

## Emancipated Minors: Health Policy and Implications for Nursing.

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### **Abstract:**

Emancipation is a process that offers adolescents a solution to serve in the role of an adult in circumstances that warrant the need for more autonomy. The process and definitions of emancipation are often ambiguous for adolescents, nurses, and other health care providers that provide services for these individuals. Emancipation can be additionally perplexing with the lack of overarching federal guidelines and the fragmented definitions among various states. Nursing has a significant and legal role in providing care for emancipated minors and a more global duty to advocate for adolescents in situations that necessitate emancipation. This article explores the emancipation process, the laws of each state that govern emancipation, the facilitators and barriers, and the role of nursing in the emancipation process.

**Keywords:** emancipation | minors | law | health policy | nursing | emancipated minors

### **Article:**

MANY HEALTH CONCERNS and disparities exist within the adolescent population. Adolescents are a vulnerable group and therefore have many special needs. “Most adolescents navigate the perilous course from childhood to adulthood without serious mishap. But some stumble” (United States Department of Commerce, 1997, p. 1). Those who have obstacles in his or her path may endure the consequences into adulthood. For adolescents who have the need to function as adults, the process and laws related to emancipation provide an avenue. “Emancipation is a legal process by which minors can attain legal adulthood before reaching the age at which they would normally be considered adults,” also known as the age of majority (Net Industries, 2011b). Many organizations such as the World Health Organization and UNICEF, along with certain documents such as the Convention on the Rights of the Child, have specific varying definitions of adolescents and children (Dickens and Cook, 2005, Office of the United Nations High Commissioner for Human Rights, 2007, UNICEF, 2008 and Wyoming State Legislature, n.d.).

In the United States (U. S.), emancipation of minors is not addressed at the federal level. Although many laws are not addressed at the federal level, the emancipation laws vary significantly from state to state and create additional confusion for adolescents who need to navigate the court system to achieve emancipation status. The purpose of this article is to explore the state laws related to emancipation of minors. More specifically, the article will provide insight into the historical background, agencies or persons involved within this health policy, facilitators and barriers for implementation, role of nursing, and continued need for laws related to emancipation of minors.

### Emancipation of Minors: State Laws

The laws for emancipation of minors vary from state to state, with little to no overarching guidance from federal laws. Some states do not offer laws for emancipation of minors, creating chaos within the legal system for adolescents who need to seek the emancipation process. International agencies have created documents that discuss the definition of a child with a focus on rights, protection, and assistance of the child while promoting happiness, peace, freedom, equality, and dignity for individuals younger than 18 years (Office of the United Nations High Commissioner for Human Rights, 2007). Without guidelines from the federal level, there are often differences in terminology and definitions of rights for emancipated minors. The rights of individuals are major themes within the U. S., but the rights of children or vulnerable groups have emerged in more recent years. Still, historically, the U.S. has maintained an antigovernment approach (Kovner, Knickman, & Jonas, 2008, p. 177), which may partially account for the absence of federal guidelines for emancipation. The lack of congruency of the term emancipated minor may potentially be the result of the lack of national agreement on the amount of autonomy that should be given to children.

The definition of emancipation includes liberation and the act of setting a person free from the power of another person, from slavery, from dependence, or from other controlling influences (Random House Dictionary, 2011). In general, emancipation occurs when an adolescent turns 18 years of age or joins the military, although specific definitions are provided by state laws (Lerner, Lerner, & Finkelstein, 2001). To receive emancipated status, the adolescent must prove that he or she is a resident of that state and can support himself or herself financially and emotionally and support himself or herself independently from his or her parent(s) or guardian(s) and that emancipation is in his or her best interest through a legal process referred to as a petition (Lerner et al., 2001 and Policy Archive, 1998). Each of the states with laws regarding emancipation has some differences and similarities. Table 1 summarizes the state laws and criteria for emancipated status for minors (Cornell University Law School, n.d.-a, Net Industries, 2011b, Stasiak, 2002 and Stritof and Stritof, 2011).

Table 1. Summary of Individual State Laws Regarding Emancipation of Minors

State	Age of Majority	Age in Which a Minor or Parent/Guardian May File a Petition	Description of State Law
Alabama	19	18	Minors may file a petition if his or her parents are no longer living, or insane, and the minor been abandoned for 1 year. Minors may file a petition if his or her parents are no longer living, or insane, but has a guardian and has been abandoned for 1 year by parents (Alabama Legislature, n.d.).
Alaska	18	16	Minors must be living separately from parents or guardian and must show financial independence; must be self-supportive; parents or guardians must consent unless the parent or guardian is unavailable or unreasonably withholds consent (Alaska Court System, 2008).
Arizona	18	16	Minors must show financial independence and ability to access health care. Minors cannot be a ward of the court or state agency; a minor must live on his or her own for three consecutive months. Minors must sign a consent form acknowledging rights and consequences. Parents or guardians have 30 days to object to emancipation petition (Youth Rights, 2006).
Arkansas	18	16	Minors may petition the court for emancipation. At least 20 days prior to the court date, parents or guardians of the minor who have not signed the court petition will be notified (USLegal, 2010a).
California	18	14	Minors may be emancipated once he or she has entered into a valid marriage, whether divorce occurs before age of maturity or if the minor is active duty in the military. Minors must show criminal-free financial and lifestyle independence, with proof that he or she lives separately from his or her parents or guardians with consent of the parents or guardians. If the minor petitioning the court is a ward or dependent child of the court, appropriate agencies will be notified; parents or guardians may petition against emancipation of the minor (California, n.d.-a and California Law, n.d.-b).
Colorado	18	15	Minors may be emancipated once he or she has entered into a valid marriage or if the minor is active duty in the military. The minor must provide assent from his or her parents or guardians and show financial independence and self-support in care and custody (USLegal, 2010b).
Connecticut	18	16	Minors may be emancipated once he or she has entered into a valid marriage, whether divorce occurs before age of maturity, if the minor is active duty in the military, if the minor lives separate from his or her parents or guardians with consent, or the minor is financially able to support himself or herself. At least 7 days prior to the court date, parents or guardians of the minor who have not signed the court petition will be notified (State of Connecticut General Assembly, 2011).
Delaware <sup>□</sup>	18	N/A	Although there are no specific emancipation laws, there are laws regarding tattooing, body piercing, and branding for those younger than 18 years. Parents can grant children permission to move outside the home but can revoke this at any point. In addition, there are laws regarding contracts and coercion. Minors 15 years of age or greater may contract insurance or annuities with parental consent. Female minors younger than 16 years cannot be coerced to abort or to continue a pregnancy without being subject to the law (USLegal, 2010c and Youth Rights, 2007).
District of Columbia <sup>□</sup>	18	N/A	Specific laws around emancipation are not defined (Thomas Reuters, 2011a).

