DISTRICT OF COLUMBIA

Minor Consent and Confidentiality

A Compendium of State and Federal Laws

National Center for Youth Law

teenhealthlaw.org/compendium

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National Center for Youth Law

The National Center for Youth Law (NCYL) is a national, non-profit advocacy organization that has fought to protect the rights of children and youth for more than fifty years. Headquartered in Oakland, California, NCYL leads high impact campaigns that weave together litigation, research, policy development, and technical assistance.

What this compendium is:

This is a compendium of laws that may be relevant when minors wish to access certain types of sensitive health care and/or wish to access care on their own consent. Each state compendium begins with a chart entitled "quick guide." The topics listed in the quick guide represent the categories of laws most frequently identified across all states. A circle next to a particular category signifies that a relevant state or federal law was found. Where a law was found, those laws are described in the "summary" section. Each state's compendium ends with a list of resources, including links to a series of Appendices that delve deeper into key topics.

What this compendium is not:

This is not a comprehensive guide to all consent, confidentiality, and disclosure laws in any state. For example, the compendium does not include all laws that allow or require parents or persons acting *in loco parentis* to consent to care. Nor does it summarize disclosure laws that may allow or require disclosure of health information for mandated child abuse or public health reporting.

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[1] The information in this chapter represents the state of the law as of May 2024 after a diligent search of statutes, regulations, case law, and guidance.
[2] This chapter does not address all the consent and confidentiality rules that may apply when minors are in special care situations such as living with a relative, in federal or state custody, or under court jurisdiction (including dependency, delinquency, or immigration custody).
[3] This category includes parental involvement laws.
[4] This category includes statutes or case law that ban conversion therapy or prohibit banning of conversion therapy.
[5] Symbol indicates law found that either allows providers to offer services without parental consent or explicitly gives minors authority to consent.

General

Age of Majority

D.C. Code Ann. § 46-101 provides that the age of majority is 18 years.

Emancipation

No statute expressly defines emancipated minor in general or specifies a legal process by which a minor may become emancipated; however, some statutes and court decisions acknowledge emancipation for specific purposes. For example, *D.C. Mun. Regs. tit. 22-B, § 699* provides that as used in *Chapter 6 of D.C. Mun. Regs. tit. 22*, ("Protection of Minors"), "emancipated minor" means a minor who is or has been married; or who is serving or who has served in the armed forces; or who is employed and contributing more than half of their own support if residing with their parents; or who is residing apart from their parents and managing their own affairs; or who is making the major decisions affecting their own life. For purposes of the Mental Health Consumers' Rights Protection Act of 2001, *D.C. Code § 7-1231.02* defines "emancipated minor" to mean a "minor who is living separate and apart from [their] parent(s) or legal guardian, with or without parent or guardian consent, and regardless of the duration of such separate residence, and who is managing his or her own personal and financial affairs, regardless of the source or extent of the minor's income."

Minor Marriage

D.C. Code Ann. § 46-403 provides that marriage is illegal when either party to the marriage is under age 16 years. *D.C. Code Ann. § 46-411* provides that marriage with a minor age 16 or 17 years requires parent consent.

D.C. Code Ann. § 46-405.01 provides that the District does not recognize a marriage legally entered into in another jurisdiction if that marriage is expressly prohibited by D.C. law. *D.C. Code Ann. § 46-405* provides that if a person from the District marries in another jurisdiction and that marriage would have been illegal in the District, then the marriage is deemed illegal and may be decreed to be void.

Consent to Health Care

Consent for healthcare refers to granting permission for a healthcare service. A healthcare provider generally must obtain consent before providing care. Adults typically consent to their own healthcare, except in cases of legal incapacity. State and federal laws and court decisions help establish who has the legal authority to provide consent on behalf of minors. Typically, federal and state law require parent or guardian consent for a minor's care. However, the laws in every state include exceptions that allow or require others to consent, in addition to or instead of a parent or guardian. These exceptions include exceptions that allow minors to consent to some or all health care based on the minor's "status" (situation in life) and exceptions that allow minors to consent to certain types of care based on the services sought. Sometimes, these laws are written in a way that allows providers to offer services without parental consent; sometimes, they are written in a way that explicitly gives minors the authority to consent. Federal law also allows minors to consent to specific care in some cases. *See* **Appendix B** *for more on consent including the important role of parents and other adults in minors' healthcare.*

The following sections summarize the minor consent laws in the state:

Minor Consent–Minor's Status

No statute or case law was found that expressly authorizes minors to consent to health care based on their status. *See "Other" section for related laws.*

