



ELSEVIER

Emancipated Minors: Health Policy and Implications for Nursing

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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.

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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 & Cook, 2005; Office of the United Nations High Commissioner for Human Rights, 2007; UNICEF, 2008; 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,

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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; 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; Stritof & Stritof, 2011).

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; 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; 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

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