between periods.	No symptoms for 50% of men. Pain when peeing or watery discharge from penis.	Infertility in men and women, eye and lung infections in newborns.	Symptoms show up 7-28 days after sex. Once identified, Chlamydia can be cured painlessly with antibiotics.	2.8 million
Trichomoniasis Curable	Vaginal itching, often severe. Heavy vaginal discharge green/yellow with strong smell.	Frequently none. Occasionally a discharge from the penis.	Partners may frequently pass this disease back and forth leading to repeat infections.	Curable, but both partners must be treated.	7.4 million
Syphilis * Curable	A sore, usually painless. Later rash may develop on other parts of the body (usually hands and feet). There may also be sore throat, fever, swollen glands. Symptoms may disappear but person still infected.	Heart, spine and brain may be affected. Severe threat to developing fetus.	Symptoms show up anywhere from 3 weeks to 6 months after sex. Detected by simple blood test. Cured with antibiotics.	Symptoms show up anywhere from 3 weeks to 6 months after sex. Detected by simple blood test. Cured with antibiotics.	32,000

Infection	Female Symptoms	Male Symptoms	Possible Consequences	Other Thoughts	Annual New Cases Estimated
Hepatitis B * Treatable, not curable	Symptoms vary a lot. Some have no symptoms . Others experience loss of appetite, fever, tiredness, pain in liver area, jaundice. (yellowing of the skin.)	Major cause of liver cancer. May cause death. Can be passed to newborns by mother.	Symptoms show up 1-9 months after infection. A vaccine is available to prevent Hepatitis B.	60,000	
HIV/AIDS * Treatable, not curable	For both sexes, early symptoms may be recurring fever, night sweating, shortness of breath, dry cough, constant tiredness, diarrhea, rapid weight loss, swollen glands or increase in severity or number of illnesses – or no symptoms at all .	No cure has yet been found. AIDS has been fatal in more than 50% of the cases.	Symptoms show up months to years after infection. HIV is a virus that can be transferred through blood, semen, vaginal secretions and breast milk.	40,000	
HPV /Genital Warts Treatable, not curable	Virus that's linked to cervical cancer. Some strains may cause warts found on or around genitals or rectum. A clinician must treat them. Passed by skin-to-skin contact, so condoms won't be as effective.	Warts can grow large and obstruct penis, vagina or anus.	Symptoms show up 1-8 months after infection. Sexually active females should receive annual pap smears to test for cervical cancer.	6.2 million	
Genital Herpes Treatable, not curable	One or more blister-like sores on, in or around the genitals. Sore may look like a rash or cut and is often painful. Symptoms go away. Passed by skin-to-skin contact, so condoms won't be as effective.	Can cause severe damage to infants of mothers with active infections at the time of delivery.	Symptoms show up 1-30 days after sex or longer. Can be spread when are no symptoms. Repeated flare-ups may occur after the first infection.	1 million	

Pregnancy Planning and Prevention

How does a woman get pregnant?

The most common way women get pregnant is by having sex with a man (penis in vagina). It is unlikely, but possible, that a woman can get pregnant when a man ejaculates near the vagina. A woman who gets her period releases an egg from her ovaries every month. If the woman has sex with a man, it is possible that the man's sperm will fertilize the egg. When the fertilized egg implants itself in the lining of the woman's uterus, it means that she is pregnant. She will carry the unborn baby for nine months before giving birth.

How can I prevent myself or my partner from getting pregnant?

- **Abstinence:** The only 100% effective way to prevent pregnancy is to practice ab-

stinence. Abstinence means not having sex and avoiding situations where there will be ejaculate near the vagina.