State	Age of Majority	Age in Which a Minor or Parent/Guardian May File a Petition	Description of State Law
Florida	18	16	Parents or guardians of the minor must file the petition. Emancipation may occur if the minor enters a valid marriage, whether the marriage is discontinued. Florida state laws identify specific rights to minors related to blood donation, educational loans, executing agreements and contracts, medical care, and pregnancy (The Florida Senate, 2011).
Georgia <sup>□</sup>	18	N/A	Specific laws around emancipation are not defined. Minors may consent for certain medical treatments (Thomas Reuters, 2011b).
Hawaii	18	Not specified	Minors may be emancipated once he or she has entered into a valid marriage (Hawaii State Legislature, n.d. and Thomas Reuters, 2011c).
Idaho <sup>□</sup>	18	N/A	Although there are no specific laws for emancipation, minors 16 years of age or more may enter a marriage with parental or guardian consent, which therefore creates an emancipated status (USLegal, 2010d).
Illinois	18	16	Minors must show financial independence and ability to handle one's own affairs. Emancipation may not be granted if either the minor, parents, or guardians object. Illinois state law addresses emancipation of homeless minors, as well as the ability to revoke emancipation status. Written notification to all parties involved will be given 21 days prior to the court date (Illinois General Assembly, n.d.).
Indiana <sup>□</sup>	18	N/A	Specific laws around emancipation are not defined (Thomas Reuters, 2011d).
Iowa <sup>□</sup>	18	N/A	Specific laws around emancipation are not defined (Iowa General Assembly, 1999).
Kansas	18	16	Minors may be emancipated once he or she has entered into a valid marriage or has been in a valid marriage (Kansas Legislature, 2009).
Kentucky <sup>□</sup>	18	N/A	Age of majority is extended to 19 years if attending high school. Specific laws around emancipation are not defined, although some consent for medical treatment may be given by minors (Thomas Reuters, 2011e).
Louisiana	18	15 or 16	Age of majority is 18 years, unless emancipated by marriage, the courts; if the minor is still in high school, then the age of majority is extended to 19 years, whichever comes first. Emancipation may be filed through a petition by parents or guardians at age 15 years, or emancipation may be deemed by the courts at age 16 years (Thomas Reuters, 2011f).
Maine	18	16	A minor may file for petition of emancipation if he or she has made reasonable provision for living situations, health care, education, and employment. The individual must demonstrate maturity and the ability to be responsible for to care for himself or herself (Office of the Revisor of Statutes, 2011).
Maryland	18	Not specified	Emancipated status may be granted if the minor enters into a valid marriage, the minor is active duty in the military, there is misconduct or abuse by a parents or guardians in the home with the minor, or the parents or guardians petition for the minor to be emancipated, although there is no clear statute that defines emancipation status (Baer, 2010).
Massachusetts	18	Not specified	Emancipation status may be granted by the courts if the parents are unfit to have custody or the minor enters into a valid marriage. Emancipation status may be revoke if circumstances change for the minor and his or her best interests (Massachusetts State

State	Age of Majority	Age in Which a Minor or Parent/Guardian May File a Petition	Description of State Law
			Legislature, 2011a). A minor may give consent for medical or dental care if he or she is married, widowed, divorced, or if he or she is the parent of a child with the exception of abortion or sterilization. In addition, the minor may give consent for medical or dental care if he or she is in the military, pregnant, living self-sufficiently apart from his or her parents, or has a disease that is a danger to public health (Massachusetts State Legislature, 2011b).
Michigan	18	16	Emancipation status may be granted if the minor or parents or guardians petition the court, the minor enters into a valid marriage, or the minor becomes active duty in the military. In addition, emancipation status occurs for routine and emergent medical care consent for minors in the custody of law enforcement agencies but parents or guardians cannot be located. This includes all preventive care with the exception of medical care involving reproduction (Michigan Legislature, 2009).
Minnesota <sup>4</sup>	18	N/A	Minors may be emancipated once he or she has entered into a valid marriage, has been in a valid marriage, or has parental consent. Specific laws around emancipation are not defined (Minnesota Reference Library, 2010).
Mississippi <sup>4</sup>	21	Not specified	Emancipation status may be granted by petition only. Males 17 to 20 years of age may become married with parental consent. Females 15 to 20 years of age may become married with parental consent. Automatic emancipation is granted for marriage, military service, or if the individual is incarcerated for 2 years after being convicted of a felony. Court-ordered emancipations are awarded to eliminate or decrease child support amounts (Mississippi Department of Human Services, 2009 and Net Industries, 2011b).
Missouri	18	16	Emancipation status may be given to juvenile offenders less than 17 years of age for decision making including but not limited to medical and mental health care, education, work, and other programs. Emancipation status may also be granted if the minor enters into a valid marriage with legal consent from parents or guardians, becomes active duty in the military, or through self-support and employment demonstrated by financial independence including food and shelter. Parents or guardians may petition for emancipated status for a minor, and courts may deem minors emancipated in certain circumstances (USLegal, 2010e).
Montana	18	16	Limited emancipation may be granted if it is in the best interest of the minor, the minor is financially independent, the minor desires emancipated status, or the minor has completed high school. Age of majority can be granted earlier if married, in the military, or fully financially independent from parents or guardians. Emancipation status can be revoked if circumstances warrant the change per the law; the courts can grant emancipation for consent of specific health care treatments or services (Montana Legislative Services, 2009). Minors who are parenting may give health care consent for his or her child; minors may give consent for prevention, diagnosis, and treatment of pregnancy or communicable diseases, emergency care, and transfusions (Montana Legislative Services, 2009).
Nebraska <sup>4</sup>	19	N/A	Specific laws around emancipation are not defined, although emancipation status may be granted if the minor enters into a valid marriage prior to age 19 years (Nebraska Legislature, 2010).
Nevada	18	16	Emancipation may be granted for minors who have entered into a valid marriage and/or willingly lives apart from his or her parents or guardians. Emancipation can occur though a petition to the court. Minors may consent for examination and treatment if he or she is married or has been married, is living apart from parent for greater than a period of 4