Minor Consent–Services

Abortion

Abortion is legal and protected in the District of Columbia. *D.C. Code § 7-2086.01* provides that "(a) The District shall recognize the right of every individual to choose or refuse contraception or sterilization. (b) The District shall recognize the right of every individual who becomes pregnant to decide whether to carry a pregnancy to term, to give birth, or to have an abortion. (c) The District shall not: (1) Deny, interfere with, or restrict, in the regulation or provision of benefits, facilities, services, or information, the right of an individual, including an individual under District control or supervision, to: (A) Choose or refuse contraception or sterilization; or (B) Choose or refuse to carry a pregnancy to term, to give birth, or to have an abortion . . ." *For up to date information on the status of abortion protections and restrictions in the District, see* Center for Reproductive Rights, After Roe Fell: Abortion Laws by State.

Minors may consent for abortion. *D.C. Mun. Regs. tit. 22-B, § 600.7* provides that minors of any age may consent for the health services that they request for the lawful termination of a pregnancy.

For up to date information on the status of abortion protections and restrictions in all 50 states and DC, see Center for Reproductive Rights, After Roe Fell: Abortion Laws by State. *See also* **Appendix C**. *These laws are changing rapidly, so consultation with counsel is also essential.*

Family Planning/Contraceptives

D.C. Mun. Regs. tit. 22-B, § 60.7 provides that a minor of any age may consent for the health services that they request for the prevention of a pregnancy.

D.C. Mun. Regs. tit. 22-B, § 600.8 provides that a minor may not consent for sterilization, such as tubal ligation or vasectomy.

D.C. Mun. Regs. tit. 22-B, § 603.1 provides that birth control information, services, and devices shall be provided by the health facilities operated by the District of Columbia without regard to the age or marital status of the patient or the consent of the patient's parent or guardian.

See **Appendix I** *for information about the Title X Family Planning Program and minor consent for family planning, including contraception services. See Appendix C for discussion of contraception and the U.S. Constitution.*

Outpatient Mental Health Care

D.C. Mun. Regs. tit. 22-B, § 600.7 provides that a minor of any age may consent for the health services that they request for the prevention, diagnosis, or treatment of a mental or emotional condition.

D.C. Code § 7-1231.14 provides that a provider may deliver outpatient mental health services and mental health supports other than medication to a minor who is voluntarily seeking such services without parent or guardian consent if the provider determines that: (A) the minor is knowingly and voluntarily seeking the services; and (B) provision of the services is clinically indicated for the minor's well-being. Treatment without the consent of a parent or guardian may only last 90 days, at which point the provider shall either: (A) make a new determination that provision of services to the minor without parental or guardian consent is voluntarily sought by the minor and continues to be clinically indicated; (B) Terminate the services; or (C) With the consent of the minor, notify the parent(s) or guardian to obtain consent to provide further outpatient services. The provider must fully document the reasons for their determinations regarding delivery of mental health services in the minor's clinical record.

D.C. Code § 7-1231.02 defines "provider" for this purpose to mean "an individual or entity that: (A) Is duly licensed or certified to provide mental health services or mental health supports in the District of Columbia; or (B) Has entered into an agreement with the Department to provide mental health services or mental health supports." *D.C. Code § 7-1231.02* also defines "mental health services" and "mental health supports," and "provider" for this purpose.

Pregnancy-Related Care

D.C. Mun. Regs. tit. 22, § 600.7 provides that a minor of any age may consent for the health services that they request for the prevention, diagnosis, treatment, or lawful termination of a pregnancy.

D.C. Mun. Regs. tit. 22-B, § 603.2 provides that prenatal and postnatal care, and necessary medical care for the babies shall be provided by the health facilities operated by the District of Columbia and may be provided by any qualified person or institution without regard to the age or marital status of the patient or the consent of the patient's parent or guardian.

See **Appendix I** *for information about the Title X Family Planning Program and minor consent for family planning services, including certain pregnancy-related care.*

Sexual Assault Care

D.C. Code § 7-2123 provides that all hospitals that provide emergency care to victims of sexual assault shall inform the victim of the option to be provided with, and if the victim requests it, shall immediately provide, "prophylactic antibiotics for the treatment of sexually transmitted diseases and emergency contraception for the prevention of pregnancy." The statute does not differentiate victims with regard to age, except as to the option to notify the sexual assault victim advocate dispatch system if a victim who is age 13 years or older consents to such notification.

Sexually Transmitted Infection/Disease/HIV Care

D.C. Mun. Regs. tit. 22-B, § 600.7 provides that a minor of any age may consent for health services for the prevention, diagnosis, or treatment of sexually transmitted diseases.