- **Hormonal Birth Control Methods:**

- **The Pill:** The birth control pill is the most popular form of birth control and can be 99.9% effective when used correctly. There are many different kinds of birth control pills, but they all work in generally the same way. A woman takes a pill at the same time every day for three weeks out of each month. These pills have hormones in them that stop her body from releasing an egg. When no egg is released, there is nothing for a man's sperm to fertilize, and she will not get pregnant. During the fourth week, the woman takes a sugar pill which contains no hormones. The only point of taking the sugar pill is to keep in the habit of taking a pill every day at the same time. During this fourth week, the woman will have her period. A woman needs to get a prescription for the pill from a doctor. She should discuss with her doctor what kind of pill is best for

her body. **The Pill DOES NOT protect against STDs.**

→ **Depo Provera:** Depo Provera is a shot of hormones that a woman can get from her doctor. She only needs the shot once every three months. This method can be expensive and can cause side effects, such as depression and weight gain. **Depo Provera DOES NOT protect against STDs.**

→ **The Morning-After Pill:** The Morning-After Pill (also called Plan B) is not a regular method of birth control and should not be used as a primary method of preventing pregnancy. It is used after a woman has unprotected sex. The Morning-After Pill can be purchased at most drug stores and should be taken as soon after unprotected sex as possible. It can be taken up to 72 hours (3 days) after unprotected sex. Women who are 17 or older can buy the Morning-After Pill from any pharmacy without a prescription. Women under 17 need a prescription from a doctor to buy the Morning-After Pill.¹⁵² This pack of one or two pills that works by releasing hormones that thicken the lining of the

uterus so that a fertilized egg cannot implant. If a fertilized egg has already been implanted in the uterus lining, Plan B will not harm that egg.

The Morning-After Pill (Plan B) DOES NOT protect against STDs.

→ **Intra-Uterine Device (IUD):** The IUD is a T-shaped device that is placed inside a woman's uterus by her doctor. Some IUDs release hormones, and some do not. They all work by making the uterus a difficult environment for an egg to implant itself. The IUD can stay in a woman's body up to 10 years and can only be implanted and removed by a doctor. The IUD costs more than other forms of birth control, but since it can be left in for several years, it can be cheaper in the long-run. **IUDs DO NOT protect against STDs.**

■ **Barrier Birth Control Methods:**

→ **Condoms:** Condoms are one of the most popular and least expensive ways to protect against pregnancy and STDs. The male condom works by preventing semen from entering the vagina (or other body areas) after

a man ejaculates. Each condom can only be used once, and should be thrown away each time the male ejaculates. It is not safe to “double up” or wear more than one condom at a time. This actually makes it more likely for the condom to break. Female condoms are also effective at preventing pregnancy and STDs. They are a little more expensive than condoms for men and are not as popular. Both female and male condoms can be bought in drug stores without a prescription or can be picked up for free at the Health Department or Planned Parenthood (see resources, page 59). Latex condoms are the only effective way to prevent STDs other than abstaining from sex.

→ **Cervical Cap:** The Cervical Cap is a device a woman can get from her doctor. A woman puts spermicide (a liquid that kills sperm) on the edges and in the middle of the cap and places it inside her vagina before she has sex. The Cervical Cap sits comfortably in front of the cervix and works by physically preventing the sperm

from getting through the cervix and to the egg. The cap should remain in the woman’s body for several hours after sex to make sure that all sperm are dead. The Cervical Cap can be removed, washed with soapy water and reused. **This method DOES NOT protect against STDs.**

Do I need permission to get a prescription for birth control from a doctor?

If you are married, are a parent, are pregnant, or your doctor thinks you would suffer from health hazards if not provided with contraceptive services, you do not need permission from your parent or guardian to get birth control. If you do not fit into any of these categories, you need consent from your parent or guardian to get birth control. You can, however, get non-prescription methods of birth control, such as condoms, without consent.¹⁵³

What if I can't pay for birth control?

In Florida, Medicaid covers the

cost of all prescription contraceptives.¹⁵⁴ However, in Florida, Medicaid does not cover the cost of condoms, spermicide, sponges, or the Emergency Contraception Pill (The Morning-After Pill). If you are not covered by Medicaid, your local clinic or Planned Parenthood may offer free or low-cost services for teens.

How will I know if I am pregnant?

The most common sign of pregnancy is a missed period. However, not every missed period means that a woman is pregnant. Many women have irregular periods, meaning they do not get their period every month at the same time. If you think that you may be pregnant, you can buy a home pregnancy test at a drug store or ask your doctor to do pregnancy test.

What if I get pregnant?

Pregnancy is a very serious issue and should not be taken lightly. The decision of whether or not to keep a baby is often very dif-

ficult. It is important to surround yourself with trusted adults and peers who will support whatever decision you end up making.

What if I get pregnant and I want to keep the baby?