State	Age of Majority	Age in Which a Minor or Parent/Guardian May File a Petition	Description of State Law
			months, has given birth, or is in emergent situations as determined by a health care provider (Nevada State Legislature, n.d.).
New Hampshire <sup>□</sup>	18	N/A	Specific laws around emancipation are not defined. Emancipation may be granted if documentation from another state is provided showing emancipated status (New Hampshire General Court, 1990).
New Jersey <sup>□</sup>	18	Not specified	There are no specific laws for emancipation, but the definition under HIV legislature for emancipated minors include those who are legally married, is active duty military, has a child, is currently pregnant, and has been declared by a court as emancipated (USLegal, 2010f).
New Mexico	18	16	Age of majority may be 16 years if the minor is or has been legally married, has received emancipation status from the courts, and/or is in the military. Emancipation status granted by the courts is determined based on the best interest of the minor. Parents or guardians may file a petition if opposed to emancipation status for the minor (State of New Mexico, 2011).
New York <sup>□</sup>	18	N/A	Emancipation is determined on an individual basis; no statutes or laws are available. The law does that minors may consent for certain medical or dental procedures given that the individual is married or has been married and/or is the parent of a child (New York State Legislature, 2011).
North Carolina	18	16	Minors who are 16 years or older may petition the court for emancipation. Minors that are legally married are emancipated. Emancipation status cannot be revoked. Minors petitioning the court should provide documentation of financial independence, ability to function as an adult, living situation, discord with parents or guardians, and the minor's rejection of parental support (North Carolina General Assembly, n.d.).
North Dakota <sup>□</sup>	18	N/A	Specific laws around emancipation are not defined. Rights of minors are addressed including the following: (a) a minor of unsound mind is responsible for his or her actions and is liable, (b) rights of civil action and legal proceedings are equal to an adult, (c) minors may enter contracts under specific guidelines, (d) medical care for those older than 14 years for sexually transmitted infections and alcohol or drug use without knowledge or consent from the parents or guardians, and (e) receive emergency care with knowledge or consent of the parents or guardians (USLegal, 2010g).
Ohio <sup>□</sup>	18	N/A	There are no specific laws or statutes regarding emancipation of minors. Minors may receive emancipation status if they enter into a legal marriage or enter the military as active duty. If either of the two options for emancipation is discontinued before the age of 18 years, emancipation status is revoked (The Cleveland Law Library Association, 2011).
Oklahoma	18	Not specified	Courts may determine emancipation status for those younger than 18 years if it is in the best interest of the minor concerning contracts. In addition, petitions may be filed by the minor for emancipation. Emancipation status may be granted for minors who have entered into a legal marriage. Minors may consent for health care treatment for emergent care, substance abuse, communicable diseases, or pregnancy if the minor is married, a parent, or if emancipation status has been received (Oklahoma Legislature, n.d.; Thomas Reuters, 2011g and USLegal, 2010h).
Oregon	18	16	Emancipation may be granted for minors for the purposes of criminal activity, establishing a residence, and/or suing or being sued (Oregon State Legislature,

State	Age of Majority	Age in Which a Minor or Parent/Guardian May File a Petition	Description of State Law
			2009 and USLegal, 2010i).
Pennsylvania	21	16	Emancipation may vary from county to county. Age of majority criteria includes 21 years and completion of high school; emancipation is granted for minors who enter a legal marriage. Other definitions for emancipated minors include minors 16 years and older who have lived apart from their parents and are self-sufficient and responsible. Emancipation may be revoked if the minor reenters the parental household. Unemancipated minors are defined as minors who have never been married or have the marriage annulled and remain under parental control regardless of the whether the minor lives apart or with the parents (USLegal, 2010j).
Rhode Island	18	Not specified	State law deems that the family court and the department of children, youth, and families provide safeguards for emancipation of minors, although no specific criteria is included in the laws (State of Rhode Island General Assembly, 2007 and USLegal, 2010k).
South Carolina <sup>4</sup>	21	N/A	Specific laws around emancipation are not defined (South Carolina Legislature, n.d. and USLegal, 2010l).
South Dakota	18	16	Emancipation may be granted for minors currently in or have been in a legal marriage, minors serving as active duty in the military, and those deemed emancipated by the courts. Emancipation may be granted for minors who document that he or she willingly live apart from parents or guardians and support himself or herself financially in a legal manner (South Dakota Legislature, 2011a and South Dakota Legislature, 2011b).
Tennessee <sup>4</sup>	18	Not specified	State laws are vague describing emancipation status, although the courts retain the power to grant emancipation status when it is in the best interest of the minor for certain actions (USLegal, 2010m).
Texas	18	16	Minors, parents, or guardians may petition the court if the minor is 16 years of age and living separately and willingly apart from the parents or guardians. The courts may grant emancipated status if it is in the best interest of the minor, and the minor can document that he/she is self supporting and financially independent (Texas Statutes, n.d.;USLegal, 2010n).
Utah	18	16	Minors may petition the court for emancipation if the minor is capable of functioning as an adult, living separately from his or her parents or guardians, self-supportive, financially independence, and if it is in the best interest of the minor. Emancipated status is granted for minors who have entered into a legal marriage. Minors can consent to health care treatments related to pregnancy (Thomas Reuters, 2011h and USLegal, 2010p).
Vermont	18	16	Emancipated status may be granted if the minor enters into a valid marriage, is active duty in the military, or if there is a risk for harm to the minor. The minor must live separately from his or her parents or guardians for 3 months or longer, able to be self-supported financially, have proof of employment, holds a high school diploma or equivalent, or completing courses toward a high school diploma, and cannot be a ward of the court or state (The State of Vermont Legislature, 2011).
Virginia	18	16	Emancipation may be granted for minors who enter or have entered a legal marriage, are active duty with the military, or are living separately and willingly apart from parents or guardians and demonstrates self sufficiency. Emancipated minors may consent to all medical, dental, and psychiatric care without parental consent or knowledge (USLegal,