See **Appendix I** *for information about the Title X Family Planning Program and minor consent for family planning, including STI/STD/HIV services.*

Substance Use Care

D.C. Mun. Regs. tit. 22-B, § 600.7 provides that a minor of any age may consent for health services for the prevention, diagnosis, or treatment of substance abuse, including drug and alcohol abuse.
However, D.*C. Mun. Regs tit. 22-A, § 6346.3* provides that a minor may not be admitted to an opioid treatment program (OTP) unless a parent or legal guardian consents in writing to such treatment.

Confidentiality & Disclosure

Federal and state laws determine the privacy and confidentiality of medical and health information. Different laws may apply depending on the health services provided, the source of funding, the location of care, the type of provider, and the characteristics of the patient.

One law with overarching importance is the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule, a federal regulation that protects the privacy of patient health information held by health care providers who transmit certain information electronically and other "covered entities." As a general rule, HIPAA prohibits healthcare providers from disclosing protected health information without a signed authorization. HIPAA specifies who must sign an authorization to release information. When minors have consented for their own care, HIPAA says the minors usually must sign the release. HIPAA includes exceptions that allow or require a provider to disclose protected information without an authorization in some circumstances, such as to meet state child abuse reporting requirements. HIPAA also addresses when parents and guardians may access a minor's health information: It explains how this HIPAA rule intersects with state law and other federal laws regarding parent access, and includes rules for what to do about parent access when state law is silent, and for authorized limitations on access in some situations.

See **Appendix H** *for a detailed discussion of HIPAA. Other appendices address other important federal health privacy laws that may apply in addition to, or instead of, HIPAA. See* **Appendix I** *(Title X, family planning),* **Appendix J** *(Part 2, substance use),* **Appendix K** *(FERPA, education records),* **Appendix L** *(insurance and billing), and* **Appendix M** *(21st Century Cures Act Information Blocking, EHI).*

The following sections summarize selected state laws related to confidentiality, access to records, and disclosure to parents/guardians:

Confidentiality/Access to Records

Medical Record Access

D.C. Mun. Regs. tit. 17, § 4612 provides standards of conduct for licensed physicians, which include that physicians must provide a patient or the patient's representative with a copy of the patient's medical record, upon their request, except a "licensed physician shall not make available to a parent, guardian, or representative of a minor child a record of a minor child the disclosure of which without the child's consent is prohibited by law."

Minor Consent

D.C. Mun. Regs. tit. 22-B, § 602.8 provides that, unless otherwise stated by specific legal requirements, no information about sexually transmitted disease, "drug substance abuse", pregnancy, and emotional illness shall be given by a health professional (who has treated a minor based on the minor's own consent) to another professional, school, law enforcement, court authority, government agent, spouse, future spouse, employer, or any other person without the consent of the minor, unless giving the information is necessary to the health of the minor and the public, and only when the minor's identity is kept confidential.

Use and Disclosure of Health Information

D.C. Code § 7-242 provides that "[a]n agency or service provider shall use or disclose individually identifiable health information in accordance with HIPAA."

D.C. Code § 7-3006 provides that information furnished to the Addiction Prevention and Recovery Administration shall remain confidential and may be disclosed only to medical personnel for purposes of diagnosis and treatment; except, that with the prior written consent of the client, the information may be disclosed for the purposes of and in accordance with *§§ 7-241 et seq.*

D.C. Code §§ 7-1201.01 – 7-1208.07 contains provisions that specify the privacy, access to, and disclosure of mental health information.

See **Appendix H** *for information about minors' access to and control of their medical information under HIPAA when they have consented to their own care.*

Federal laws that may apply in addition to or in lieu of HIPAA and state laws

See **Appendix K** *for information about federal confidentiality protection for education records.*

See **Appendix J** *for information about federal confidentiality protections for certain substance use treatment records.*

See **Appendix I** *for information about federal confidentiality protection for information about services delivered using Title X Family Planning Program funding.*

See **Appendix M** *for information about disclosure of information to parents under the 21st Century Cures Act Information Blocking Rule.*

Disclosure of Health Information to Parents/Guardians

General Minor Consent

D.C. Mun. Regs. tit. 17, § 4612 provides standards of conduct for licensed physicians, which include that physicians must provide a patient or the patient's representative with a copy of the patient's medical record, upon their request, except a "licensed physician shall not make available to a parent, guardian, or representative of a minor child a record of a minor child the disclosure of which without the child's consent is prohibited by law."