You should talk to a trusted adult and a doctor about how to have a healthy pregnancy and prepare for your baby's arrival. You should also talk with your partner about your decision to keep the baby and work out whether you will both be involved in the child's life. If you are a pregnant and unmarried minor, you may consent to medical care relating to your pregnancy. You are treated as if you are an adult of 18 years or older. Likewise, if you are a minor and an unmarried mother, you can consent to medical care for your child.¹⁵⁵

If I am in Foster Care, will the State and the Department of Children and Families (DCF) help me during my pregnancy?

Yes. If you are pregnant and in

foster care, you should be given prenatal care, and you should be allowed to participate in infant care classes and birthing classes. You should also be given a safe place to live during your pregnancy.¹⁵⁶

Can a social worker or the court take my baby away?

No, they can't take your baby away if you take care of your baby. Your baby DOES NOT automatically become a foster child if you are in foster care. Your baby can only be taken away from you if you abuse, abandon or neglect your baby.¹⁵⁷ This could include running away or leaving your baby with someone who is not responsible, even if that person is the baby's father.

If your baby is taken away, you and your lawyer can fight to get your baby back. If the court agrees with DCF, then your baby will be put in foster care. The social worker might ask you to sign a case plan. Before you sign any papers or agree to any type of supervision for your baby, you should speak with your attorney.¹⁵⁸

If my baby becomes a foster child, what services do we get?

If the court decides you DID abuse, abandon or neglect your baby, then you will receive services from DCF called Family Reunification services. You will be given 6 months to follow a case plan that the Dependency Court judge orders. The case plan may include counseling, parenting classes, help with drug and alcohol problems, and planning for your future after you leave foster care. You must prove to the court that you are able to take care of your child and provide a safe home. Once your child is returned to your care, you will be monitored by DCF and the court for at least 6 months, and maybe longer.¹⁵⁹

What happens to my baby if I do not successfully complete the case plan?

If your child is not returned to your care, he or she will either be placed in long-term foster care, legal guardianship or adoption. Before your child is adopted, your parental rights will be terminated. You should talk to your attorney about these options.¹⁶⁰

Can my baby live with me?

If your baby is not a foster child, DCF must allow you and your baby to live together. If this does not happen, call your lawyer right away. DCF may have to place you in a different foster home if your current foster parents do not allow you to stay there with your baby. You could also be placed in a group foster home for teen mothers.¹⁶¹

Who makes decisions about my child's care?

If your baby is not a foster child, you decide how to care for your baby (for example, how to feed and dress the baby, what to do when the baby cries, consenting to medical care, etc.). If your baby becomes a foster child and your parental rights are terminated, the foster parent, the court or DCF makes decisions about your baby's care.¹⁶²

What about my baby's father?

If your baby is not a foster child, DCF is supposed to help you

and your baby's father meet and agree on a plan for custody and visitation. If your baby becomes a foster child, DCF will notify the baby's father, his family, and your family, to see if they can take care of your baby. DCF must try to place your baby with relatives if it is safe to do so. If you don't have a relative who can care for your baby, DCF will place your baby with a non-relative foster parent.¹⁶³

Can I put my baby in child care while I am at school or work?

There are several ways to get free daycare for your child while you are in foster care and also when you age out of foster care. Temporary Assistance for Needy Families (TANF)¹⁶⁴ and Aftercare Support Services¹⁶⁵ are some of these options. All of the options require you to fill out an application. Ask your case worker for help with getting day care, as your case worker will be able to help you with filling out and submitting the correct applications.

What if I get pregnant and I do not want to keep the baby?

If you are pregnant and have decided not to keep the baby, you can consider abortion or putting the child up for adoption.

▪ **Abortion:**

→ What is an Abortion?

Abortion means terminating your pregnancy. Depending on how long you have been pregnant, you will have the option of having a medical abortion (you take a pill to induce the abortion) or a surgical abortion (a very short surgery to remove the pregnancy).

→ What are my rights?

To get an abortion, you do not need parental consent, but, in most cases, your doctor is required to tell your parent or guardian before performing the abortion.¹⁶⁶ You can get around this requirement, however. You have the right to ask the court to allow the doctor to perform the abortion without telling your parents. This process of asking the court is called a judicial waiver of notice, and you have the

right to ask for a free lawyer to help you through the process.