State	Age of Majority	Age in Which a Minor or Parent/Guardian May File a Petition	Description of State Law
			2010q and Virginia General Assembly, n.d.).
Washington	18	16	Emancipation may be granted by the courts through a petition if the minor is financially independent and has the ability to manage his or her personal life. Emancipated minors have the right to give consent for health care treatment (USLegal, 2010r and Washington State Legislature, n.d.).
West Virginia	18	16	Emancipation may be granted by the courts through a petition if a minor has the capabilities of an adult, and functions independently of his or her parents or guardians, and emancipation status is deemed in the best interest of the minor. Minors who have entered a valid marriage are emancipated (West Virginia's Legislature, 2011).
Wisconsin	18	Not specified	Emancipation is granted for minors who enter a legal marriage unless deemed incompetent (Thomas Reuters, 2011i).
Wyoming	18	17	Emancipation may be granted for general and health care treatment purposes for minors who enter a legal marriage or are active in the military. For health care purposes, emancipation may be granted if parents or guardians of minors cannot be located and health care treatment is required or the minor is living apart from his or her parents or guardians and is independent in affairs and finances. In addition, if a minor is 12 years or older and uses tobacco products, the minor can consent to a tobacco cessation program (Wyoming State Legislature, n.d.).

## History of Rights Granted Through Emancipation and Associated Laws

Often, the emancipated minor can function in the age of majority but still has some restrictions within the law. Rights of all adolescents, emancipated or not, are often determined based on age, emancipation status, marriage, or type of medical care sought by the adolescent (English, Shaw, McCauley, & Fishbein, 2008). Rights of the emancipated minor may include the ability to sign legal contracts, own property, keep one's earnings or wages, hold offices, enter into marriage without parental consent, or the right to be sued (Dickens & Cook, 2005). The three most common reasons for seeking emancipation include (a) to obtain financial control, (b) to escape a negative home life, and (c) to gain independence (Lerner et al., 2001).

Often, there is a misconception that once a minor has received emancipation status, that he or she has the same rights as any adult. Although becoming emancipated offers many new rights to adolescents, there are several federal health and safety laws that supersede states' laws regarding emancipation. For instance, Article XXI of the U.S. Constitution grants the states' rights for enforcement of alcohol sales, whereas the National Minimum Drinking Age Act of 1984 required states to raise the age of drinking to 21 years despite emancipation status (Hanson, 2009 and United States Department of Transportation, 1999). The 26th Amendment (Cornell



University Law School, n.d.-d) enforces the age limit for voting at 18 years despite emancipation status. At the federal level, the U.S. Department of Labor enforces age requirements for employment and hours worked under the Fair Labor and Standards Act, including a minimum age of 14 years for employment and limited hours for those younger than 16 years (United States Department of Labor, n.d.).

At the state level, there are several laws that impact age limits without regard to emancipation status. For example, emancipated minors must be 18 years of age to purchase tobacco products (Center for Health Improvement, 2004). Similarly, age limits are determined by the states for permits or licensure for driving privileges (Pearson Education, 2011a), obtaining tattoos, or purchasing firearms (National Rifle Association Institute for Legislative Action, 2011). In addition, mandatory school attendance is determined by the states with laws enacted as early as 1867 (Pearson Education, 2011b). Each state also has laws regarding age limits for marriage with and without parental consent (Cornell University Law School, n.d.-b). The age limit for consent for sexual activity for both heterosexual and homosexual relationships is defined through state laws without regard to emancipation status (Lance Armstrong Foundation, 2011). Emancipation does not remove liability related to criminal activities such as rape, sexual assault, or child abuse (Dickens & Cook, 2005).

Emancipation is not always considered a permanent title for adolescents and can be determined by individual states. Circumstances that can alter emancipation status include (a) divorce before the age of 18 years, (b) loss of a job or the ability to financially support oneself, (c) emergent medical procedures in which parent(s) or guardian(s) cannot be reached, and (d) some states can revoke emancipated status for an adolescent who becomes dependent on public funding or services (Lerner et al., 2001). At the federal level, the welfare reform act (U.S. Code 42; Cornell University Law School, n.d.-c) in 1996 offered the ability of states to deny or revoke emancipation status for adolescents who are using funding from the Transitional Assistance for Needy Families Reauthorization Act (TANF; PL 109-161) as their source of financial income for independent support, although there are exemptions to the rule, the decision is ultimately left up to individual states (Lerner et al., 2001 and Policy Archive, 1998). Exemptions to this legislation include the following: (a) if the minor has no living parent(s) or guardian(s) or the whereabouts are unknown; (b) the parent(s) or guardian(s) will not allow the minor to live in the home; (c) the minor has been abused either physically, mentally, or sexually by someone in the home; (d) living in the home offers great risk to the minor or her child; and/or (e) it is determined that it is in the best interest of the minor to remain emancipated (Cornell University Law School, n.d.-c and Policy Archive, 1998). Ultimately, there is ethical controversy whether revoking emancipation is the best practice when the emancipated minor is pregnant or raising a family.

## Historical Background, Development, and Major Revisions

At the international level, the history behind rights of minors began as early as 1924 when the Geneva Declaration of the Rights of the Child was created ensuring basic rights of the child such as a normal chance at development, food, shelter, and health care (United Nations, n.d.). In 1959, the General Assembly adopted the resolution 1386 (XIV) of the Declaration of the Rights of the Child (Waither, 2003), which has further been amended by the Declaration of Rights of the Child in 1989 (Office of the United Nations High Commissioner for Human Rights, 2007). There have been multiple other documents that have ensured the rights of the child at the international level.