D.C. Mun. Regs. tit. 22-B, § 602.6 provides that, except as described in D.C. Mun. Regs. tit. 22, § 602.7, no information about minor consent treatment given or needed related to prevention, diagnosis or treatment of sexually transmitted disease, substance abuse, pregnancy, abortion, or mental or emotional conditions shall be given to the minor's parents or legal guardian without the consent of the minor unless, because of the minor's age or condition, the attending health professional can "reasonably presume consent."

D.C. Mun. Regs. tit. 22-B, § 602.8 provides that, unless otherwise stated by specific legal requirements, no information in regard to sexually transmitted disease, "drug substance abuse," pregnancy, and emotional illness shall be given by a health professional who has treated a minor based on the minor's own consent to another professional, school, law enforcement, court authority, government agent, spouse, future spouse, employer, or any other person without the consent of the minor, unless giving the information is necessary to the health of the minor and the public, and only when the minor's identity is kept confidential.

Mental Health

D.C. Mun. Regs. tit. 22-B, § 602.5 provides that, except as provided in the D.C. Mental Health Information Act of 1978, a health professional may, but is not obligated to, inform the parents or legal guardian of a minor of any treatment given or needed when, in the judgment of the health professional: (a) severe complications are present or anticipated; (b) major surgery or prolonged hospitalization is needed; (c) failure to inform the parents or legal guardian would seriously jeopardize the safety and health of the minor patient; and (d) to inform them would benefit the minor's physical and mental health and family harmony.

Sexually Transmitted Disease

D.C. Mun. Regs. tit. 22-B, § 602(7) provides that information about any treatment needed by a minor who is infected with a sexually transmitted disease and who has refused treatment shall be given to the minor's parents or legal guardian.

Substance Use

D.C. Mun. Regs. tit. 22-B, § 602.10 provides that when a minor is found not to be suffering from a drug or substance abuse, including alcohol and nicotine, no information with respect to any appointment, examination, test, or other health procedure shall be given to the minor's parents or legal guardian without the consent of the minor, if they have not already been informed as permitted by *D.C. Mun. Regs, tit. 22-B, §§ 602.5, 602.6, and 602.8.*

HIPAA rules relevant to disclosure to parents/ guardians

See **Appendix H** *for information about minors' access to and control of their medical information under HIPAA when they have consented to their own care, the HIPAA rule when state law is silent as to parent access, and the HIPAA rule authorizing providers to limit access to records in certain circumstances.*

Federal laws that may apply in addition to or in lieu of HIPAA and state laws

See **Appendix K** *for information about federal confidentiality protection for education records.*

See **Appendix J** *for information about federal confidentiality protections for certain substance use treatment records.*

See **Appendix I** *for information about federal confidentiality protection for information about services delivered using Title X Family Planning Program funding.*

See **Appendix M** *for information about disclosure of information to parents under the 21st Century Cures Act Information Blocking Rule.*

Insurance Claims/ Billing

See **Appendix L** *for information about confidentiality protection in the billing and insurance claims process under the HIPAA Privacy Rule.*

Other

This section summarizes a range of laws that may not explicitly address minor consent or disclosure of information but that health care providers often have questions about when minors seek care, especially when they seek care on their own.

Anatomical Gift/Donation

D.C. Code § 7-1531.03 provides that an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in *§ 7-1531.04* by a minor who is emancipated, or a minor authorized under state law to apply for a driver's license because the donor is at least 16 years of age. Unemancipated minors require parental consent.

Care in Certain Settings, School Based Health

D.C. Mun. Regs. tit. 5-B, § 2413.3(e) provides that the provision of services at school based health centers (SHCs) in D.C. Public Schools must be provided pursuant to the minor consent requirements of *D.C. Mun. Regs. tit. 22-B, §§ 600, 603*, and *D.C. Code § 7-1231.14* for mental health treatment. *For information on SHCs in the D.C. public schools, see* https://dchealth.dc.gov/service/school-based-health-centers.

"Conversion Therapy," Ban

For up to date information on the status of statutes or case law that ban conversion therapy for minors, or prohibit state entities from banning conversion therapy for minors, in all 50 states and DC, see Movement Advancement Project's "Equality Maps: Conversion "Therapy" Laws." *These laws are changing rapidly so consultation with counsel is essential.*

Emergency Care

D.C. Mun. Regs. tit. 22-B, § 600.4 provides that health services may be provided to a minor of any age without parental consent when, in the judgment of the treating physician, surgeon, or dentist, the delay to obtain parental consent would substantially increase the risk to the minor's life, health, mental health, or welfare, or would unduly prolong suffering.