Your doctor also does not have to tell your parent or guardian if:¹⁶⁷

- Your parent or guardian says in writing that he or she does not need notice (known as a court waiver).
- You are married.
- You have been legally emancipated.
- You are a parent.
- You have a medical emergency.

→ Where can I get an abortion?

Abortions MUST be performed by a doctor. If you do not have a doctor that you regularly go to and trust, you can go to Planned Parenthood or your nearest family planning/abortion clinic. Planned Parenthood has two locations in Miami, one at 681 Northeast 125th Street, North Miami, FL, and another at 11440 North Kendall Drive, Miami, FL.

→ How will I afford an abortion?

An abortion can sometimes cost hundreds of dollars. However, Planned Parenthood adjusts abortion costs according to income. This

means that they will ask you to pay a certain amount of the cost of the abortion based on how much money you make. If you do not make any money, it is possible that they will not charge you anything for the abortion. Also, in Florida, Medicaid will fund your abortion if your life is in danger, or if you were a victim of rape or incest. However, Medicaid does not cover all medically necessary abortions.¹⁶⁸ If you are in foster care, you should consider speaking with your caseworker about ways in which the agency can assist with these costs.

■ **Adoption:**

→ Adoption means that you will carry your pregnancy to term (have the baby) and then agree to have your rights as a parent waived. Your baby will be either placed with a family or with the State's foster care program. The family or the State will become the legal guardian of the child.

Rape

What is rape?

Rape is forced, unwanted sexual intercourse. Rape is sometimes also called sexual assault. Rape can happen to both men and women of any age. Rape is about power, not sex. **No one** has the right to have sex with you against your will. Only the rapist is to blame when a rape happens.¹⁶⁹

Rape can also be committed by a person you know, like a partner, husband, girlfriend or other friend, this is called date rape.

Statutory rape is any sexual contact with a person who is too young to consent to sexual activity. Each state defines the age at which a person can consent to sex differently. In Florida the minimum age of consent is 16¹⁷⁰. That means no matter how old you are if you have sex with someone under 16 you could be charged with statutory rape. The Florida Statute also says that if you are under 18 you cannot consent to sex with a person over the age of 24¹⁷¹.

What should I do if I have been raped?

▪ **Seek medical care:**

- The first thing someone who has been raped needs to do is see a medical doctor. It's important to get medical care because a doctor will need to check you for sexually transmitted diseases (STDs) and internal injuries. If you are female, a doctor will need to check for unwanted pregnancy as well.
- You should get medical attention right away **without** changing your clothes, showering, douching, or washing. It can be hard not to clean up, of course — it's a natural human instinct to wash away all traces of a sexual assault, but being examined right away is the best way to ensure you get proper medical treatment.
- Immediate medical attention is important if you want to report the crime. The medical exam will provide evidence needed to prosecute the rapist if a criminal case is pursued. If you've been raped and think you don't want to report it, you

could change your mind later — this often happens — and having the results of a medical exam can help you do this.

- Even if you don't get examined right away, it doesn't mean you can't get a checkup later. A person can still go to a doctor or local clinic to get checked out for STDs, pregnancy, or injuries any time after being raped.¹⁷²

▪ **Take care of your emotional health:**

- Rape can cause a lot of different feelings to surface. Someone who has been raped might feel a lot of things: angry, degraded, frightened, numb, or confused. It's also normal for someone who has been raped to feel ashamed or embarrassed.
- Someone who has been raped should seek out a safe environment where they can talk about their feelings with someone who can provide advice and support. Talking about one's emotional response to rape is an important step in the healing process. Sometimes the feelings surrounding

rape may show up in physical ways, such as trouble sleeping or eating. It may be hard to concentrate in school or to participate in everyday activities. Sometimes it may feel like you'll never get over the trauma of the rape. Experts often refer to these emotions — and their physical side effects — as “rape trauma syndrome.” The best way to work through them is with professional help.¹⁷³

What happens during the medical exam?

It is very important that you get a medical exam even if you don't think you have been hurt. You may have injuries that you do not realize yet because you are in shock because of the trauma you have experienced, or you may have internal injuries. A medical professional can also help to test and treat any STDs and give you a pregnancy test if you are a female.