In the U. S., emancipation issues began in the mid 1800s regarding slavery and were followed by Lincoln's Emancipation Proclamation in 1863, which was the beginning of freedom for slaves in the United States (Public Broadcasting Station, n.d.). Child labor and child slavery in the U.S. have forced the rights of minors to become a national concern. As industry grew, the number of children in the workforce increased; child labor laws were left up to the states for creation and enforcement (University of Iowa: Child Labor Public Education Project, n.d.). As early as 1832, The New England Association of Farmers, Mechanics, and Other Workingmen condemned child labor, followed by the first state child labor law in Massachusetts in 1836 (University of Iowa: Child Labor Public Education Project, n.d.). It was not until 1916 when the first federal laws enforced child rights, but enforcement failed after several attempts and regulation did not occur until 1938 with the Fair Labor Standards Act (University of Iowa: Child Labor Public Education Project, n.d.). Concerns regarding emancipation of minors began around the turn of century (Stasiak, 2002).

Court cases that have set precedents for minors' rights include *Kingsley versus Kingsley* (Net Industries, 2011a) and *Twigg versus Mays* (Net Industries, 2011c), both in which the courts ruled in favor of the rights of the child. Even in the 1990s, children's rights were very ambiguous, although in 1972, many concerns related to emancipation for minors were dissolved due to the change of the age of majority from 21 to 18 years (DeVries, 2008). Many historical forms of emancipation include parental consent of dependent children to marry under age, active involvement in military service, and minors that become parents. A more recent concern for emancipation status involves parents of children who die from diseases such as HIV (Dickens & Cook, 2005); New Jersey is the only state that has addressed this issue directly (USLegal, 2009).

In addition, some states use the mature minor rule or doctrine, which allows health care providers to assess whether an adolescent is mature enough to make personal medical decisions and to provide care to the adolescent without parental consent or current emancipation status (USLegal, 2010o). For instance, Arkansas and Nevada use the mature minor doctrine as a statute, whereas Pennsylvania, Tennessee, Maine, Massachusetts, and Illinois have enacted the doctrine into law (USLegal, 2010o). The mature minor doctrine is often used in sensitive clinical situations such as family planning, substance abuse, pregnancy care, treatment or diagnosis of sexually transmitted infections, and emergent care, where the adolescent presents within an appropriate age range and demonstrates maturity and an understanding of the medical decisions at hand. Currently, discussions are occurring among pediatric societies regarding the formation of a national agenda for children and adolescent public policy (Genel et al., 2008).

### Facilitators and Barriers to Implementation

There are many facilitators and barriers to the implementation of health policy related to emancipation of minors. Often, these facilitators and barriers are broader than the context of age or state criteria for emancipation but delve into the realms of welfare of the minor, teenage pregnancy, or other risky behaviors of adolescents. Social, political, economic, technological, legal, ethical, and cultural facilitators and barriers should be considered related to health policy.

### Social Facilitators and Barriers

Social issues related to emancipation of minors include concerns for the well-being of the adolescent without parental support. Often, adolescents' decision-making behaviors and biological development are not fully developed and may potentially account for some disparity of teenage health outcomes (Phipps, Blume, & DeMonner, 2002). Other literature has shown that cognitive growth, social immaturity, and emotional changes may also contribute to health disparities in adolescents (Rodriguez & Moore, 1995). When emancipation occurs, the parents' legal obligations to the child are terminated, therefore creating a potential societal cost for emancipated minors if they cannot support themselves (Lerner et al., 2001). States' laws that do not allow the ability to revoke emancipation status in certain circumstances may find that the minor could become financially dependent on state or federal monies without any parental or guardian obligation to assist the minor. Other societal concerns may include parental rights and the well-being of the minor. Emancipation of minors should not be invoked in all situations. Frequently, conflict between the parent and child may exist and may not present the need for emancipation. The creation of clear laws regarding the emancipation process eliminates some of the societal concern for minors. In many of the state laws, when petitions for emancipation status are offered, the best interest of the minor is the ultimate deciding factor.

Brain development and maturity are two areas that deserve consideration. Differences in brain development have been shown for adolescents up through age 20 years and therefore could account for high levels of risky behaviors often seen in this population (Spano, 2003 and Steinberg, 2007). When considering that the adolescent's brain may not be fully developed, societal concerns may include whether the minor who seeks emancipation can function or sustain independent function as an adult. In addition, adolescents do not mature at the same rate, and each case should be evaluated individually.

Although some decisions regarding medical care may be made appropriately by an adolescent, decisions that involve lifetime commitments or lifelong affects, both positive and negative, may need to be reevaluated (Dickens & Cook, 2005). For example, vaccination of those less than 18 years of age does not only present an issue for the health of the individual but also a societal and legal concern for those not receiving appropriate vaccinations. Currently, there are no federal laws regarding vaccinations of minors with the exception that vaccine information statements be provided to the parent or guardian of the minor under the National Childhood Vaccine Injury Act of 1986 (English et al., 2008). The consent for vaccinations may become a potential legal concern for health care providers due to the following issues: (a) ambiguity of consent for minors related to emancipation at the federal level, (b) differing state laws, (c) disease in which the vaccination is being given, (d) type of health care services, and (e) maturity or capacity of the adolescent, which is highly subjective. State laws are the determining factor between consent from the parent and the emancipated adolescent; these consent laws have limited the success of vaccination programs (English et al., 2008). In addition, if large numbers of minors choose not to be vaccinated for certain diseases, it creates potential for outbreaks, which is also a major concern for society. Current reports indicate that for 2007, only 81.8% of all children were fully vaccinated in the U. S. (Agency for Healthcare Research and Quality, 2007).

### Political Facilitators and Barriers

In addition to societal concerns, there are political issues related to welfare reform around teenage decision making, especially in teenage pregnancy. Teenage pregnancy has remained a controversial topic for many years for emancipated or nonemancipated minors. The political and economic concerns of welfare are enormous and include (a) who to spend money on, (b) how to delineate the money fairly, (c) who will fund the programs, and (d) who is responsible for those younger than 18 years? Other priority issues such as child support enforcement have been discussed but are not consistently enforced at the national or state level (LaVelle, 1994). Political debates from both liberal and conservative parties related to the appropriate approach to decrease teenage pregnancy rates continue. Condom distribution, abortion, and abstinence versus

safe sex all remain controversial topics. For example, political proposals from Clinton's administration included mandates for teenage mothers to remain in the home of the parent or guardian until completion of high school to receive governmental assistance in an effort to remove financial and social incentives for becoming a teenage mother (LaVelle, 1994). In addition to variances in political party viewpoints regarding adolescents, there are organizations such as The Center for Adolescent Health and the Law (n.d.), who focus their efforts on advocacy for health care and policy revision to promote the health and well-being of this vulnerable population.