Financial Responsibility

D.C. Mun. Regs. tit. 22-B, § 601 provides that a minor who consents for health services for themselves or their child is responsible for payment for the services. The spouse, parents, or legal guardian of the minor are not responsible for payment unless they have expressly agreed to pay for care. Minors who are proven unable to pay and who receive the health services in public institutions, or who qualify for Medicaid or other subsidized forms of relief, are not responsible for payment.

D.C. Mun. Regs. tit. 22-B, § 603.3 provides that prenatal and postnatal care, and necessary medical care for the babies, as well as birth control information, services, and devices shall be provided by the District of Columbia at no cost to the patient unless voluntary payments or contributions are made.

Gender Affirming Care

There are no restrictions on access to gender affirming care in the District of Columbia at this time.

For up to date information on the status of restrictions on gender affirming care for minors, see Movement Advancement Project's "Equality Maps: Bans on Best Practice Medical Care for Transgender Youth." *See also* **Appendix G** *for further information about gender-affirming care.*

Good Faith Reliance/Immunity from Liability

D.C. Mun. Regs. tit. 22-B, § 602.3 provides that a physician, surgeon, dentist, or health or mental health care facility shall not be held liable for providing treatment to a minor without the consent of a parent if the provider has relied in good faith on misrepresentations by the minor.

D.C. Mun. Regs. tit. 22, § 602.9 provides that notification or disclosure to the spouse, parent, parents, or legal guardian of a minor by a health professional does not constitute libel or slander, a violation of the right of privacy, a violation of the rule of privileged communication, or any other legal basis of liability.

Minor Parent/Consent for Child

D.C. Mun. Regs. tit. 22-B, § 600.3 provides that a minor parent may consent for the provision of health services to their child.

Obligation to Treat or Refer

D*.C. Mun. Regs. tit. 22-B, § 602.1* provides that a physician, surgeon, dentist, or health or mental care facility may not be compelled against their or its best judgment to treat a minor based on the minor's own consent.

D.C. Mun. Regs. tit. 22-B, § 602.2 provides that a physician, surgeon, dentist, or health or mental care facility that refuses to treat a minor based on the minor's own consent shall refer the minor to another facility.

Reproductive Freedom

D.C. Code § 7-2086.01 provides that "(a) The District shall recognize the right of every individual to choose or refuse contraception or sterilization. (b) The District shall recognize the right of every individual who becomes

pregnant to decide whether to carry a pregnancy to term, to give birth, or to have an abortion. (c) The District shall not: (1) Deny, interfere with, or restrict, in the regulation or provision of benefits, facilities, services, or information, the right of an individual, including an individual under District control or supervision, to: (A) Choose or refuse contraception or sterilization; or (B) Choose or refuse to carry a pregnancy to term, to give birth, or to have an abortion ..."

Shield Laws

The District of Columbia has passed a series of laws, including the Enhancing Reproductive Health Protections Amendment Act of 2022 (D.C. Law 24-254) and the Human Rights Sanctuary Amendment Act of 2022 (D.C. Law 24-257), to provide protections for health care providers against disciplinary actions, adverse licensing actions, and civil actions both in state and from out of state based solely on the provision, receipt, assistance, support for, or liability derived from reproductive health care services and gender-affirming health services that are permitted under the laws of the District and were provided in accordance with the applicable standard of care as well as to protect patients and their families from accessing such care. Examples of these laws are found at *D.C. Code §§ 2-1401.02, 2-1402.92, 2-1461.01, 2-1461.02, 7-2086.01 and 13-443*.

Vaccination, Minor Consent

D.C. Code § 7-1653.01 provides that certain categories of minors (emancipated minor, a minor who is married or previously has been married, an unaccompanied homeless minor, a minor who is or has been pregnant, or a minor who is separated from their parent or legal guardian for whatever reason and is not supported by their parent or guardian) may consent to receive a vaccine recommended by the U.S. Advisory Committee on Immunization Practices (ACIP) and where receipt of the vaccine accords with ACIP's recommended immunization schedule.

The statute also provides that a vaccine provider may accept the consent of a minor not otherwise listed above to receive a vaccine recommended by ACIP in accordance with ACIP's recommended immunization schedule; provided, that the vaccine provider reasonably attempts to obtain consent from the minor's parent or legal guardian either in person, in writing, or by telephone, and there is no objection from the parent or legal guardian. Consent of the parent or legal guardian may be assumed if the vaccine provider cannot notify the parent or legal guardian after at least a reasonable attempt to notify.

The statute further provides that a minor may seek a court order to authorize receipt of a vaccine due to the parent or legal guardian's objection.

Resources

District of Columbia Statutes https://code.dccouncil.gov/us/dc/council/code

District of Columbia Municipal Regulations https://www.dcregs.dc.gov/

Appendices