At any time during the medical exam, you can say no if you don't want a certain test performed or evidence collected. All procedures are being

done to help you, so you have control over which procedures you'd like done, as well as a say in any you *don't* want. Although the thought of getting an STD after a rape is extremely scary, the quicker a person finds out about any infection, the more effectively he or she can be treated.

A medical professional or trained technician may look for and take samples of the rapist's hair, skin, nails, or bodily fluids from your clothes or body. If you think you've been given a rape drug, a doctor or technician can test for this, too. Be aware that the test they use can also detect any and all illegal drugs.¹⁷⁴

How do I pay for the medical exam?

The state has to pay for a post-rape medical exam whether or not the victim wants to prosecute the crime. This means that if you are the victim of a rape, you can go to any hospital or emergency room and receive treatment without having to pay for the examination.¹⁷⁵

Where can I go for help?

Turn to page 58 for a list of rape services resources.

“[Sexual Health is] the combination of **physical, emotional, mental and social well-being...** requires a positive and respectful approach to sexuality and sexual relationships, both from yourself and anyone you have sexual contact with.”

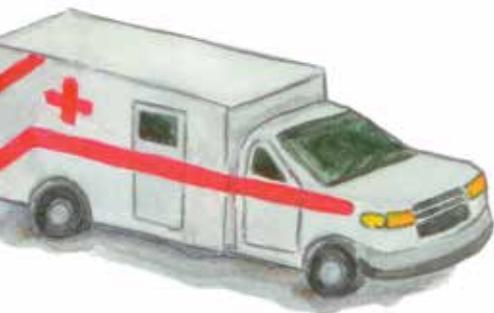
8

Emergency Services and Suicide

Emergency Care

If I need to go to the emergency room, what do I do?

If you have a serious medical emergency, either call 911 or have someone call 911 for you. If you can, try to get to the nearest hospital.



Do my parents have to give consent for me to get treatment in an emergency room?

If waiting to treat you would be too dangerous to your health, and you're at a hospital or college health center, the doctor can treat you without your parents' consent. Doctors can assume that your parents would consent to medical care that would prevent you from becoming even more sick or injured. This is only true if your parents cannot be immediately contacted.¹⁷⁶ You can also be treated by a paramedic or EMT without your parents' consent in an emergency.¹⁷⁷

Do my parents have to know that I've been treated for a medical emergency?

Under Florida law, your parent or guardian MUST be notified as soon as possible after the emergency care has been given, and the hospital records must explain why they didn't get consent before the care was given. The person legally responsible for you can check these records for an explanation as to why you were given emergency medical treatment without their consent. If your parent's parental rights have been terminated, DCF will provide consent for emergency medical care.¹⁷⁸

I'm in foster care. How do I pay for medical treatment?

If you're under 18 and are in foster care, or have aged out of foster care but are under 21, Medicaid covers these emergency costs.¹⁷⁹ If you've aged out of the foster care system, you need to make sure you re-apply for Medicaid with the help of your Case Worker or Independent Living Coordinator. You can also re-apply at www.myflorida.com/accessflorida. If you're admitted to the hospital

for a life-threatening situation requiring immediate attention, the hospital does NOT need Medicaid to authorize your medical care before they can treat you.

I live with my parents. How do I pay for medical treatment?

You will need to pay for your medical costs through private insurance or out of your own pocket. If you are covered by Medicaid, it will cover your emergency medical care. To see if you are eligible for Medicaid, or to apply for it, visit www.myflorida.com/accessflorida.

Suicide

Who can I talk to if I, or someone I know, is talking or thinking about suicide?

Thoughts of suicide are serious. If you or someone you know is thinking about suicide, call 911, or 1-800-SUICIDE, or go to the nearest emergency room. There are lots of people that will help

you or your friend with these thoughts.

How do I know if my friend is thinking about suicide?¹⁸⁰

You may not know for sure. Here are some signs you should watch out for:

Suicidal thoughts or plans. Maybe your friend says “I just want to swallow this whole bottle of pills and never wake up.” Even if they say they’re just joking, you should take it seriously.

Talking about “not being around” or about death, even if they’re casual about it. People considering suicide say things like “Who cares, I won’t be here anyway.” This is serious stuff.