### Cultural and Religious Facilitators and Barriers

Cultural and religious facilitators and barriers may affect emancipation laws. For example, cultural or religious beliefs regarding marriage and the age to enter into marriage directly impact emancipation status of minors. Cultural beliefs of peer groups of minors influence behaviors and attitudes about emancipation. Many states include entry into a valid marriage as a form of emancipation for minors. Other cultural and religious concerns may include health care treatment for minors, emancipated or not, when views on issues such as blood transfusions, health care treatment options, or sexual activity may differ between the parent and the child.

### Ethical Facilitators and Barriers

Although there is no one ethical principle that can stand alone, creation of laws regarding emancipation for minors is most often based on views of autonomy and the right for minors to make his or her own decisions. In health care situations, confidentiality and informed consent are major portions of laws regarding emancipation. In states that have vague criteria or no defined laws, confidentiality and informed consent are areas of inconsistency for health care workers and nurses. Other health care ethical debates such as nonmaleficence may be neglected in instances for nonemergent medical care of a child or adolescent if emancipation is not obtained, and the parent or guardian is not present or does not consent for treatment (Dickens & Cook, 2005). Legal concerns for children without emancipation include protection of the child before and after birth and are addressed in Article 4 of The Convention on the Rights of the Child (Office of the United Nations High Commissioner for Human Rights, 2007 and UNICEF, 2008). For those with emancipation, legal concerns may include criminal charges against emancipated minors, who are therefore now charged as an adult (Lerner et al., 2001). When minors seek emancipation status, lawyers and court officials should take all steps to ensure that the minor understands the rights and consequences of emancipation status in the event that criminal activity occurs.

## Legal, Technological, and Economic Facilitators and Barriers

Legal and economic concerns also include the legal process itself. Often, laws are cumbersome and difficult to understand. Minors in need of emancipation status may have limited access to assistance for legal advice or monies for the associated costs of lawyers or legal fees. Access to technology may affect understanding of the laws. If adolescents have limited computer access, then they may be less likely to pursue emancipation status. On the contrary, technology may enhance adolescents' understanding of the law. Sparkaction is an organization that provides publications and information around political topics related to minors and teaches the youth how to become advocates and voices in the political realm (Sparkaction, 2010). Agencies like Sparkaction can provide avenues for federal policy when minors' voices can be heard and the youth learn to effectively communicate needs related to policy. In addition, limited access to transportation will also affect a minor's ability to pursue emancipation status. Many of the states' laws define fees associated with emancipation petitions, but costs may range from state to state. In addition, lawyer fees and court costs may be incurred in the process, creating financial hardship for those who may have limited incomes. In some states, the petition fee may be waived, which is determined by the state law and court system. For minors in situations where his or her well-being is endangered, costs associated with petitioning the court may prohibit the much needed emancipation status.

Social economic position evolves over time, therefore restricting adolescents. In the U. S. in 2007, children in poverty less than 18 years of age represented 35.7% of all the people in poverty and 24.8% of the total population (DeNavas-Walt, Proctor, & Smith, 2007). In addition, the poverty rate (18%) and the number in poverty (13.3 million) increased for children younger than 18 years in 2007 (DeNavas-Walt et al., 2007); in 2006, the reported poverty rate was 17.4% for children, with 12.8 million living in poverty (DeNavas-Walt et al., 2007). Emancipated minors have limited education up to high school levels, narrowing the job market and the source of income. Without education and experience, higher paying jobs are difficult to obtain, also decreasing the literacy levels and social standing of the individual. Cost of living expenses are high and may be difficult to maintain for a minor with limited income. Without parental or guardian support, it may be more difficult for a minor to achieve educational and career success.

Other economic concerns for emancipated minors would include health insurance coverage. Insurance for minors are typically covered under the parents' or guardians' insurance plan through the employer. In 2007, 11% of children less than 18 years of age in the U. S. were reported uninsured, whereas children in poverty were more likely to be uninsured than those with higher income families (DeNavas-Walt et al., 2007). Until recently, national programs through the Robert Wood Johnson Foundation, such as Covering Kids and Families, offered affordable

options to insurance through Medicaid and the State Children's Health Insurance Program for families or emancipated minors but is no longer funded (Robert Wood Johnson Foundation, 2006); currently, covering the uninsured has replaced previous national efforts for insurance coverage (Robert Wood Johnson Foundation, 2009). For minors with limited education and experience, career opportunities that offer insurance packages may also be limited. Self-provided insurance is expensive, and therefore, adolescents may choose to not have health insurance coverage or to use federal programs, which may eliminate their emancipation status. The consequential costs for uninsured emancipated minors are a societal and economic concern.

### Implications for Pediatric Nurses and Health Care Providers

There are often blurred ethical and legal concerns related to medical care of adolescents and confidentiality involving the issue of emancipation or lack thereof, especially when the medical care involves issues related to sexuality (Dickens & Cook, 2005). Nurses and other health care providers frequently encounter situations involving nonemancipated children or adolescents who present with pregnancy, sexually transmitted infections, or other health-related issues that may differ than the moral or ethical values of the parents or guardians. Maintaining confidentiality of the child or adolescent may be difficult when the parent is legally bound to make decisions for the child or adolescent, especially when the parent is the economic source of payment for the individual. This issue can create additional ethical concerns for the health care providers, including disclosure of services rendered or prescribed medications for the adolescents to both the parent and to the health insurers involved. Emancipation of minors, in this instance, helps to ensure confidentiality of the minor with regard to the parent and ensures that no physical, economic, or emotional harm or consequences from parents or guardians present in medical service situations. Nurses and health care providers should assess the family dynamics for the potential of harm to the minor.

Some state laws are specific regarding medical decisions and types of health care services, such as emergencies that allow emancipation status to be granted to minors (Net Industries, 2011b). In addition, certain states use the mature minor rule or doctrine, which grants health care providers the ability to assess the maturity of the minor for certain types of medical treatment. It is imperative that pediatric nurses or other health care providers have an expansive understanding of the state law regarding emancipation within which he or she practices to prevent confusion in health care decision making and future legal complications.

Health care providers should also communicate clearly with the adolescent regarding what treatments and discussions can be kept confidential for those who are emancipated or lack emancipation, along with the practicality of confidentiality of medical services (Dickens & Cook, 2005). Pediatric nurses and health care providers typically serve as an important resource to many adolescents, offering advice, services, and assessment to community resources. Nurses and health care providers must stay apprised of the governmental stipulations on resources for the adolescents and how these resources may influence the adolescents' emancipation status. For instance, some states may deny emancipation status to adolescents receiving governmental funding through TANF.

In addition, medical care involving major treatment and/or invasive or painful procedures may cause confusion between consent of the parent and assent of the adolescent when wishes differ between the two involved parties (Dickens & Cook, 2005). Article 12 of The Convention on the Rights of the Child addresses the importance of including the views of the child in decision-making behaviors, while also being clear that the adult retains authority unless emancipation status has been granted (Office of the United Nations High Commissioner for Human Rights, 2007 and UNICEF, 2008). In this situation, emancipation of the minor would assist the health care provider in his or her decision-making process about the choice of treatment for the adolescent.

Other concerns that may affect emancipation laws include the moral, economic, and legal issues that evolve from decision making of adolescents, such as teenage pregnancy, abortion, or sexually transmitted infections (Dickens & Cook, 2005). Nationally, teenage pregnancy has been shown to cost 9.1 billion dollars annually in 2004 and will only continue to increase with inflation (The National Campaign to Prevent Teen Pregnancy, 2008). Nurses and other health care providers should be concerned with the growing health concerns for the adolescent population, especially teenage pregnancy. In 2007 in the U. S., it was reported that only 83.8% of pregnant women received prenatal care in first trimester (Agency for Healthcare Research and Quality, 2007); this number may be related to the high numbers of teenage pregnancy and lack of access to health care and consent.

Health disparities also related to sociocultural variables have been demonstrated in the research (Kirby et al., 2001 and Santelli et al., 2000). Based on research from five developed countries, lower incomes, race, and ethnicity were more likely to be associated with teenage pregnancy, whereas lower levels of education and literacy were associated with early initiation of sexual behaviors and pregnancy before age 20 years (Singh, Darroch, & Frost, 2001). On the contrary, individuals with higher levels of education or social standing may often have increased comfort



levels with health care providers, higher medical literacy levels, better access to social and community networks, and enhanced communication between the health care providers and the individual (Ver Plog & Perrin, 2004).

Worldwide, about 6.6 million deaths of children are preventable annually with health care interventions (Global Health Council, 2011); many of these interventions can be nurse-driven interventions in the community through community health fairs and local education. Pregnancy complications for adolescents are a much higher risk as compared with women in their 20s and 30s (Mangiaterra, Pendse, McClure, & Rosen, 2008) and demonstrate the necessity of granting autonomy to minors in situations through emancipation status where poverty prevails and teenage pregnancy might be seen as the only option. It is speculated that for some adolescents without assets or financial stability, pregnancy and new infants are sometimes viewed as assets, reinforcing the trends of increased teenage pregnancy rates (Rodriguez & Moore, 1995).

Leading health indicators for adolescents identified by Healthy People 2010 are defined as responsible sexual behavior, tobacco and substance abuse, access to health care, mental health, and immunizations (U.S. Department of Health and Human Services, 2000). Emancipation status of minors indirectly affects health outcomes with regard to consent for medical care and treatment. Minors with emancipated status have the opportunity to make decisions for their own medical care without the influence of parents or guardians, which can be positive or negative depending on the situation of the minor. The courts deem whether emancipation status is in the best interest of the minor. Objectives related to emancipation cannot be evaluated for effectiveness for settings or systems of concern because there are no specific objectives defined for emancipation and no federal regulations to reduce fragmentation of the policies. In addition, there are no specific agencies assigned for record keeping regarding emancipation in populations or settings. The U.S. Census Bureau provides an overview of adolescents but does not specifically offer insight into emancipated minors. Current data regarding household and living arrangements along with income and insurance information separate groups into children and adults but do not clarify if emancipated minors are counted as adolescents or adults (United States Census Bureau, 2008). Record keeping could be improved greatly by tracking this population independent of other adults or minors. Without accurate records describing emancipated minors, it is difficult to identify and evaluate needs for this specific population.

As demonstrated in the statistics related to poverty, insurance coverage, and health care outcomes identified related to facilitators and barriers, the U. S. falls short of health care outcomes for the adolescent population. The Centers for Disease Control (CDC; 2010) also provides measurement outcomes for adolescents, including alcohol and drug use, injury and

violence, tobacco use, nutrition, physical activity, and sexual behaviors. Morbidity and mortality along with other maternal child measures are evaluated through the CDC and the Health Resources and Services Administration (United States Department of Health and Human Services, n.d.). Without data related to emancipated minors and congruency in the outcomes related to emancipation status for minors, evaluation of policies is complex and impractical.

### The Role of Nursing

Presently, nurses should be focused on improving quality of health care, access and coverage, and individual healthy behaviors and addressing social determinants of health care such as equal opportunities and individual responsibilities for health. These are identified areas of concern for health care and health policy in recent years (Kovner et al., 2008), and through clearer emancipation laws and improved data collection, these areas can be addressed for adolescents more efficiently. Nursing and health care concerns for emancipated minors should also include assessments of the decision-making ability of the adolescent for medical decision making and current knowledge of the state's laws regarding emancipation and medical care. Adolescents have “become self-reliant due to the acts, defaults or absence of more care-givers, they acquire the capacity to make medical decisions for themselves” (Dickens & Cook, 2005, p. 182). Nurses must evaluate their roles and guiding principles when providing health care to minors and must have a thorough understanding of the law in the state within which they practice. “When adolescents are emancipated but lack maturity to exercise medical judgment on their own behalf, health care providers offering care may ethically be parentalistic” (Dickens & Cook, 2005, p. 182). It is important for the nurse to provide needed information for emancipated minors but must not function in the role of the parent or guardian when the minor has been granted the ability to function as an adult. Education and communication are critical responsibilities of nurses providing care for adolescents. In addition, the Confidentiality and Health Information Portability and Accountability Act of 1996 education should be expanded in all health care settings to include special situations involving emancipated and nonemancipated minors.