Many times, people who are considering suicide will start giving away their possessions. If you see your friend giving away something you know they love, like a baseball card collection or a favorite book, this may be a sign that they are planning to commit suicide.

If your friend is extremely depressed or feels hopeless, he or she may be considering suicide.

They might say “I feel like I’m in a black hole and I can never get out. Things will never change.”

Have you had a friend that cuts or burns himself? That kind of thing can lead to thoughts of hurting themselves even more.

If you want to learn more about helping your friend with thoughts of suicide, you can go to the website www.amillionmilesfromanywhere.com/.

If you have a serious **medical emergency**, either call **911** or have someone call 911 for you. If you can, try to get to the nearest hospital.



Resources



Confidentiality and Consent

Florida Statute §743.0645

Youth Law Resources:

www.youthlaw.org

Physical Health

Obesity Information:

cdc.gov/obesity

Exercise Ideas: letsmove.org

Proper nutrition: mypyramid.gov

BMI Calculator: www.cdc.gov/healthyweight/assessing/bmi/index.html

Healthy Teens Information:

kidshealth.org

Mental Health

Psychology Articles:

psychologycentral.com/archives/intro_mh.htm

Mental Health Resources:

cdc.gov/mentalhealth

Substance Abuse and Mental Health Administration:

samha.gov

Emotional and Behavioral Health

National Council for Community Behavioral Healthcare:

thenationalcouncil.org

Substance Abuse and Mental Health Administration:

samha.gov

Disability Services

IEPs:

Parent to Parent

7990 SW 117th Ave. # 200

Miami, Florida 33183

305.271.9797

info@ptomiami.org

www.ptopmiami.org/

Substance Abuse

To quit smoking: 877.U.CAN.NOW

or www.mdahec.org/quitnow/

Sexual Health

Planned Parenthood:

plannedparenthood.org

Free condoms, family planning, and STD testing in Miami-

Dade: dadehealth.org/women/womenfamily.asp

Rape

The Rape, Abuse & Incest National Network

www.rainn.org

Call: 800.656.HOPE

National Domestic Violence/Abuse Hotline

www.ndvh.org

Call: 800.799.SAFE

American Psychological Association (APA)

www.apa.org

The APA provides information and education about a variety of mental health issues for people of all ages.

Planned Parenthood Federation of America

www.plannedparenthood.org

Planned Parenthood offers information on sexually transmitted diseases, birth control methods, and other issues of sexual health.

American College of Obstetricians and Gynecologists (ACOG)

www.acog.org

This site offers information on numerous health issues. The women's health section includes readings on pregnancy, labor, delivery, postpartum care, breast health, menopause, contraception, and more.

National Center for Victims of Crime

www.ncvc.org

This organization is devoted to helping victims of crime recover and rebuild their lives.

Call: 800.FYI.CALL

Strong Girls

www.stronggirls.jwi.org

On this site, you can find information about self-esteem and healthy relationships, as well as find resources if you or someone you know needs help.

National Youth Violence Prevention Resource Center (NYVPRC)

www.safeyouth.org

NYVPRC was established as a central source of information on prevention and intervention programs, publications, research, and statistics on violence committed by and against children and teens.

Florida Council Against Sexual Violence

www.fcasv.org/

Tallahassee, FL

Call: 850.297.2000

Emergency Services

Police, Ambulance, Fire Fighters:

call 911

Suicide

A Million Miles from Anywhere:

www.amillionmilesfromanywhere.com

International Suicide Prevention

Wiki: suicideprevention.wiki.com

Suicide Prevention Resource

Center: SPRC.com

It Gets Better Foundation:

itgetsbetter.org

LGBTQI

The Yes Institute: yesinstitute.org

Youth In Crisis: 1.866.4.U.TREVOR

Equality Florida—Safety in

Schools: <http://eqfl.org/issues/schools.php>

It Gets Better Foundation:

itgetsbetter.org

The **Children & Youth Law Clinic** is an in-house, live-client clinic established in 1995 by the University of Miami School of Law. The Clinic represents children in foster care and former foster youth in dependency, health care, mental health, disability, independent living, education, immigration and other general civil legal matters, ensuring that they have a voice in court proceedings.

10

Endnotes

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The Florida Bar Foundation
for supporting our work

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