Nursing schools offer education regarding pediatric care, but comprehensive education regarding state laws for emancipated or nonemancipated minors is often lacking. In the future, nursing faculty should include health policy and emancipation laws along with the roles of the health care provider for clarification in the pediatric settings. In addition, hospitals and other care-providing centers should be clear to new employees in orienting them the expectations of the agency and the laws of the state that govern decision making for emancipated and nonemancipated minors. This is especially critical in areas such as health departments or clinics that deal with controversial health issues such as teenage pregnancy, sexually transmitted infections, or sex education on a more frequent basis. In addition, nurses who provide emergent

care need clear guidelines to the state laws regarding adolescent health for both emancipated and nonemancipated minors.

Nurses who work in states where laws are not defined for emancipation status or in which laws remain vague should become advocates at the state level for minors that do not have emancipated status but are in circumstances that would warrant separation from parents or guardians. Nurses should be a voice for minors in situations that involve forms of abuse or detriment to the adolescent's well-being if they remain in the home with the parents or guardians. Pediatric nurses who see the outcomes of negative situations for minors are a robust voice for change. Nursing organizations such as the American Nurses Association (2011) offer codes of ethics for individual and human rights for guiding principles in care to vulnerable groups and can also serve as a strong political advocate. The American Academy of Pediatrics (2011) is also involved in minors' rights related to health care and emancipation issues.

Another strategy to improve the health outcomes of adolescents includes the petitioning for federal oversight or overarching federal acts that provide congruency between the states and decrease the confusion enhancing the process for minors by nursing organizations and/or groups of nurses. Nurses can impact this type of change through joining politically active organizations and voicing concerns, by individually contacting legislators and other political figures to lobby for political change and by serving as an advocate for the minors whose conditions warrant emancipation status. In addition, nurses can educate their local communities on the emancipation process. Through education, nurses can explain how this process influences the local population of adolescents in an effort to enhance community awareness and involvement for political change. One example of political advocacy includes revision of the laws to include simplification of the terminology for adolescents. The literacy level and legal jargon are substantially higher than the literacy level of those seeking emancipation and therefore creates barriers between the law and the intended population. In the future, nurses should create educational material that generalizes the emancipation process for adolescents.

### The Continued Need for Policy

For minors in situations where parents or guardians are not present, active, or supportive of the minor, the emancipation process is needed in order for the minor to function successfully. Public policy should seek to reduce the number of children at risk, therefore improving the overall well-being of children (United States Department of Commerce, 1997). Areas in which laws are helpful include contract signing, obtaining loans, education, and health care consent. In addition, when the well-being of the minor is in question because of the situation with parents or

guardians, the emancipation process is also critical. Common sense demonstrates that if a minor legally enters marriage or is functioning on his or her own financially and living independently, or serving as active duty in the military, then the minor should be allowed to function in some capacities as an adult. Suggestions for improvement in the policy include federal oversight with a generic definition of emancipation including areas of entry such as marriage and active duty in the military to decrease confusion among states. Although the rights of the states can remain in place, states without laws addressing these issues need to consider defining emancipation and the process in which to achieve emancipation status. Federal guidelines should also include state-to-state transfer of emancipation status in the event that a minor moves to a new location. At the federal level, improvements should include clear definitions of emancipation status in health care situations regarding confidentiality and consent for emergency and routine medical care. Currently, consent for medical care varies from state to state (Net Industries, 2011b). With multistate compact licensure and increasing numbers of travel nurses, many nurses work in multiple cities and states. Clarity at the federal level could prevent issues with confidentiality and consent for medical treatment, especially with sensitive issues such as teenage pregnancy, abortion, or substance abuse.

## Summary

State laws regarding emancipation status for minors offer opportunities for adolescents to function as adults in warranted circumstances but are fragmented in implementation. Despite the U. S.' concerns for rights of the individual, several states are still incomplete and lacking clarity in the emancipation process or lack laws to enable adolescents to function as adults. Many states have adopted laws regarding the emancipation process, but the differences between the states create confusion for the public, especially minors with limited experience or education. In addition, some states use the mature minor rule or doctrine, which creates more complexity to the issue of emancipation and health care decision making.

Historically, child and adolescent issues have been around for numerous years. Many documents, court cases, and precedents have been established to assist in the protection of minors. Despite the numerous accounts of historical documentation for the protection of minors, the U. S. has not established a single consistent definition of emancipation of minors, creating confusion. Not only is this process perplexing for adolescents who are pursuing emancipation status, but this process is often ambiguous for the nurses and health care providers affording care to this population.

Health care providers have an obligation to learn the laws and statutes of the state within which they provide care, especially those providers who serve in nursing specialties that focus on

adolescent health. It is the role of the nurse to facilitate the emancipation process for clients who are currently in situations that warrant emancipation status. This process will require a political astuteness from the nurse and/or other health care providers. Nurses should function in the clinical and political realm to assist minors to achieve emancipation status when justified and serve as a voice to enhance laws and make changes where needed. In addition, nurses should assist adolescents in navigating through the barriers that may impede their own independence.

Ultimately, the implementation, regulation, and evaluation of state laws related to emancipation of minors lies with the state. Without overarching federal guidelines, there is little to no regulation of laws from federal agencies and organizations or incentives from the federal level for state compliance or creation of emancipation laws. The fragmentation among the states also would create difficulty in regulation of such laws from a national agency, but the outcomes of the creation of a federal policy would outweigh the efforts involved. General federal laws regarding emancipation status could enhance the process by creating more similarities between the states but still allowing the states' rights for regulation and enforcement.

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